

Bureaucratic burdens and bureaucratic injustice

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Abstract

Bureaucracy is everywhere. We experience its burdens when we access (or attempt to access) many essential public goods and services, from healthcare and social welfare to visas and driving licences. I argue that not only can bureaucracy be burdensome, but it can also be unjust. When bureaucratic burdens unduly impair our ability to access our rights or disproportionately impact certain groups (such as disabled citizens or those from poorer backgrounds), they are unjust. This phenomenon is what I shall call bureaucratic injustice – an intermediate obstacle to a fundamental good, which gives rise to a second-order injustice. This article provides a normative conceptualisation of bureaucratic injustice aimed at those working within the liberal egalitarian framework of distributive justice and draws our attention to the kinds of burdens experienced by citizens attempting to access public services. I show that bureaucratic injustice ought to be a concern even for those working within a purely distributive justice framework (and who may not care directly about the impact of power structures on institutional design). Ultimately, through my conceptualisation of bureaucratic injustice, I aim to show that distributive justice is not merely about having the right institutions and policies in place, but also about how individuals experience these institutions and policies in their day-to-day lives.

Keywords

bureaucracy, bureaucratic injustice, epistemic injustice, structural injustice

Most people share an aversion to red tape and bureaucracy. We feel annoyed at having to fill in a seemingly endless stream of forms, become frustrated at the opacity of institutions and the complications of navigating them (whether these be hospitals or courtrooms), we find ourselves burdened by the complexity of working out our eligibility for many public services, despair at long waiting times, and become irritated about having to travel significant distances to access services that are inconveniently located from us. These features are what I shall call *bureaucratic burdens* – the costs and challenges that individuals incur in navigating institutional systems to access essential public goods and services to which they are entitled.¹ These barriers can impede our ability to access essential public services, and

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their effects may be especially salient for socially disadvantaged groups. In this sense, bureaucracy is not only annoying and cumbersome, but it is also often *unjust*.

There is a small but burgeoning empirical literature on the nature of what I am calling bureaucratic injustice. Various empirical observations about bureaucratic burdens have been made by other theorists, albeit often using different terms. In their pioneering work on this newly appreciated phenomenon, Pamela Herd and Donald Moynihan discuss the issue of *administrative burdens* within the context of public administration (Herd and Moynihan, 2018). Herd and Moynihan show that policies can burden individuals in terms of what they need to do to understand information about services (learning costs), the difficulty of complying with policies such as annual tax returns (compliance costs), and the stress from encounters with public services (psychological costs). My work takes inspiration from Herd and Moynihan's observations, though I build upon their initial conceptualisation throughout the article.

Cass Sunstein identifies the problem of *sludge*, conceptualising this as unnecessary red tape and paperwork (Sunstein, 2021). Edward Rubin talks about the issue of *bureaucratic oppression* in the context of the law and the need for an ombudsman system to protect service users (Edward, 2012). Sackett and Lareau (2023) discuss the idea of *institutional knots* experienced by refugees navigating the complex immigration system in the United States. Within government, policies have been proposed for cutting red tape. The Clinton Administration introduced the 1993 National Partnership for Reinventing Government in an effort to reduce bureaucracy within the federal government (The White House, 1993). After Brexit, the UK Government promised to simplify the bureaucratic process associated with setting up a business (Department for Business and Trade, 2023). Despite these empirical observations, however, the concept and salience of bureaucratic injustice has not yet been explicitly articulated within normative political theory.

The issue of bureaucracy more broadly has received varying degrees of interest from analytic political philosophers. Arthur Applbaum, Chiara Cordelli and Dennis Thompson have all discussed the issue of unelected bureaucrats' decision-making and the challenge this poses to democratic legitimacy (Applbaum, 1992; Cordelli, 2020; Thompson, 1983). Other theorists, such as Gillian Brock and Nikolas Kirby, have discussed the issue of corruption, trust and integrity within bureaucracies and government institutions (Brock, 2023; Kirby, 2021). Max Weber's influential analysis of bureaucratic government includes some important normative observations (Weber, 1958).² The particular issue of bureaucratic *burdens*, however, has so far escaped detailed normative conceptualisation and analysis from within a distributive justice framework.³

The problem of bureaucracy and the way individuals experience barriers to state services has been documented by theorists working in the feminist and critical theory traditions, but has received very little attention in the liberal egalitarian tradition of distributive justice. Iris Marion Young criticises the way the 'administered state' can dominate citizens, where 'the activities of everyday work and life come under rationalized bureaucratic control, subjecting people to the discipline of authorities and experts in many areas of life'.⁴ The excessive proceduralism and formality that accompanies bureaucracy, on Young's view, erodes individuals' personal sovereignty and promotes dependency and submission. Young's critique of bureaucracy relates to Jurgen Habermas' critique about bureaucracy getting involved with more and more aspects of our lives – what he refers to as the 'colonisation of the lifeworld'.⁵

Other feminist theorists, including Linda Gordon and Nancy Fraser, have also addressed the implications of bureaucracy. Linda Gordon's work discusses women and their

experiences of the welfare state (including child services), and the way these bureaucratic structures impede citizens' ability to shape what kind of social order they want.⁶ Nancy Fraser and Linda Gordon critique the way the United States' welfare state is run, tracing many negative aspects back to the way bureaucrats conceptualise welfare dependence.⁷

Distributive justice theorists have paid less attention to the issues of bureaucratic burdens and bureaucratic injustice. As the paper unfolds, my aim is to show that bureaucratic burdens and bureaucratic injustice are an important addition to the conceptual and normative arsenal of analytic political philosophers working within what Young calls a distributive paradigm.⁸ Phrased in the language of distributive justice, individuals' experience of bureaucratic burdens is a relevant *distribuendum* of justice.

The overall aim of this article is to analyse the conceptual and normative dimensions of bureaucratic burdens and bureaucratic injustice, with the aim of introducing these concepts into distributive justice theorising. I build on the existing empirical work by Pamela Herd and Donald Moynihan on administrative burden by showing, first, that there are additional dimensions of bureaucratic burdens over and above the ones they identify, and second, that the language of *injustice* is apt and strengthens our normative understanding of the phenomenon. Herd and Moynihan do allude to the problem of injustice by pointing out that administrative burdens are often *distributive* in nature, affecting certain groups more than others (Herd and Moynihan, 2018: 3). Beyond this observation, however, they do not offer a framework for evaluating the normative status of particular kinds of administrative burdens. Herd and Moynihan's account of administrative burden therefore provides an important starting point for understanding the issue, but this article aims to link their empirical and conceptual observations more explicitly with theories of distributive justice.

The remainder of the article aims to do two things. First, it provides a general framework for identifying forms of bureaucratic *burdens*. I aim to show that bureaucratic burdens operate along at least six interrelated dimensions, which I call *epistemic, financial, physical, temporal, psychological, and value-based burdens*. Second, the article builds upon these features to show that when bureaucratic *burdens* are unreasonably burdensome or when they disproportionately affect a socially disadvantaged group, they become an instance of bureaucratic *injustice*. I develop a number of normative tests to identify when bureaucratic injustice exists, presenting a comparative and non-comparative account for determining bureaucratic injustice. I argue that bureaucratic injustice can be seen as a form of structural injustice, arising even in the absence of wrongdoing by any individual bureaucrat.

Bureaucratic injustice is a useful shorthand to capture an intermediate obstacle or second-order injustice, traced to a first-order or fundamental injustice related to one's inability to access a good (what I shall later explain as the *sufficientarian intuition*) or in one's unjustified difficulty in accessing such a good relative to others (what I shall later explain as the *egalitarian intuition*).

I use the term *bureaucracy* in a deliberately loose and intuitive sense rather than a strictly technical one. By bureaucracy, I simply mean the schemes and processes, whether deliberately enacted or not, that stand between individuals and their access to public goods and services. These include schemes and processes such as application forms, eligibility checks, interviews, waiting times, and bureaucrats' general biases. Bureaucrats are public officials who occupy roles within the bureaucracy, from caseworkers and so-called street-level bureaucrats to senior policymakers higher up in the system.⁹ Bureaucratic *burdens* are the costs and challenges experienced by individuals attempting to access goods and services from the public institution. This is a purely descriptive and

normatively neutral term. Bureaucratic *injustice* refers to bureaucratic burdens which are either unreasonably burdensome in their own terms or which disproportionately affect a certain socially disadvantaged group. This is a normative term, using the language of injustice. I articulate the distinction between these two concepts in more depth as the article unfolds. I focus on bureaucracy within the public sphere but leave open the view that the concept of bureaucratic injustice can be extended into the activities of the private sector (for example, the burdens experienced when buying private car insurance or cancelling a subscription for a video streaming service). Bureaucratic burdens can be intentional or unintentional, and even unintentional burdens that are reasonably avoidable but tolerated by institutions can rise to become an injustice.¹⁰

I shall take for granted that the state, acting through the mechanisms of the bureaucracy, has a duty of justice to provide certain goods and services to individuals. My argument will therefore not engage with those who hold the view that states do not have any duties of justice, such as libertarians.¹¹ The normative question raised by the concept of bureaucratic injustice, given the duty of states and public institutions to promote justice, is whether this duty entails a requirement to make essential public goods and services accessible to all in some substantive way, given the reality of bureaucratic burdens. The primary focus of the article, however, is to map out the initial conceptual and normative terrain of bureaucratic burdens and bureaucratic injustice, from the perspective of distributive justice. The precise normative implications of the concept of bureaucratic injustice are matters for future work and not my primary concern here.

Bureaucratic burdens

Navigating institutions and their policies can be highly complex, placing a high burden on individuals aiming to secure their entitlements. Consider a variety of ways in which individuals experience the reality of bureaucratic burdens when interacting with public institutions. These examples draw on well-known social and political phenomena, relating to barriers and burdens that are widely discussed and criticised by many.

Disability Benefits – Accessing disability benefits in many jurisdictions is a complex and fraught process, with complex forms and stringent eligibility criteria that place a high burden of justification on those wanting to claim benefits (Brown et al., 2021). In the United States, for example, applying for disability insurance benefit requires filling in Form SSA-16. The guidelines for completing SSS-16 state the need to provide more than 40 pieces of information, including the names and social security numbers of all current and former spouses, earning history since 1978, military service history, criminal background, and details of any past social security claims (Social Security Administration, 2023).¹²

Voter Access – Some jurisdictions require mandatory official identification cards in order to vote at elections, adding a non-trivial burden to ordinary voters and impeding the ability of those without identification cards to vote. Many polling stations are in physically or socially inaccessible locations, such as in older town hall buildings (which are often less accessible for those with a disability) or in community churches (which may feel exclusionary to those with different religious views). Reliable and accessible public transport may not be readily available, making it difficult for those without private vehicles to access voting stations. There are often long queues outside polling stations, making voting an arduous and tedious process. Many jurisdictions require you to vote at a single polling station, matched to your constituency and registration details, making voting much harder if you are out of town.

Asylum Seeking – Refugees face some of the most onerous bureaucratic burdens in the world. You must generally be physically present in the country to apply for asylum, itself a major physical barrier to the process. This is complicated by the need to obtain safe and legal passage into the country, given entry restrictions. The asylum application process itself involves lengthy and detailed interviews and applications (conducted in what is often one's non-native language), there is a high justificatory burden needed to demonstrate persecution, and the timeframe for a decision can be several years.

Digitisation – The move to digitising public services has come with significant benefits in efficiencies and accessibility for many but has also resulted in barriers for those who are technologically less capable. In the United Kingdom, for example, Council Tax bills (property tax) are payable predominantly by a debit or credit card, either online or through telephone banking. Those without access to a debit or credit card (such as many in the elderly community) experience significant burdens in paying their council tax. Most councils offer the ability to pay with cash at a local 'Pay Point', but this requires one to leave the house and may be a challenge to those who are housebound or less mobile.

Local Hospital – Many local public hospitals are downgrading and centralising services into larger hospitals located in bigger cities. This means that local residents must travel significantly longer distances to attend appointments. Attending a routine outpatient hospital appointment can therefore become an ordeal that takes at least half a day – an issue exacerbated for those who are disabled or on low-income jobs with poor flexibility in working hours.¹³

Criminal Complexity – Navigating the criminal justice system is notoriously complex in almost all jurisdictions. Many individuals are overwhelmed by the jargon and complexity of the legal system, from the time they are arrested to being processed in the police station and then the pre-trial process and the trial itself. The process is opaque to most outsiders and induces significant stress and anxiety. Criminal justice is also extremely expensive, with legal bills often running into hundreds of thousands of dollars.

These examples, all grounded in the reality of bureaucracy in contemporary societies, highlight the point that institutions and their policies are highly complex and show the burdens individuals must bear to access essential goods and services. These burdens operate along at least six dimensions, which I shall refer to as *epistemic, financial, physical, temporal, psychological and value-based* burdens.¹⁴ The burdens are not presented as being exhaustive nor mutually exclusive, and there are often important interactions between them. For example, the burdens experienced in *Local Hospital* involve both physical burdens (having to travel further) and financial burdens (having to sacrifice a half-day of work and pay for transport); *Asylum Seeking* involves epistemic, financial, physical, temporal, and psychological burdens; and experiencing epistemic, financial, temporal and physical burdens can also constitute a serious psychological burden. Citizens' experiences of these burdens are likely to operate along a continuum, rather than a mere binary. Everyone may experience some degree of physical or psychological burden, but the level may be greater for certain individuals and groups.

The first category of burdens is what we can call *epistemic burdens*. Epistemic burdens refer to the knowledge needed to navigate the processes for accessing public services as well as overcoming the barriers needed to make one's claim heard and believed. In *Disability Benefit*, for example, one must know that a particular service exists in the first place, work out how to access information about it, learn and understand the eligibility criteria and evaluate whether one meets those criteria, and then decide how to comport

oneself so as to make one's case and secure the good in question. In *Criminal Complexity*, legal jargon and the institutional complexity of the courts add significant burdens for defendants. Language barriers in accessing healthcare services, for example, are also relevant to the dimension of epistemic burdens.

Havi Carel and Ian James Kidd have insightfully explored the epistemic burdens experienced by people attempting to navigate public institutions, which they call the phenomenon of *institutional opacity*:

Institutional opacity imposes high epistemic demands on agents and users, requiring the acquisition and exercise of knowledge, understanding, confidence, skills, and communicative competences, needed to meet the institution's demands and to be able to navigate it effectively. (Carel and Kidd, 2021: 482)¹⁵

The concept of institutional opacity captures an important aspect of the epistemic dimension of bureaucratic burdens, but it is only one among many other components experienced by individuals navigating the bureaucracy. Even when an institution is epistemically transparent, with straightforward eligibility criteria and clear norms around how to make one's claim heard, one can still be burdened by other dimensions of the bureaucracy.¹⁶

Consider Thomas, a highly educated disabled academic, who is an expert in the bureaucracy of welfare benefits and studies these professionally. Thomas has also worked as a caseworker for the welfare benefits office and is aware of all the processes. Nevertheless, the processes and procedures to apply for benefits that Thomas has a rightful claim to are highly complex and arduous. He must present to the office in person (thereby taking time off work) by taking public transport, he must fill in Forms 1, 2, 3, 4 and 5, he must get a statement witnessed and notarised, he must send Forms 1 and 2 to Location A, Form 3 to Location B, and Forms 4 and 5 to Location C, and he must bring three original copies of his identification documents.

Thomas and others *know* that this is the requirement to obtain Benefit X. The institution is not institutionally opaque in the sense captured by Carel and Kidd and other theorists of epistemic injustice, yet it is still complex and difficult for Thomas to get what he is owed. This case highlights that the burdens of bureaucracy extend beyond epistemic barriers (such as lack of knowledge). There are other important dimensions of bureaucratic burdens, as I show.

Financial burdens are the economic costs one must bear to access public services. Some of these financial costs are obvious, such as the very high fees one must pay for a work visa, lawyers' fees in legal proceedings, and the costs of travelling to a hospital appointment. Other financial costs are less obvious, such as childcare costs while attending a meeting with a social welfare caseworker, lost earnings from taking time off work to access services, and miscellaneous costs such as printing, photocopying, or notarising documents when applying for many services. Money spent navigating institutions is also money one cannot spend on essentials such as food and rent and on leisure pursuits.

Physical burdens are the barriers related to space and place that one experiences when accessing public services. The lack of step-free access or a wheelchair ramp is a significant physical burden for a disabled or less mobile person. Having to travel a significant distance to access a service, as highlighted by the case of *Local Hospital*, is an important physical burden. The lack of accessible public transport may be another physical burden, especially for those with disabilities who are unable to drive themselves. Physical ordeals such as standing in long queues (as in *Voter Access*) or being sent to multiple departments

to process an application are also salient physical burdens. Philosophers of disability have long noted the imperative of paying attention to physical burdens when discussing citizens' access to goods and services.¹⁷

Temporal burdens relate to the time-based costs of using or attempting to access public services. Accessing public services often means queueing and waiting our turn, from the waiting list for hospital appointments to compulsory time limits for naturalisation (Cohen, 2018). The time spent waiting in line at a long queue for voting (as in *Voter Access*), imposes a burden on prospective voters. In *Asylum Seeking*, the timeframe for decisions can be months or years. Asylum seekers may spend months or years of their lives in limbo, wasting time and being unable to commit to long-term professional or personal projects. The idea that time spent waiting is a burden is intuitive, with many political philosophers defending the importance of time. Robert Goodin and colleagues point to the value of discretionary time, and Julie Rose emphasises the importance of free time (Goodin et al., 2008; Rose, 2016). Ellen Samuels refers to the idea of *crip time* – the additional time needed for disabled people to navigate daily life.¹⁸ This includes assembling and disassembling wheelchairs, waiting for accessible entrances at train stations to be opened, and coping with the fact that social structures make it very time consuming to get to different places as a disabled person. Time spent waiting in queues imposes a burden by taking away time we can spend as we wish (such as for family, leisure and recreation).

Psychological burdens refer to the mental and emotional costs related to accessing a service. One of the most salient psychological burdens is stress and anxiety. Consider the psychological burden of being on the waiting list for urgent medical treatment. Over and above the health effects of any delay in medical treatment, time spent worrying is a major psychological burden that makes navigating the healthcare bureaucracy especially burdensome. This shows the psychological aspects of temporal burdens. Stigma is another important facet of navigating the bureaucracy. Some bureaucratic processes stigmatise those attempting to access services, which adds to the burden of seeking such services. Jonathan Wolff, for example, notes that this can be an issue with invasive eligibility checks to access social welfare (Wolff, 1998). Feelings of hopelessness and demoralisation may also occur as a result of navigating complex bureaucratic processes.¹⁹

Value-based burdens are perhaps the least straightforward of these burdens. It refers to the costs to one's conscience and personal values when navigating the bureaucracy and trying to access public services. As I shall argue further, value-based burdens are burdens that affect one's personal integrity. They are costs we are forced to bear, which strike at the core of who we are and what we value. Paradigmatic examples include being unable to observe an important cultural event or ritual because it coincides with a meeting with one's caseworker or a medical appointment which cannot be rescheduled. *Voter Access* highlights one aspect of this problem. Many polling stations in the UK are in Christian church buildings, so those of non-Christian faiths may find it particularly burdensome to enter and vote.²⁰ The *Local Hospital* case may also have a value-based dimension of burden. If one must travel long distances, one has to sacrifice time spent with one's loved ones. A person living in a rural area with a late afternoon appointment in the urban hospital may miss dinner with her family – a temporal as well as a value-based burden given the emphasis she places on spending quality time together – because of the long commute back from the hospital appointment. Psychological and value-based burdens negatively impact one's sense of self-respect. They make it so that interacting with the bureaucratic process affects our social standing and sense of self-esteem.

Together, these costs constitute bureaucratic burdens. Bureaucratic burdens are the costs and challenges one must bear – whether in epistemic, physical, financial, temporal, psychological, and value-based terms – when navigating the bureaucracy and accessing or attempting to access essential public goods and services. The fact that these burdens exist, however, does not in itself show that they are morally objectionable. For example, some theorists such as Albert Nichols and Richard Zeckhauser explicitly defend the need for burdens and barriers when it comes to accessing public services (Nichols and Zeckhauser, 1982).

Richard Zeckhauser argues that *ordeals* force people to reflect on whether the inconvenience of accessing the good is worth it for them. Ordeals include ‘waiting lines or tedious application processes’ (Zeckhauser, 2021: 79) and ‘making purchasers wait and imposing administrative burdens on them in order to get served’ (Zeckhauser, 2021: 79). Zeckhauser’s thought is that this ‘strategically sorts’ out those who are genuinely in need of services from those who are not: ‘Ordeals are thus justified to limit low-benefit users from consuming highly subsidized [...] resources . . . high-benefit users will bear the ordeal and consume those resources’ (Zeckhauser, 2021: 67). He states further that ‘any potential beneficiary willing and able to endure the ordeal receives treatment’ while those who do not have high need will self-select themselves out (Zeckhauser, 2021: 69). Zeckhauser notes that these ordeals are similar to what we endure when it comes to selection in military units and gangs: ‘Criminal gangs, fraternities and some military units require the performance of dangerous and/or arduous acts by those who might want to join, thereby sorting by intensity of preference, and in some instances by skill’ (Zeckhauser, 2021: 71).

I disagree with Zeckhauser’s defence of ordeals and their necessity. First, access to public services is not the same as access to membership of gangs, fraternities or military units. That the use of ordeals might be appropriate in such cases does not mean that they are appropriate in the bureaucracy of public services. Second, and more substantively, I shall argue that not only are these burdens often unreasonably burdensome in absolute terms, but they also tend to disproportionately affect disadvantaged groups, such as disabled people and those from lower socioeconomic backgrounds. This reality is what gives rise to *bureaucratic injustice* – the focus of the last part of the article – and gives us reason to reject Zeckhauser’s idealised view of burdens and ordeals. Note that my objection to Zeckhauser is not that he is wrong about the normative case for some kinds of ordeals. Rather, it is that he overstates the case for them given the reality of bureaucratic burdens in our world today.²¹

Bureaucratic injustice

When it comes to considering whether a particular state of affairs is *unjust*, two powerful intuitions guide our judgements. First, liberal egalitarians have a *sufficientarian* intuition that it is generally unjust that people are below some threshold of sufficiency through no fault of their own. Second, and independently, liberal egalitarians also have an *egalitarian* intuition that objects to individuals from disadvantaged social groups facing higher burdens than those from more advantaged social groups, even if everyone is above the threshold of sufficiency.

Extending these powerful intuitions provides us with two main ways in which bureaucratic burdens become bureaucratic injustices, which we can call the *non-comparative* and *comparative* accounts.²² On the *non-comparative* account of bureaucratic injustice,

bureaucratic burdens that are unreasonably burdensome by some absolute metric are unjust. This aligns with a sufficientarian intuition about everyone being able to have *good enough access* to essential public services. On the *comparative* account of bureaucratic injustice, bureaucratic burdens which are disproportionately experienced by members of socially disadvantaged groups are unjust even if they are not excessive in more general, non-comparative terms. This aligns with an egalitarian intuition, requiring us to understand how different groups experience bureaucracy. Bureaucratic injustice therefore arises when bureaucratic burdens are unreasonably burdensome *or* when bureaucratic burdens are disproportionately experienced by members of socially advantaged groups.

The non-comparative account of bureaucratic injustice

A bureaucratic burden is unduly burdensome and results in non-comparative bureaucratic injustice when it *unreasonably* impedes individuals' ability to access goods and services to which they have a right. Not much turns on what services and goods we consider individuals to have a right to for my account of bureaucratic injustice, but we can work with the standard entitlements accepted by virtually all theorists of distributive justice, such as social welfare benefits, emergency housing, healthcare, fair and competent legal representation, and the ability to vote. However, something being highly onerous may nevertheless be necessary or unavoidable, or the burden may have been voluntarily incurred by the individual, so further normative analysis is needed to identify when onerous bureaucratic burdens become bureaucratic injustices.

The test for whether a bureaucratic burden *unreasonably* impedes individuals' access to public services, and thus whether we trigger the charge of bureaucratic injustice, involves three key components which relate to *necessity*, *avoidability*, and *responsibility*. The first part of the test is to ask whether the onerous burden is *necessary*. This means reflecting on whether the bureaucratic burden serves a legitimate purpose, such as allowing us to screen for eligibility or to prioritise those most in need. The second part of the test is the *avoidability* of having to impose such burdens on individuals. This involves a counterfactual evaluation of whether there is a less burdensome alternative which is reasonably available and which still allows us to meet any legitimate purpose of imposing the burdens. The third part of the test is to consider individuals' *responsibility* and whether the burdens have been voluntarily incurred in some normatively relevant sense.

Consider the first test relating to necessity. A lot of red tape and bureaucratic burdens exist without them serving any legitimate purpose. Some of these are remnants of tradition or past convention, with path dependency resulting in many institutions simply retaining these practices for no good reason. Many parts of the UK's National Health Service, for example, still send routine appointment letters solely by post, posing a burden for those who have no fixed abode or those who frequently move houses. Some bureaucratic burdens are enacted for purposes of discrimination. The history of immigration, for example, is replete with burdens being deliberately erected in order to discriminate against particular ethnic groups (Al Hashmi, 2023; Fine, 2016). During the 19th and 20th centuries, Chinese labourers coming to New Zealand for work were required to pay a poll tax of £100 each (approximately US\$22,000 in today's money) (Ministry for Culture and Heritage, 2023). The purpose was explicitly discriminatory, imposed only on Chinese migrants to add an additional financial burden.

Other bureaucratic burdens, however, serve a legitimate purpose. These include burdens that arise from checking eligibility criteria in order to target interventions towards

those most in need, due diligence checks to ensure public funds are being used judiciously, and efficiency considerations from centralising services. If the burden serves no legitimate purpose, then it merely serves as an unjustified barrier to individuals accessing essential services and this is sufficient to consider the state of affairs unjust. This is especially the case when the burdens serve overt or covert discriminatory purposes. In cases of discrimination, we may also have additional reasons of justice to complain about such burdens which go beyond them impeding access to a particular good or service. If the burdens serve a legitimate purpose, however, this is still not enough to vindicate the view that they are not unreasonable burdens. Considerations of reasonable alternatives are also necessary.

This leads us to the second test, which is concerned with avoidability. Assuming that a burden serves a legitimate purpose, the majority of our analysis of whether a bureaucratic burden is unreasonable (and thereby non-comparatively unjust) or not takes place at this level. The key question is whether the bureaucratic burden is avoidable by means of a reasonably achievable alternative which is less burdensome. If a reasonably achievable and cost-effective alternative exists which is less burdensome and the present conditions are designed contrary to this, then the burden may be considered unreasonable. Sabrina needing to drive five hours to see a doctor in a rural town when better investment and a simple restructure would enable one to be stationed 45 minutes away constitutes an unreasonable burden, since an alternative arrangement is available which is cost-effective and reasonably achievable. If, on the other hand, there is no reasonably achievable and cost-effective alternative to a particular burdensome process, then the burden need not be considered unreasonable. Treatments for rare cancers are extremely burdensome and require multiple lengthy appointments, often in specialised centres with specialist staff and equipment far from home, but there are no plausible alternatives at present and such burdens may therefore not be unreasonable.²³

The issue of value-based burdens may be especially challenging to evaluate in terms of reasonable avoidability. Suppose that a devout Muslim finds herself bureaucratically burdened by a medical appointment that has been scheduled for a Friday afternoon, coinciding with obligatory Friday prayers at the mosque. Does the burden unreasonably compromise her values such that bureaucratic injustice arises? Our considered judgements about such cases are likely to be mixed. On one hand, it seems important that accessing essential public services should not require us to sacrifice our deeply held value commitments. On the other hand, it seems clearly the case that not all compromises of values are unjustified. In some instances, the compromise of an individual's values may be a source of disadvantage for them, but we should nonetheless dismiss their complaint. The most obvious instance of this is where their values are objectionable, such as a racist patient refusing treatment from a doctor of a minority ethnic background. The fact that their racist values are compromised does not make it an unreasonable burden, and we would dismiss any complaint of bureaucratic injustice on these grounds.

There are other less clear-cut cases, however, and analysing these will help clarify our considered judgements. Consider, first, a stylised scenario of Oscar Wilde, who values aesthetic beauty and architectural elegance. Are Oscar's values unduly burdened if he must attend his appointment in a hospital with poor paintwork and horrific architecture? Consider, second, an avid football fan whose medical appointment clashes with a major match for her team. Are her values unreasonably burdened if we do not reschedule the appointment?

Cecile Laborde has argued that reasonable accommodation is justified for certain deeply held beliefs which are central to a person's identity – so-called *identity-protecting commitments* – as long as these are sincerely held and subject to certain minimal demands of morality (Laborde, 2017). Laborde's conditions provide us with useful guidance to proceed, in terms of demanding the conditions of *sincerity* and *acceptability*. Assuming the conditions of sincerity and acceptability are met, the same counterfactual test based on the existence of a reasonably achievable and cost-effective alternative may be useful for evaluating what is a reasonable or unreasonable burden. If there is a reasonably achievable and cost-effective alternative which would not compromise a person's sincerely held and morally acceptable values – and accommodating this alternative would not impede the general pursuit of justice more broadly – then not making this option open to the person may unreasonably burden an individual's values. Accommodating a person's values, even if sincerely held, must not set an unacceptable administrative precedent that would affect the discharge of other demands of justice. Accommodating Oscar Wilde and the avid football fan's penchants would be unacceptable from an administrative standpoint and set an unsustainable precedent for anyone who demands that essential public services accommodate their personal demands and schedules. This would not be conducive to ensuring access for other individuals and would be contrary to the pursuit of justice.²⁴

What is considered reasonably achievable and cost-effective relates to the question of the right counterfactual to use and will admittedly vary across different contexts. Whether a burden X is reasonably avoidable in Context A may be different to whether X is reasonably avoidable in Context B. At the same time, avoidability is not synchronic, and the fact that we are in Context B does not mean that we cannot become more like Context A, where X becomes reasonably avoidable and thereby comes to constitute an unreasonable burden. My aim in this article is to provide a general conceptual exploration of the idea of bureaucratic injustice rather than a detailed method for evaluating particular burdens and whether or not they constitute bureaucratic injustice. What this shows, however, is that evaluations of avoidability must be dynamic and integrated within broader considerations of justice to yield meaningful conclusions about whether burdens are unreasonable or not.²⁵

The third test to determine whether a particular bureaucratic burden unreasonably impedes individuals' access to public services is to consider individual *responsibility* and voluntariness.²⁶ An individual who voluntarily chooses to live as a hermit in an isolated mountain range will impose significant bureaucratic burdens upon herself, especially in terms of physical burdens. In such cases, the voluntarily incurred bureaucratic burdens experienced by the individual need not be considered unreasonable. As observed by John Roemer, however, individual choices often have a significant structural component that may track existing axes of disadvantage (Roemer, 1993). For example, those who ostensibly choose to live in isolated rural areas (where *physical* and other bureaucratic burdens are greater) may be doing so because of high property prices in the urban centres which they are unable to afford. Considering individual responsibility may therefore not always be appropriate given the practical reality of inequality and injustice in the real world, but it is nevertheless normatively relevant in at least some instances.

Unreasonable burdens are *pro tanto* unjust insofar as they impede individuals' access to essential public services in a way which is unnecessary, reasonably avoidable, and not voluntarily incurred. They affect individuals' substantive access to essential public services in a way general theories of justice consider unjust. John Rawls, for example, famously distinguishes between formal and substantive equality of opportunity (Rawls, 1999). The concept of bureaucratic injustice shows that individuals may have formal

opportunities to access a good, but bureaucratic burdens may prevent them from accessing it in any substantive sense. In Rawlsian parlance, there is formal access without substantive access. The concept of bureaucratic injustice therefore adds a *robustness* consideration to the specification of rights we already acknowledge individuals as possessing. The insights captured by the concept of bureaucratic injustice allows us to acknowledge the importance of robustness and genuine opportunities, as pointed out by theorists from the capabilities approach, though without necessarily abandoning our standard *distribuenda* in favour of capabilities and functionings (Nussbaum, 2011; Wolff and De-Shalit, 2007).

The primary wrong of bureaucratic injustice in the non-comparative sense is captured by the burdens individuals must bear in their attempt to access public goods and services to which justice entitles them. The injustice of unreasonably burdensome bureaucratic burdens comes from the fact that they impede justice and the goods it guarantees, not in the existence of the burden as such. The existence of the burden may be patterned and have distributive implications, but this is a matter for the comparative sense of bureaucratic injustice which I turn to shortly. Bureaucratic injustice in the non-comparative sense is a kind of second-order wrong, related to the curtailment of access to first-order goods demanded by justice.

The comparative account of bureaucratic injustice

Even if everyone has reasonable access to essential public services, it may still be the case that some groups experience a disproportionate level of bureaucratic burdens when they access or seek to access essential public services compared to others. This is the second way in which bureaucratic injustice can arise, corresponding to our egalitarian intuitions. We can refer to these as cases of *residual* bureaucratic injustice.²⁷

Suppose that it is easy enough, in general non-comparative terms, to apply for unemployment benefits. The bureaucratic burdens serve legitimate purposes and are not unreasonably onerous for the vast majority of the population. Nevertheless, it so happens that homeless people find it especially challenging to apply given their transient status and the fact of having no fixed address with which to open a bank account into which benefits can be paid. It is still theoretically possible for them to apply, but the process is significantly more onerous than for non-homeless people. Is this an instance of bureaucratic injustice? Specifically, the question is whether bureaucratic injustice exists when burdens are generally reasonable for everyone but where some disadvantaged groups nevertheless experience residual burdens which are onerous and unreasonable. This brings up questions around the degree of accommodation that public institutions are required to provide and debates about the role of targeted versus universal approaches to service delivery.

Public institutions plausibly have a duty to reduce the burdens of bureaucracy for a particular disadvantaged group, even when the bureaucracy in general is designed to limit such burdens, as long as doing so is not unreasonable. The standard for evaluating what is reasonable has already been explored in the previous discussion. The same considerations of necessity, avoidability, and responsibility apply when evaluating whether or not public institutions are required to accommodate the challenges experienced by disadvantaged groups. The fact that some groups of people find it *especially* challenging to access essential public services when remedying this is reasonably achievable is an important consideration of justice. The wrongs of comparative bureaucratic injustice can be cashed out in a number of different ways.

The first way in which comparative bureaucratic injustice is wrong is in terms of its expressive dimension. A society that does not take reasonable steps to reduce bureaucratic burdens for its disadvantaged groups expresses a message that these people's interests do not matter.²⁸ This is so even if bureaucratic burdens in general are not onerous for most people. Consider a scenario where there are a set of small steps to enter the building where one must go to apply for social welfare benefits. For the overwhelming majority of people, these small steps do not pose a (physical) bureaucratic burden that prevents them from accessing essential public services. Nevertheless, a very small minority of people who are wheelchair users find themselves unable to enter the building. The public institution could instal a simple ramp to remove this physical burden for the wheelchair-using minority, and the fact that it has not done so expresses a disregard for the interests and needs of this disadvantaged group.

The second way in which comparative bureaucratic injustice is wrong relates to the fact that disadvantaged groups will ultimately be deprived of equal access to essential public services. Bureaucratic burdens ultimately impede access to goods, and particular groups who face higher bureaucratic burdens will ultimately have less access to the good compared to others. The case of the wheelchair user above means that she cannot apply to be considered for the social welfare benefits she may be eligible for.²⁹ A more complex case relates to the problem of epistemic burdens. Suppose the healthcare system works on the assumption that everyone is literate and has an intelligence level at least roughly equivalent to that of a 12-year-old person. In general, this assumption means that health-related information will be provided in an epistemically accessible way for the vast majority of patients.³⁰ However, those who do not meet this epistemic assumption (such as those with cognitive deficiencies and intellectual disabilities) will essentially not have access to healthcare services and information about their own health.³¹ Bureaucratic burdens which are experienced disproportionately by disadvantaged groups ultimately results in decreased access to the essential public service in question, and this is contrary to the demands of justice.³²

Even if bureaucratic injustice is a second-order wrong, primarily affecting our access to first-order goods and services, experiencing such burdens nevertheless falls within the scope of justice. Justice is about the distribution of benefits and burdens, and the fact that certain disadvantaged groups are disproportionately *burdened* makes the language of injustice apt in this case. The comparative sense of bureaucratic injustice captures this view.

The significance of bureaucratic injustice

The existence of bureaucratic injustice does not require individual wrongdoing. As captured by Iris Marion Young's conceptualisation of structural injustice, victims can experience injustice even when no individual does anything wrong (Young, 2011). Individual bureaucrats may merely be following the system, but the effects of their actions may be such that bureaucratic injustice arises. The site of bureaucratic injustice, then, is primarily at the structural and institutional level rather than at the individual level. Bureaucratic injustice captures a phenomenon where an ostensibly just and well-designed system can nevertheless create unreasonable burdens or disproportionately impact certain groups of people.

At the same time, there are arguably some instances when individual bureaucrats do contribute to bureaucratic injustice. Some bureaucrats may have biases and discriminatory attitudes against certain individual accessing public services and may erect

additional hurdles for them to pass through. Other bureaucrats, while not biased against certain groups of individuals, may have ideological opposition to certain policies and entitlements. This may lead them to deliberately stymie citizens' access to these services, arising out of an ideological view that such services should not be available at the taxpaying public's expense.³³ Examples of politically and ideologically motivated obstruction include voter suppression, increasing the burdens for homeless people to access welfare benefits, and making visa processes as burdensome as possible to deter would-be migrants and refugees.

Nothing I have articulated thus far suggests that we should see bureaucratic injustice as an all-things-considered wrong rather than merely a *pro tanto* wrong. Bureaucratic injustice demands our attention insofar as it is an *injustice*, but this article makes no claim about how serious or urgent it is relative to other cases of injustice in society. My primary endeavour in this paper is to map the conceptual and normative space that bureaucratic injustice occupies within political philosophy rather than to provide a comprehensive theory of bureaucratic injustice. How seriously we consider bureaucratic injustice and how important it is to remedy will likely depend on our other priorities of justice as well as the nature of the good being impeded by bureaucratic injustice.

There is no simple solution to the problem I have identified in this paper, given what we might call the twin predicaments of bureaucracy.³⁴ On the one hand, without the rigidity and guidance provided by the bureaucratic apparatus, we are likely to have problems of efficiency and domination and arbitrary decision-making by individual case-workers. On the other hand, within a bureaucratic apparatus, the possibility of bureaucratic injustice arises with individuals faced with burdens that impede their ability to access essential public services. Beneficent bureaucrats also have less flexibility to accommodate individual needs and contexts or to make exceptions in response to unique circumstances. Both scenarios have the potential to affect our ability to secure robust access to essential public services. What is clear, however, is that any proposed solution must be cognisant of the space between institutions and individuals. This is the site of bureaucratic injustice.

Conclusion

Understanding bureaucratic injustice enables us to see that justice is not merely about having the right institutions and policies in place, but also about paying attention to how individuals experience these institutions and policies in their day-to-day lives. Bureaucratic injustice is one form of injustice that has hitherto not been sufficiently recognised within contemporary theories of justice. The conclusion of the paper can be summarised in one short phrase: red tape is not only annoying, but it is also often unjust. This paper provides a conceptual exploration of bureaucratic injustice from the perspective of normative political theory.

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Notes

1. For simplicity, I use the terms ‘public goods and services’, ‘essential public services’ and ‘essential services’ interchangeably throughout this paper.
2. Other relevant works in bureaucracy include Lipsky (1980) and Zacka (2017).
3. Other theorists who have discussed bureaucracy and justice in related but different ways to my current focus include Cordelli (2020), Engster (2020), and Heath (2020).
4. Young (1990: 76).
5. Habermas (1984).
6. Gordon (1990: 194).
7. Fraser and Gordon (1994).
8. Young (1990).
9. Akin to Miranda Fricker’s idea of institutional vices and virtues, we might be able to conceptualise of bureaucratic vices and virtues insofar as they serve both positive and negative functions (Anderson, 2012; Fricker, 2009).
10. This has some parallels with the broader debate around natural versus social justice, with many holding the view that social injustice is worse than natural injustice. What matters for me is not the genesis of the injustice but whether or not something is done about it once we become aware of it. See, for example, Lippert-Rasmussen (2004).
11. Libertarians, in any case, may also object to bureaucratic injustice (for example, in the private sphere) insofar as it might reduce freedom and efficiency.
12. See also a recent report by the United Nations Special Rapporteur on Extreme Poverty and Human Rights, evaluating the United Kingdom’s social welfare system (United Nations General Assembly, 2019).
13. For an empirical study of the burdens experienced within the US healthcare context, see Kyle and Frakt (2021).
14. Donald Moynihan, Pamela Herd, and Hope Harvey explore a related but narrower list of burdens. They identify learning, psychological and compliance costs associated with what they call administrative burden (Moynihan et al., 2015).
15. See also Fricker (2007).
16. C. Thi Nguyen identifies cases where transparency may also have oppressive qualities, relating to the multiple dimensions of what I am calling epistemic burdens (Nguyen, 2022).
17. See, for example, Kittay (2011), Barnes (2016), and Shakespeare (2006).
18. Samuels (2017).
19. Other theorists discuss related burdens. For example, Ian James Kidd (2019) discusses other psychological burdens including those experienced by people with somatic illnesses in hospitals (what he calls *pathophobia*). Havi Carel documents the psychological burdens of her illness, including having to navigate complex health bureaucracies (Carel, 2013).
20. There is interesting empirical evidence on this front, including what geographers and political scientists refer to as the *priming effects* of voting in certain spaces (Berger et al., 2008).
21. For a more nuanced and balanced view of using ordeals (or ‘inconvenience’) as a way of rationing healthcare, see (Eyal, Romain, and Robertson, 2018).
22. Fabienne Peter has analysed health inequalities in a related sense, which she calls the direct and indirect accounts of health injustice. Peter’s account focuses on whether our objection to health inequalities is grounded by principles of egalitarian justice more broadly (indirect) or simply by the fact that it relates to health (direct) (Peter, 2006).
23. The issue of the right counterfactual to use arises, which I address shortly.
24. Some people regard their football affiliations as identity protecting in a vital sense. For example, the rivalry between the Celtic and Rangers football clubs in Glasgow is tied up strongly with sectarian religious identities. Celtic supporters see their identities as tied up with Catholicism while Rangers supporters see themselves as Protestants. In such instances, there can be reasonable debate around the boundaries of what constitutes identity-protecting commitments. We do not need to presuppose an outcome over how to deal with the avid football fan’s request, but we can at least acknowledge that there will be boundary cases where identity-protecting commitments may come into play.
25. This aligns with what Simon Caney, writing in another context, calls *integrationist* theorising (Caney, 2012).
26. For the significance of responsibility for justice, see Knight and Stemplowska (2011), Stemplowska (2009) and Go (2021).

27. I borrow this term from the health justice literature, whereby health inequalities that nevertheless arise in an otherwise just society are referred to as *residual* health inequalities (Daniels, 2007).
28. For arguments about the salience of the expressive dimension of state actions, see (Go, 2023), Schemmel (2021), and Voigt (2018).
29. Proponents of the social model of disability argue that the barriers facing disabled people are primarily social and institutional rather than anything inherent to the disability (Barnes, 2016; Shakespeare, 2006).
30. Those who are under the age of 12, for example, would generally have parents/guardians who meet this standard and who can convey the information to them.
31. See also the broader literature on epistemic injustice and children: Burroughs and Tollefsen (2016) and Carel and Györffy (2014).
32. For this reason, many health systems provide 'easy read' versions of health information brochures to accommodate as wide a range of epistemic capacities as possible. See, for example NHS England (2023).
33. Ron Swanson, a libertarian character in the American satirical sit-com *Parks and Recreation*, comes to mind. Swanson constantly tries to undermine the government and prevent access to services he thinks should not be provided by the state.
34. As Max Weber observed, bureaucracy also seems inevitable in modern societies, and our focus must be on improving and reforming rather than abolishing them (Weber, 1958).

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