Politicised Bureaucrats: Conflicting Loyalties, Professionalism and the Law in the Making of Public Services

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Abstract

Over recent years, public servants from across the world, from French nurses and Belgian social workers to Beninese judges, have been protesting their governments. These protests, some even overt, have erupted in response to specific policies imposed on them or needing to be enforced by them. This Special Issue, however, delves into diverse processes, strategies, actions and practices adopted by civil servants in delivering or administering a public service, be that health care, education, welfare and the like, by extension, seeking to redefine the state or the experience of the state (as a body of institutions, services, public policies, etc.) at the micro-level. Often daily practices of public servants when administering public services directly or indirectly challenge and undermine such legal and policy directives of the government that defy their own idea(l)s of stateness. These findings are drawn from recent works on the making of stateness, which explore the day-to-day work of public servants, especially their interaction with users and their exercise of discretion in implementing public policies. The studies focus on how public servants critically engage with the state and interrogate its policies, mainly to instil (or prevent) political change. A critical engagement with the conflicting loyalties of individual bureaucrats will expand our current understanding of street-level bureaucracies. That also entails observing and analysing their ambivalent responses to new governmental injunctions on a day-to-day basis and their attempts to reinterpret and redefine professionalism as they navigate their conflicting loyalties.

Keywords: public/administrative law; anthropology; bureaucracies; stateness; rule of law

1 Introduction

Viral images of French nurses and doctors demonstrating in the streets point to a trend that is both global and local. Over recent years, public servants worldwide, from Belgian social workers to Beninese judges, have resorted to interrogating, acting contrary to and protesting specific policies they must enforce as being imposed upon them. This Special Issue thus focuses on public servants embedded in various levels of state bureaucracies protesting or acting 'against' the state – a notion that we apprehend as a set of representations and ideas (Hansen and Stepputat, 2001), a seat of power and a body of norms and institutions (Dubois, 2010; Bierschenk and Olivier de Sardan, 2014). Scholars have previously explored various mechanisms and practices used by bureaucrats to defend certain idea(l)s of the state based on these representations, by acting against institutional norms, policies or governmental guidelines. Recent studies characterise street-level bureaucracies as central sites that produce stateness (Dubois, 2010; Bierschenk and Olivier de Sardan, 2014; 2021) to reflect on the daily work of public servants, their interactions with users and their exercise of discretion in implementing public policies, and explore the place of critique, contestation and politicisation in the 'making' of public services.

Building on this research, and working within this body of scholarship, this Special Issue, made up of five contributions, highlights public servants' discourses about the state and the ways in which they

act against the government, safeguard or disobey administrative orders, and subtly resist political pressure. Contributions ask what norms they mobilise or refer to, and what the intended and unintended effects are. In the first paper of this Special Issue, 'Bureaucracies under authoritarian pressure: legal destabilisation, politicisation and bureaucratic subjectivities in contemporary Turkey', Saglam describes selected (legal) strategies adopted by bureaucrats in two offices overseeing elections during the post-coup period in Turkey to defend the autonomy of their organisation against political overreach. Second, in 'Translating politics into policy implementation: welfare frontline workers in polarised Brazil', Eíro explores how Brazilian interface bureaucrats translate new, more conservative political scenarios before any actual legal or policy changes. In the third paper, 'Failing, writing, litigating: daily practices of resistance in Belgian welfare bureaucracies', Andreetta illuminates how welfare workers circumvent restrictive administrative guidelines to ensure continued provision of social assistance, especially to irregular migrants. Fourth, in 'Changing the administration from within: criticism and compliance by junior bureaucrats in Niger's Refugee Directorate', Lambert elaborates on how young employees of an asylum office in Niger practise everyday resistance by criticising their working conditions and the administration. Finally, in 'Magistrates marching in the streets: making and debating judicial independence and the rule of law in Benin', Kolloch analyses judges and prosecutors' daily fight for judicial independence in Benin that culminated in a political protest movement. These papers help readers and researchers explore a landscape in which bureaucrats have become 'politicised'.

For the purposes of this Special Issue, we understand political actions as both ordinary and extraordinary practices that diverge from public servants' official, formal duties and through which they critically engage with 'the state' – as a set of ideas and institutions that perform and produce governance. To do this, we draw on the idea that the state is not a monolithic entity but instead a combination of representations, institutions and norms that bureaucrats must navigate and translate into action (Verheul, 2013; Lentz, 2014; Beek, 2016; Andreetta, 2019). We argue that bureaucrats become politicised, meaning that they act in awareness of their actions diverging from the policies or the expectations of their superiors when such actions aim to question, counteract, resist or further official guidelines and policies. 'Political' actions can also include giving instructions/advice to users in a manner that goes against or beyond the call of duty, using their discretion to help the 'client' (Andreetta, in this issue) or further new political trends (Eíro, in this issue), march on the streets or strike against their own government (Kolloch, in this issue). The ambivalence between bureaucratic ideals – being obedient, dutiful and loyal to the state – and their personal professional or ethical norms can eventually lead to political unrest, to which several strikes of bureaucrats in Europe and beyond testify. In recent years, especially judges from West African countries have resorted to 'civil disobedience' to oppose what they perceive as political intrusion in judicial affairs, by resorting to both legal arguments and political protests (Kolloch, 2022). In defending certain idea(l)s of stateness and good governance against specific policies or government decisions, and questioning certain policies and practices, the bureaucrats we studied put into question the neutrality of bureaucracy and the ideal of the modern, apolitical bureaucrat.

Supposedly devoid of politics, the bureaucrats we study assume a 'political' stance and act in contradiction to 'shared' professional standards and current understandings of bureaucracies (Weber, 1922/1956) understood as requiring withdrawal from public and political life or unquestioned commitment to the rule of law. Weber described the ideal-type bureaucracy as a well-functioning social organisation representing the core of rational-legal rule. Modern bureaucracy requires specialised training in the context of a hierarchical civil service framework operating on fixed rules pertaining to seniority, loyalty to the office and a clear separation between public and private spheres (Weber, 1922/1956, pp. 559–571; see also Hoag and Hull, 2017, p. 6). These bureaucratic principles can also be understood as the emic view of public servants (Hilbert, 1987, p. 71). Following these seminal works (Weber, 1922/1956; Hilbert, 1987), more recent studies on public services, which focus on practices adopted by public servants, highlight their social and political embeddedness and the various, sometimes conflicting, layers of norms and logics that they have to navigate on a daily basis (Blundo and Olivier de Sardan, 2007; Spire, 2008; Blundo and Le Meur, 2009; Bierschenk and Olivier de Sardan, 2014; Eule et al., 2018).

This Special Issue aims to further these debates by exploring how bureaucrats can actively engage with and question the values associated with 'the state', the government and its institutions and policies.

Building on Gerken's (2013) idea that agency or 'disloyalty' points to minorities' influence at local levels of governance, we posit that specifically focusing on bureaucrats' dissenting voices and practices helps better understand their role in everyday governance. Bureaucrats' contemporary modalities of protests, contestations and criticism illuminate how they mobilise the rule of law to push back against authoritarian measures (Saglam and Kolloch, in this issue) or voice criticism against degrading conditions and fight for better (public) services for both citizens and non-citizens alike (Lambert, Andreetta and Eíro, in this issue). They sometimes use conventional industrial methods of action, such as strikes, to draw attention to their own role and put forth their own political demands or, ultimately, change the political system using legal force (Kolloch and Andreetta, in this issue). Finally, the papers in this issue illustrate bureaucrats' commitment to particular ideals of stateness, the law and public service (e.g. that ensure public service access to vulnerable populations). In a context in which the exercise of their discretion means following certain informal norms that contradict or circumvent official ones, often described as widening the gap between policy and practice, the papers in this volume highlight bureaucrats' attempts to strengthen the rule of law and democracy as serving to improve public service. They illuminate how street-level actors use their discretion to make policies not only 'from below' but also 'from the bottom up' – by subverting, amending or translating policies (Lipsky, 1980; Lascoumes and Le Galles, 2004; Lavigne Delville, 2018) and trying to install political or legal change 'at the top'.

2 The making of public services

Drawing from Lipsky's (1980) foundational work, growing bodies of literature have been exploring the daily lives of public servants and how they interact with users, exercise their discretion in implementing public policies and, finally, contribute to the making of stateness (Sharma and Gupta, 2006; Bierschenk and Olivier de Sardan, 2014). Some of these scholars are mainly interested in governance 'from below' and in the concrete, everyday construction of stateness – where bureaucrats emerge as central actors (Bierschenk and Olivier de Sardan, 2014). Others are interested in public policy outcomes and implementation processes (Pressman and Wildavsky, 1973; Lavigne Delville, 2018) and focus on the discretion of street-level bureaucrats, in particular the extent to which their daily practices shape and influence the implementation of specific reforms or policies (Spire, 2008; Dubois, 2010; Evans, 2010). This Special Issue builds on both strands of scholarship relating to public servants' interactions with their 'clients' and their intended and unintended effects. We further their reflections by accounting for how the discourses and practices of public servants engage with and interrogate presumptions about 'the state'. In short, scholars argue that bureaucrats not only make public policies at the street level, but they also try to foster political or legal change.

Early studies of those performing the state began to emerge in the 1970s. For instance, Lautmann's (1972) participant observation of judges highlights how discretionary power can lie in ordinary tasks. From the 1980s onwards, more scholars began to investigate public administrations through the day-to-day work of bureaucrats (Maynard-Moody and Musheno, 2003; Spire, 2008; Dubois, 2010; Eule *et al.*, 2018; Holm Vohnsen, 2017), mainly in Western contexts. In parallel, the rise of the anthropology of the state, in the 1990s, called for more empirical research to deconstruct the notion of the state as a unified actor (Gupta, 1995; Taussig, 1997). Building on the idea that 'real governance' (Blundo and Le Meur, 2009) could be studied through the daily practices of public servants, social scientists started investigating the daily work routines of African bureaucrats as actors 'making' the state (Bierschenk and Olivier de Sardan, 2014). These studies inspired further research on the 'local state' and its actors in various contexts (Gupta, 1995, pp. 378, 383; Das and Poole, 2004; Lund, 2007).

Others focused on images, representations and discourses of the state (Hansen and Stepputat, 2001) from both the citizens' and non-citizens' perspectives. These images ('seeing the state') were differentiated from practices ('doing the state') and often researched separately (Migdal and Schlichte, 2005,

pp. 14–15, 19). Highlighting the gap between both approaches to the state, Thelen, Vetters and von Benda-Beckmann (2018, p. 2) argue for a 'relational anthropology of the state as a way to bridge the gap between images and practices'. Beek (2016, pp. 8–9), on the other hand, uses the concept of 'stateness' to create a dialogue between state action and ideas of the state, as different actors and institutions provide public services. Stateness, therefore, encompasses practices and processes in a complex field (De Herdt and Olivier de Sardan, 2015, p. 6).

Our studies of politicised bureaucrats build on Beek's (2016, pp. 8–9) notion of 'stateness'. We intend to show how public servants' strategies and practices can be understood as embedded in and driven by their perceptions and expectations of the state. They also build on Hirschman's (1970) political action theory and his three strategies for members of organisations and democratic institutions – exit, voice and loyalty – to challenge power and influence practices. Schaffer and Lamb (1974) classify user strategies – such as mobilisations, brokerage or avoidance – as examples of how the 'voice' and 'exit' approaches can be used to foster access to public services (ibid., p. 86). Across continents, bureaucrats from Belgium (Andreetta), Niger (Lambert), Benin (Kolloch), Turkey (Saglam) and Brazil (Eíro) are using their voices – through criticism, writing or striking – against their own governments in an effort, as they see it, to safeguard fundamental rights or adapt policies to new political agendas. Such strategies can be further conceptualised as embedded in a democratisation process, in which bureaucrats participate and promote the rule of law. Thus, departing from Hirschman's trilogy, Gerken (2013, p. 1351) suggests framing bureaucratic resistance as 'disloyalty'– to put the spotlight on 'minority influence'.

In line with Gerken's notion of bureaucratic disloyalty, the papers in this issue illuminate bureaucrats' commitment to defend democratic ideals, using more or less subtle strategies of political contestation. Kolloch, for example, discusses political actions and confrontations staged by Beninese magistrates since 2012. They have repeatedly protested political interference and demanded compliance with their statutorily guaranteed independence. Beninese judges and prosecutors fought for their rights and the implementation of the rule of law in Benin publicly. Based on her fieldwork in Benin in 2009 and 2015, and her subsequent archival research in 2017 in France, Kolloch analyses the change in the style of interactions between different parts of the executive and the judiciary in the profession's history, noting a shift from political negotiation to confrontation. Although the real role and obligation of the Beninese magistrates since independence have been to err on the side of restraint rather than deeper involvement in politics, they have chosen to 'act politically' through strikes and public demonstrations. This ambivalence between their self-perception and behaviour was apparent in their increasing mobilisation as a political protest movement. Lambert delves into the failed expectations of efficiency and good working conditions of asylum bureaucrats. Andreetta analyses how welfare workers circumvent administrative guidelines in order to protect welfare ideals, while their Brazilian counterparts, described by Eíro, translate recent policy changes in compliance with a more conservative approach to family benefits.

Focusing on the various ways in which bureaucrats can act against their own administration, therefore, helps 'thicken' our understanding of statehood, by insisting on the diversity of sometimes conflicting norms that public servants can be loyal to – including professional ideals, democratic principles and the rule of law, which sometimes clash with government policies or instructions from above.

3 Conflicting loyalties, professionalism and the law in public services

Public servants are bound by ethical and professional norms like many other professionals. Judges, for example, often internalise the professional ideals of loyalty, duty, honesty, justice and political restraint. These norms extend to their daily lives outside of the court (Budniok, 2014) and many mention the impact of these unwritten rules of professional conduct on their private lives (Kolloch, 2022). Social workers have a duty to care and assist; medical professionals are bound by the terms of their Hippocratic oath. Aside from the specific guidelines associated with the attendant educational or

professional training, public servants enjoy certain privileges and have room for manoeuvre; yet they also have special moral obligations and standards with regard to their own position in society, such as integrity and the responsibility to be a role model (Behrends and Pauli, 2012, pp. 304, 311). The boundaries they draw between themselves and other groups, including the general population, result in palpable differences between themselves, or those bound to a common ethos, and those outside that professional group who do not share that ethos (cf. Lamont, 2000, p. 3; Bourdieu, 1985, p. 21; Budniok, 2014). Existing research also illuminates the various obstacles that public servants can face in adhering to these professional ideals, such as low salaries, having to cater to expectations or demands of family members, personal ambitions, political inference, instructions from above, prejudice or absurd policy guidelines (Bierschenk and Olivier de Sardan, 1998, p. 40; Blundo and Olivier de Sardan, 2007; Spire, 2008; Holm Vohnsen, 2017). This Special Issue delves into diverse strategies and practices used by bureaucrats to reconcile conflicting norms and their own ethical loyalties or sense of civic virtue. In each of their specific contexts, the papers offer nuanced readings of how these strategies and daily practices tend to infringe frequent assumptions or weaken good governance and the rule of law (Blundo and Le Meur, 2009; Spire, 2008). Our focus on the ethical and political lives of bureaucrats identifies three, so far underexplored, dimensions of bureaucratic practices: (1) the effects of political change; (2) generational shifts and differences; and (3) the place of affects in public servants' relationship and engagement with 'the state'.

Recent studies have taken to addressing how bureaucrats reconcile conflicting loyalties and relationships with change in governments, laws and the imagined state (Lentz, 2014; Verheul, 2013; Andreetta, 2019; Anders, 2009). In Malawi, public servants must manoeuvre between different official, unofficial and social normative orders, making them more susceptible to corruption (Anders, 2009, pp. 129, 131). Due to the sedimentation of public service reforms and policies (Lavigne Delville, 2018), African public servants indeed must navigate conflicting sets of norms – and sometimes end up trapped in a double bind (Bierschenk, 2014, p. 239). Verheul (2013), for example, describes prosecutors' dilemmas in political trials to balance the rule of law with the instructions from above. Lentz (2014) shows that for Ghanaian public servants remaining loyal to 'the state' entails fighting regularly for or against their own governments. Most bureaucrats are described as having internalised certain professional norms, an ideal image of the state and of what 'working for the state' should look like.

In order to further explore the complex entanglement of citizens' expectations, bureaucratic ideals and professional ethics of bureaucrats, Bear and Mathur (2015, p. 20) focus on the 'public good' as a way to 'reveal the complex collective reality that is generated from intersections between different, often contradictory, projects'. They show how bureaucrats in various contexts and institutional settings attempt to realise the 'public good within and beyond institutions' and illuminate the conflicts and tensions that arise consequently (Bear and Mathur, 2015, p. 21). Finally, they turn to bureaucrats' daily attempts to negotiate between professional ethics and public servants' commitment to the public good as an ideal.

Our Special Issue builds on the idea that public servants do not have a monolithic understanding of 'the state' and, instead, identify different bodies of rules, people and institutions to which they owe their loyalty. It aims to further the aforementioned reflections, by illustrating how civil service ideals found across professional groups and bureaucracies – among judges, asylum bureaucrats, welfare workers and public servants in charge of elections – powerfully shape bureaucratic practices. At the same time, conflicting loyalties stem from the intention to improve, or change certain state norms or institutions: we could summarise this as change from within.

Andreetta illustrates such changes by reflecting on the different strategies used by Belgian welfare bureaucrats to circumvent administrative guidelines that they feel could infringe on the fundamental rights of recipients. Her paper shows how welfare workers use report writing, failing and litigating against the state as strategies to cope with administrative guidelines and instructions from above and to realise what they perceive as higher principles. Andreetta eventually demonstrates that civil servants are loyal to the notion of the state and to providing public service but maybe not to specific government injections or policies (Lentz, 2014) – even or especially when the interests of their 'clients',

often non-citizens, are compromised. Saglam also shows how bureaucrats refrain from expressing political opinions in front of their colleagues reflecting the prevalent ethical norms and ideals. At the same time, they resist the instructions of their superiors when they perceive their practices as unfair or illegitimate.

Focusing on public servants' ethical and professional loyalties also helps us to rethink how and why 'implementation gaps' (Bierschenk and Olivier de Sardan, 2014) occur and identify three so far unexplored aspects of bureaucrats' discourses and practices.

First, some papers in this issue reflect on the effects and the ways in which public servants deal with, further or resist political change. They underline how bureaucrats can both translate, criticise or (more or less) subtly resist against such changes. Saglam sees politicisation occurring in two ways: through illegal strategies, such as corruption, and active political engagement. Young bureaucrats committed to the rule-of-law position themselves as ethical actors against authoritarian infringement and community work. His contribution, therefore, presents bureaucrats as powerful political forces, promoting – and imposing – democracy from within. Eíro, on the other hand, understands the ways civil servants 'translate' – act upon – political shifts in their daily practices as political acts (Mosse and Lewis, 2006; Koster, 2012). He categorises welfare bureaucrats' strategies in response to these shifts into three ideal-types: counterbalance, collaboration and resistance. Within this framework, interface or frontline bureaucrats can be understood as intermediaries between policy-makers and their clients, and implementation as a set of processes of interaction. Eíro, on the other hand, shows that bureaucrats in Brazil modified bureaucratic procedures to fit the new, more conservative political agenda better. Such practices also help highlight the importance and the effects of political contexts on public servants' daily work – beyond clientelism and instructions from above (Blundo and Le Meur, 2009).

Second, most of our papers also insist on shifts in the professional values and workplace conduct of public servants across generations (in this regard, see also Behrends, 2002; Lentz, 2014; Budniok, 2014; Behrends and Lentz, 2012; or Kolloch, 2021, pp. 32–34). Lambert, for example, shows how young bureaucrats promote organisational change through different forms of criticisms. While direct criticism of their superiors are rare, indirect forms of criticism such as applying for other jobs, establishing side businesses or calling out of work – which Bierschenk refers to as the 'exit option' – are more common. Rather than framing these practices as embedded into the practical norms and logics that govern African bureaucracies (Bierschenk and Olivier de Sardan, 2019, p. 248), Lambert analyses them as 'everyday resistance' (Scott, 1985) and political practices. Similarly, in Benin, younger magistrates have grown increasingly critical of the (material) conditions within which they work, upholding good governance and the rule of law as the standards they expect their own administration to meet. While the younger generation of Belgian social workers have integrated the logic of the recent, work-oriented welfare reforms into their daily routines, young Turkish public servants resist authoritarian reforms to uphold the rule of law. Therefore, the papers in this volume describe bureaucratic practices on a sliding scale, ranging from collaboration and compliance to criticism, subtle forms of resistance against political change, or practices aiming to foster such a change. Using the concept of generation, we show that not all bureaucrats are trying to favour or foment political change. Often – though not always (Andreetta, in this issue) – it is a group of young, ambitious, change-focused bureaucrats who are willing to act together.

Third, civil servants' disloyal discourses and practices illuminate their affective relationship to certain ideas and representations of the state (Laszczkowski and Reeves, 2018). Nigerian asylum bureaucrats correlate efficiency with comfortable working conditions. Beninese judges (Kolloch) and Belgian social workers (Andreetta) insist on fundamental right guarantees, such as judicial independence or human dignity. Thus, protests, criticisms and resistant practices are the manifestation of bureaucrats' emotional attachment to certain professional ideals (Lambert and Saglam) – which sometimes conflict with government policies or the instructions from above.

These bureaucrats use various strategies to combat the lack of material and human resources – ranging from voicing, doubting, criticising to failing to provide services, so that policies would change, or

even strike. Such practices, and the discourses of public servants enforcing them, illuminate shared professional values centred on good governance, independence, fundamental rights and respect for the rule of law.

4 Politicisation, professional ethics and the rule of law

This issue reflects on more or less subtle ways in which actors perform 'against the state' – by disobeying administrative orders or resisting political pressure. Focusing on how and why bureaucrats engage with or question state policies, government guidelines and instructions from their superiors allowed us to delve into public servants' understandings of stateness, the law and their reflections on professionalism. Together, our papers demonstrate that this strand of 'politicised' bureaucrats, regardless of their specific training or the type of administration they are confronted with, are committed to upholding and protecting a certain idea(l) of democracy and good governance – sometimes despite or against their own government.

The papers in this issue also open up new and exciting avenues to think about criticism, dissent and political voices in street-level bureaucracies. What are the requirements for criticism to be expressed within or against certain state agencies or governments? Do public servants fear losing a secure job that comes with privileged benefits? While more recent literature on stateness and the daily work of street-level bureaucrats, or the judicialisation of politics, mainly focuses on Western countries, the question remains: How can we think about the place of bureaucrats in the democrati(sation) process? This Special Issue reflects on the conditions under which bureaucrats can resist or disobey instructions they perceive as unfair, illegal or morally challenging.

This Special Issue therefore finally addresses bureaucrats' relationship with and their use of law to trigger or prevent political change from the bottom up – including within authoritarian regimes. The set of papers also show that bureaucrats are not only faithful enforcers of the law but also carefully reflect on the policies they are tasked to enforce and how to exercise their discretion to advance the cause of democratisation. These practices must also be read in relation to how they perceive their administration to gain a new understanding of stateness, filled with bureaucrats who think for themselves and carry out their actions accordingly, ultimately seeking a better rule of law.

Conflicts of Interest. None

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