Administrative Discretion and Street-level Laissez Faire: 
A Conceptual Framework for a Metric of Bureaucratic Discretion

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Abstract
Bureaucratic discretion underlies theoretical developments in the public administration and public management literatures. In the public administration literature, bottom-up approaches to policy implementation rely on the existence of some level of bureaucratic discretion to justify the impact lower level public servants have on policy implementation and their influence on policy outcomes. Public management, on the other hand, observes discretion as a behavioral feature of mid-level and street-level bureaucrats. Bureaucratic discretion is one of the most important concepts in public administration and management because it is a requirement to policy implementation and an omnipresent feature for all public servants. Yet in both cases discretion is assumed but rarely studied directly.

Based on an extensive literature review on the role discretion has in the street-level bureaucracy and the representative bureaucracy literatures, we develop a conceptual framework to identify elements influencing bureaucratic discretion. We ground our theoretical conceptualization on two questions. First, what are the elements affecting bureaucrats’ level of discretionary power? Second, under which conditions are bureaucrats more likely and willing to use their discretion? The framework provides a theoretical argument on the nature of bureaucratic discretion, how it allows the translation of passive into active representation, and constrains its exercise. We argue that the literature on representative bureaucracy has focused on the administrative dimension of discretion, but that bureaucrats face three sets of tensions: one derived from administrative constraints, one arising from the demands of the population served, and a final one defined by their beliefs, their profession, and its culture.
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Introduction

Bureaucratic discretion underlies theoretical developments in the public administration and public management literatures. In the public administration literature, bottom-up approaches to policy implementation rely on the existence of some level of bureaucratic discretion to justify the impact lower level public servants have on policy implementation and their influence on policy outcomes. Public management, on the other hand, observes discretion as a behavioral feature of mid-level and street-level bureaucrats. Bureaucratic discretion is one of the most important concepts in public administration and management because it is a requirement to policy implementation and an omnipresent feature for all public servants. Yet in both cases discretion is assumed but rarely studied directly.

The study of policy implementation is the context in which the exercise of bureaucratic discretion becomes relevant. The use of discretion has a deep impact on policy outcomes because of its influence in the definition of policy goals, the identification of target populations, and the distribution of resources. The literature on street-level bureaucracy, and in particular, the literature on representative bureaucracy, relies on the concept of discretion as the foundation for their theoretical development. The street-level bureaucracy literature’s main assumption is that all public servants have, and use, some level of discretion in their decision-making processes. In the representative bureaucracy literature, the translation of passive into active representation is mediated, among other things, by discretionary actions. Passive representation refers to how the demographic composition of the bureaucratic workforce reflects the demographic distribution of the general population. Active representation, on the other hand, accounts for how minority
bureaucrats’ actions may result in better policy outcomes for the minority populations they serve. Minority representatives can advocate actively for the population they represent if they have the discretion to do so in the administrative context.

The use of discretion is one of the most important assumptions of street-level bureaucrats’ behavior, and a key feature of bottom-up approaches to policy implementation. Additionally, representative bureaucracy identifies the exercise of discretion as a key requirement for the shift from passive to active representation. The limited efforts to quantify discretion in empirical analyses observe discretion only indirectly, through measures of levels and span of control, but these measures do not adequately capture the full set of factors that contribute to the use of discretion.

Based on an extensive literature review on the role discretion has in the street-level bureaucracy and the representative bureaucracy literatures, we develop a conceptual framework to identify elements influencing bureaucratic discretion. We ground our theoretical conceptualization on two questions. First, what are the elements affecting bureaucrats’ level of discretionary power? Second, under which conditions are bureaucrats more willing to use their discretion?

The framework provides a theoretical argument on the nature of bureaucratic discretion, how it allows the translation of passive into active representation, and constrains its exercise. We argue that the literature on representative bureaucracy has focused on the administrative dimension of discretion, but that bureaucrats face three sets of tensions: one derived from administrative constraints, one arising from the demands of the population served, and a final one defined by beliefs held by the bureaucrats, their profession, and its culture. While these three forces influence street-level workers’ decision-making processes, quantitative empirical studies have focused mainly on the first one. To present our conceptual framework, we first discuss the role
discretion has in street-level and the representative bureaucracy literatures. Section II analyzes discretion in the broader policy implementation literature. Section III presents our theoretical framework. We conclude by discussing our current challenges and next steps for the development of a metric of bureaucratic discretion.

**Drivers of Discretion**

Representative bureaucracy theory rests on two main premises. First, that bureaucracy’s composition ought to reflect distinct groups in the social fabric to gain legitimacy and secure equity in the access to public employment. Second, that once they are part of the public sector, minority public officials may advocate in favor of minority interests reducing social inequality (Kelly, 1998; Kennedy, 2014; Kropf, Vercellotti & Kimball, 2013; Meier, Wrinkle & Polinard, 1999; Sowa & Selden, 2003). This literature stands at the core of the discussion on the capacity unelected public officials have to represent the interests of specific groups within society and affect policy implementation therefore, thus policy outcomes.

The representative bureaucracy literature evolved incrementally, starting by addressing what constitutes a minority. Studies on the United Kingdom’s bureaucracy assigned relevance to different socio-economic characteristics of the British civil service (Kingsley 1944). David Levitan (1946) used this approach to analyze socio-demographic characteristics salient in the United States’ case. While in the United Kingdom salient differences rested on income and economic disparities, race and gender were the most salient in the United States’ case.

The conversation on representation then moved from discussions about identity to differentiating between active and passive representation. Mosher (1968) articulated this distinction, suggesting
a substantive difference between bureaucrats sharing socio-demographic characteristics with their clients versus bureaucrats making decisions benefiting clients of the same socio-demographic group. This mechanism is expected to reduce inequalities in policy outcomes under the assumption that a more diverse bureaucracy makes decisions that better reflect the preferences of the diverse clients who are impacted by a policy (Denhardt & DeLeon, 1995; Krislov, 1974; Meier & Nigro, 1976; Rosenbloom & Featherstonhaugh, 1977; Saltztein, 1979; Selden, 1997).

The Organizational and Political Context Informing Discretion. A distinctive characteristic of bureaucrats in the street-level bureaucracy literature is that they have and use discretion in their daily work (Lipsky, 2010; Maynard-Moody & Musheno, 2003). Similarly, contemporary studies of representative bureaucracy analyze the conditions under which minority bureaucrats may act in favor of minority populations, i.e. engage in active representation. Studies identify three conditions necessary for active representation: the policy issue should be salient to the minority, the bureaucrats must be able to act in the context of the specific policy influencing policy outcomes, and the bureaucrats must perceive they have administrative discretion to act in their organizations (Kennedy, 2014). Some authors identify actually possessing the authority to act discretionally as a fourth condition (Gibran, 2013; Wilkins & Keiser, 2006). Only through an active use of the discretion granted by administrative procedures, bureaucrats may actively seek to benefit minority populations. This article focuses on this point in particular.

Consequently, the literature on representative bureaucracy rests on two assumptions. First, and consistent with bottom-up approaches explaining policy-making and implementation processes, public officials shape policy implementation. The second assumption is that representative bureaucrats are able to identify opportunities to advocate for minority populations and that they

Organizational and legal constraints affect the way bureaucrats exercise discretion thus they mediate between passive and active representation. If bureaucrats’ actions are constrained by the type of organization they work in—its structure, legal mandates, and the hierarchy in the organization—bureaucrats will have higher levels of discretion where rules are not limiting its exercise (Gibran, 2013; Meier & Stewart, 1992). Organizational structures can limit or enhance discretion within them by defining performance measures and incentives, and outside them through boundary control (Brodkin, 2011; Meier & Bohte, 2001). Bureaucratic discretion is not only affected by the constraints organizations set on public officials but also by the way the organization controls the interactions with clients and the outcomes of this exchange (Greenley & Kirk, 1973). The uniqueness of the services agencies provide has a deep effect on the use of discretionary power because it affects the bureaucrats’ perception of their own authority. Public officials have to identify this authority to effectively exercise discretion by recognizing the organizational arrangements conducive to these administrative responses (Gibran, 2013). Without this authority, public officials would be in a position of action, with an opportunity to actively represent, but constrained to act.

The importance of the role that contextual factors have on the exercise of discretion is not limited to internal organizational dynamics. There are external political and social contexts that hinder or facilitate the translation of passive into active representation; this is how salient the issue is to the minority population being represented (Atkins & Wilkins, 2013). To achieve representation, the
issue has to be of relevance not only for the targeted population but for the public sphere as a whole. The political environment and the policy context affect the saliency and the importance that society gives to the achievement of policy outputs, thus the authority and capacity bureaucrats have to exercise discretion, and the connotation society gives to it (Park, 2012).

Research in welfare policy and policing provides examples of how the external political and social context matters. Brodkin (1997) asserts that discretion is inherent to welfare delivery because it requires bureaucrats to assess clients with different characteristics and particular needs, but this is present in mental health agencies as well (Peyrot, 1982). In both cases, there is a positive connotation assigned to the use of discretion because of the value society assigns to public assistance, but this is not the case for all policy contexts. For example, law enforcement is heavily regulated by standard operational procedures, and usually under careful media and social scrutiny which limits officers’ ability to exercise discretion and questions their decision-making processes. Bureaucratic discretion co-exists with political control and it is dependent on the context in which external actors seek to limit discretion (Chaney & Saltztein, 1998; Meier & Stewart, 1992). The use of discretion and its impact on representation is stronger in programs, or policy contexts, where rules are highly influenced by bureaucrats’ values, and where the public assigns a positive connotation to discretionary actions.

**Characteristics of Bureaucrats that Inform Discretion.** There is no doubt that discretion has crucial importance for the literature on representative bureaucracy. Without it, minority advocacy cannot be exercised under the assumptions of active representation. Empirical studies on representative bureaucracy focus on the impact active representation has on policy outcomes, but most of these studies assume discretion is being exercised without actually attempting to measure discretion, or conceptualize discretion rather narrowly (Kropf, Vercellotti & Kimball,
The work of Maynard-Moody and Musheno (2003) provides a more nuanced view of discretion, differentiating between state-agent and citizen-agent narratives used by street-level bureaucrats to guide their use of discretion when responding to the public and/or clients. The state-agent narrative describes how street-level workers apply the rule of law and administrative process to the cases they handle. Conversely, the citizen-agent narrative moves beyond consideration of formal institutional constraints, and brings in street-level workers’ beliefs and their assessment of their clients’ moral character (Maynard-Moody and Musheno, 2003). This second narrative accounts for a different aspect of discretion that has been neglected in empirical studies so far. We build on this characterization to expand our understanding of street-level bureaucrats’ discretionary decision making. Thus a more complete view of the exercise of discretion should include administrative/institutional constraints, bureaucrats’ attitudes, training and type of job, and clients’ characteristics.

The representative bureaucracy literature identifies a variety of elements that mediate between passive and active representation, and by far the most important are public servants’ attitudes, values, and ideology. To date, the empirical representative bureaucracy literature uses proxy measures for attitudes via socio-demographic measures of characteristics such as gender, race, and social class, assuming that shared socio-demographics represent shared values and advocacy attitudes (Meier, 1975). This assumption has been criticized as an over-simplification of a highly complex dynamic (Saltztein, 1979; Subramanian, 1967). In 1992 Meier conceptualized this from a different perspective asserting that representative bureaucracy theory observes the ability of bureaucrats to translate values linked to demographic origins into decisions that would benefit individuals from those origins (Meier & Stewart, 1992; Riccucci & Saidel, 1997). Loyens and Maesschalck (2010) observe that in this sense bureaucrats are always facing ethics and values
dilemmas in a democratic context. Ethical decision making is not only affected by the social and democratic context, but is reliant on the values and sense of responsibility held by individual bureaucrats to advocate for their group of origin without jeopardizing democratic representation (Sandfort, 2000). According to Levitan (1946) the continuity of a democratic system relies on a combination of administrative responsibility and administrative discretion, thus the importance of public servants’ values. The representative bureaucracy literature assumes values are linked to socio-demographic characteristics which shape an individuals’ identity, but at the same time these are influenced by the way the individuals identify with their professional group of origin and the role they have in the organization (Ashforth, Harrison & Corley, 2008).

Bureaucrats’ educational background and training both constrains their perception of their own authority and provides an external signal that they have the qualifications to exercise discretion responsibly. Bureaucrats with similar professional training and organizational socialization exhibit similar attitudes towards policy (Fernandez, Malatesta & Smith, 2013; Prottas, 1978). But at the same time, education and training narrow the scope of the discretionary actions bureaucrats may consider as legitimate, reasonable options. Meier and Stewart (1992) observe that peer pressure may affect bureaucrats’ perceptions of authority. For example, Wilkins and Williams (2008) find, in the case of law enforcement, organizational socialization may limit the link between passive and active representation, and based on our argument, discretion as well. At an aggregate level in the context of an organization, discretion may result in informal practices derived from collective knowledge and the way bureaucrats adapt to organizational incentives and sanctions (Brodkin, 2011; Hogg & Reid, 2006; Sandfort, 2000; Wilkins & Williams, 2008). Just like laws set boundaries to reasonable action, education and training set boundaries on what actions are deemed acceptable to bureaucrats.
Client Characteristics Informing Discretion. The level of saliency an issue has for a minority population further affects bureaucrats’ ability to exercise discretion under active representation. The political environment and the public perception of policy issues influence bureaucrats’ discretionary power, guiding who is eligible to receive particular government services. Lipsky (2010) reminds us that clients are by definition non-voluntary; it is mandatory to attend school and everyone is subjected to the rule of law exercised by law enforcement personnel. Even in cases where participation is not mandatory, such as welfare benefits, clients typically do not opt out of not applying for the benefits if they are in need (Lipsky, 2010). Clients’ expectations on the provision and quality of services and clients’ individual characteristics affect the way bureaucrats exercise discretion. Critical elements affecting discretion are clients’ expectations of the role and decision-making power bureaucrats have (Loyens & Maesschalck, 2010). These expectations are fundamental to assess whether or not a minority representative bureaucrat is actually exercising representation. Even if there is a will to advocate in favor of minorities and specific actions conducive to this end, representation is only achieved if who is being represented recognizes this representation (Theobald & Haider-Markel, 2009). At the same time, clients keep bureaucrats in check (Kaufman, 2001).

For the literature on street-level bureaucracy, discretionary behavior is a feature of the relationship between bureaucrats and clients. Bureaucrats have the power to make decisions based on their assessment of their clients. Maynard-Moody and Muscheno (2003) assert that street-level bureaucrats assess their clients’ moral characteristics, being more likely to provide additional aid to those clients that show compliance with rules, and efforts to change their status-quo. This is not without a trade-off as this empathy may lead to preferential treatment and a bias towards focusing resources on clients that are easier to assist (Lipsky, 2010; Sandfort, 2000). In
comparison, in the representative bureaucracy literature, discretion appears to be linked to the difference between equal and compensatory opportunity. We claim that bureaucrats perceive discretionary actions based on the value they assign to these different opportunities, and that this is directly linked to their assessment of their clients. This argument assumes that bureaucrats can clearly identify situations in which they may apply equal or compensatory opportunities based on their assessments of their clients’ individual characteristics.

We conclude that, in the case of the representative bureaucracy literature, elements mediating between passive and active representation influence the exercise of discretion as they provide context and constrain bureaucrats’ actions. We argue that the use of discretion is influenced by organizational contexts, bureaucrats’ beliefs shaped by their professional training and contextualized by the characteristics of their jobs, and the characteristics of their clients.

**Measuring Discretion**

The literature on representative bureaucracy has developed quantitative approaches to measure passive and active representation. However, the use of discretion, one of the key assumptions for the translation of passive into active representation has only been studied recently. A series of studies have defined approaches to capture its nature, but we argue that these cases have always relied on indirect or partial measures. These indirect measures center on expected policy outcomes. Partial measures depend on bureaucrats own perception of their ability to make discretionary decisions over different tasks of their jobs. For example, Hindera (1993) assesses discretion based on the proportion of administrative decisions over which bureaucrats have discretion. Smith and Fernandez (2013) based their metric on whether or not the bureaucrat defines a business as a small disadvantaged business. Another case of an indirect metric is given by Chaney and Saltztein (1998) as they capture discretionary police actions when deciding on an
arrest by observing whether the domestic violence incident happened before or after the police is on scene, and whether or not legislation requires the officer to make the arrest. Other indirect metrics of discretion are defined by the span of control exercised over the bureaucrat. Meier and Bohte (2001) describe teachers’ discretion based on a metric of span of control defined by a principal/teacher ratio. A new indirect measure of discretion is described by Andrews, Ashworth and Meier (2014) as the number of special services incidents per 1,000 people fire departments provide. Analyzing the case of fire authorities in England, these authors assert that the number of fire prevention and community engagement actions result from fire authorities’ discretion, thus they provide an adequate metric capturing discretion and its consequent representation.

Studies have used partial measures of discretion based on the perception bureaucrats have of their discretionary power over specific tasks. They are partial because they only account for bureaucrats' perceptions of their own discretion without considering their constraints. Marvel and Resh (2015) ask teachers about the amount of control they have over teaching and planning activities. Sowa and Selden (2003) observe how administrators perceive their discretion over outcomes affecting clients and specific agency operations. In this same line, looking at the case of firefighters in the United Kingdom, Andrews, Ashworth, and Meier (2014) observe higher levels of discretion in areas they identify as resulting from co-production. Specifically, when firefighters engage in fire prevention actions.

Metrics that capture bureaucratic discretion are conceived to explain a bureaucrat’s capacity to actively represent minorities’ interests. In the context of the representative bureaucracy literature the importance of discretion rests on the assumption what without it, bureaucrats may not exercise active representation. We argue that considering the three conditions that allow the translation of passive into active representation— the capacity bureaucrats have to act in the
specific policy contexts, the saliency of the issue for the minority population, and the availability of administrative discretion—the latest is the most important. First, there are studies that show that passive and active representation have unintended positive consequences. For example, the presence of African-American teachers who serve as role models, is associated with a reduction of teen pregnancy in African-American students (Atkins & Wilkins, 2013). Secondly, shared socio-economic characteristics are not the only feature that may be conducive to active representation. Gade and Wilkins (2013) show that representation still exists in cases where individuals enter choose into a profession, like the case of military veterans. However, having discretionary power, a main assumption in the street-level-bureaucracy literature, is critical to exercise active representation. Relying on their discretionary power, bureaucrats can affect policy outcomes by influencing policy implementation.

**Discretion in Theories of Policy Implementation**

The role of bureaucratic discretion in policy implementation has been studied from multiple angles. The concept has gained relevance because it is related to a core debate in Public Administration: the role politics has in policy implementation. This relationship was examined by, the now classical, theoretical discussion between Carl Friedrich (1940) and Herman Finer (1941) over the separation of politics and policy. Friedrich argues that politics and administration are aspects of the same process and that politicians act on policy formulation while administrators act on implementation recognizing for the latest some level of laissez faire (Friedrich & Mason, 1981). Public officials’ expertise and experience make them suitable to decide on policy implementation. Finer, on the other hand, considers administrators as servants of democracy who should conduct their actions according to elected representatives’ directions (Finer, 1941). Both authors recognize the influence democratically elected officials have on
policy processes. They differ on the connotation assigned to bureaucrats’ actions. For Finer, bureaucrats have a mere instrumental role. For Friedrich, their actions are critical to the policy implementation process as their experience and expertise have a direct influence on policy outcomes.

This debate sets the basis to consider the role of bureaucratic discretion. It is within this tension between democracy and representation that representative bureaucracy emerges (Kennedy, 2014). If bureaucrats rely on their expertise and position to implement policy, as Friedrich claims, they exercise at least a certain level of discretion. This assumption holds for all levels of bureaucracy and it is a key feature of street-level bureaucrats in particular (Lipsky, 2010).

To discuss the role discretion has in the implementation literature and explain how this affects our theoretical framework for a quantitative metric of discretion, we consider discretion from two different but complementary points of view. Administrative discretion, on the one hand, is a type of decision considered within the boundaries of pre-established mechanisms designed to accomplish specific policy goals. As such it is constrained by policy mandates which define the instances in which bureaucrats’ autonomous decision making is not only encouraged but required (Sandfort & Moulton, 2014). Policies and programs’ guidelines are, in many cases, vague. Bureaucrats can tailor policies to their local context and its population’s needs. Administrative discretion is, in this sense, a choice between predefined alternatives. For example, when registering individuals on welfare, assigning loans, or awarding contracts, bureaucrats’ actions are mediated by specific clients’ characteristics that define them as beneficiaries (Atkins & Wilkins, 2013; Gade & Wilkins, 2013; Hindera, 1993; Sandfort & Moulton, 2014). The choice is within a group, defined by specific policy guidelines that make them and no other potential beneficiaries. Yanow (1993) asserts that the acts of policy-implementers (i.e. local public health
officials, social workers, teachers, police officers) are none other than interpretative acts in the sense that actions result from these officials’ interpretation and implementation of the law. Discretion is the result of public official’s interpretation of policy mandates, and its extension is bounded by legal mandates (Maynard-Moody & Musheno, 2003). Public officials act based on their experiences, their beliefs, their positions’ responsibilities, administrative procedures constraining their actions, and the limits of the law; exercising at least some level of discretion implicit or explicit in policy guidelines. Lipsky (2010) claims that discretion results from public officials’ points of view.

On the other hand, there is what we may refer to as informal discretion meaning that although it is not explicitly identified during policy formulation, it is still present when bureaucrats implement policy actions. Not all policies have administrative procedures in place to limit informal discretionary actions. In many cases, bureaucrats have great discretion to perform their task, and their influence may go beyond desired policy outcomes. In other words, if one considers that public officials are always affecting policy implementation then discretion is always present in the root of policy practice. If public officials are not to affect policy implementation because it is against democratic practices, as Finer states, discretion is not considered within the policy process. However, if we consider policy implementation as affected by contextual factors, and the strategic actions actors put in place in their everyday work, these contexts set informal boundaries and rules for discretion that are not considered in policy formulation.

Distinguishing administrative from informal discretion is critical to contextualize bureaucratic actions in the policy implementation literature. This distinction is consistent with theoretical argumentations on the nature of the policy process described as cyclical where policies are
formulated, implemented, evaluated, modified, and implemented, on an iterative manner. Each implementation wave triggers an entire process that results in policy change. Theoretical approaches to public policy processes, top-down and bottom-up theories, frame bureaucratic discretion in different ways. First, top-down approaches consider policy cycles based on a central assumption, centralized government formulates clear policy by framing its objectives, means, and expected outcomes; by a legal mandate that identifies the implementing implementation’s department and its expected actions. However, in the well-known black box observed by Pressman and Wildavsky (1984), there is no distinction between policy formulation and policy implementation, as a consequence no consideration of the role of bureaucrats, or even discretion. The only thing that can be considered is that those outcomes are the result of a clear political mandate and a specific allocation of resources and responsibilities in the implementation process (Hill & Hupe, 2002). Other top-down approaches, like Sabatier and Mazmanian’s process modelling, make a distinction between policy formulation and policy implementation including discretion into the implementation equation (Mazmanian & Sabatier, 1983). These authors recognize that there are factors linked to non-statutory variables that can affect the process through which a policy is put in place (Hill & Hupe, 2002). One cannot elaborate on how these elements shape bureaucratic discretion because discretion, for these approaches, is a symptom of failure when implementing a policy. A straight forward critique to top-down approaches is that policy making is taken for granted (Linder & Peters, 1987). The idea that by only following the statutes implementation is possible and even successful fails to recognize the multi-level and multi-agent nature of policy implementation processes. Bottom-up theories, on the other hand, are an opportunity to analyze the role of discretion in public policy processes, and they provide a suitable niche to discuss the role of representative bureaucracy because for these theories
bureaucrats have an impact on policy implementation. Here, policy is shaped by public officials who implement policy mandates, defined at the central or federal levels. This has a set of underlying assumptions. First, it assumes a difference between formulating and implementing policy linked to the recognition of different levels, contexts, and importance of incumbent actors (i.e. agencies, civic organizations, public managers, front-line bureaucrats) affecting how policies are put into action. Second, incumbent actors have different interests, conflicting demands, and different expectations of the role of government. These assumptions result in conceptualizing implementation as a political dynamic process where limited resources are allocated in a highly conflictive environment.

In the static world described by the top-down approach, policy formulation sets the goals, expected policy outcomes, and means to achieve them. The bottom-up approach, on the other hand, considers that the way in which public officials interpret policy contexts, and individual actors’ interest, influences both the means by which the policy is put in place and the outcomes it is supposed to have. These approaches recognize the pressure clients exercise over bureaucrats during implementation processes. It follows then than a reasonable metric of success of the implementation process is linked to low levels of conflict among mid to high levels public officials, frontline bureaucrats, and their clients.

Top-down and bottom-up approaches are reconcilable. Synthesizing approaches account for the intersection between statutes, legal constraints, administrative mandates and rules, and public official characteristics. This might sound not feasible but scholars have thought about these associations as networks (O’Toole, 1986; Sabatier, 1986, 2006; Scharpf, 1994), collaboration processes between agencies (Goggin, 1986; Hjern & Hull, 1982; Lester, Bowman, Goggin & O’Toole, 1987), layers of governmental action (Stoker, 1991), and even through the
identification of different policy contexts that can structure the analysis (Matland, 1995). In synthesizing approaches, frontline bureaucrats’ authority takes two forms. In one, there is a legal authority linked to hierarchical position and defined by the statutes affecting policy goals, and expected policy outcomes (Rothstein, 1998; Shumavon & Hibbeln, 1986). On the other, there is an informal authority arising from professional bureaucrats’ experience and professional socialization, and another one assigned to them after the bargaining process by which a multiplicity of governmental and non-governmental actors influence policy implementation (Hill & Hupe, 2002). This vision of authority allows looking at administrative and informal discretion. It is only in the context of synthesizing approaches that we can see the two affecting policy implementation, and as a consequence, policy outcomes.

Theoretical approaches to public policy processes contextualize the role of bureaucrats, and street-level ones in particular, identifying them as central to policy implementation. This opens the debate on the role these bureaucrats have to represent the population they serve (Cook, 1992; Kennedy, 2014; Meier, 1999). The sections above showed that when affecting policy implementation, all bureaucrats, and street-level ones in particular, exercise functions assigned to democratically elected officials, but closer to clients’ needs than the latter.

**Opportunities for a Metric of Bureaucratic Discretion**

In the discussion above we argue that the assumption of bureaucratic discretionary power is one of the most important and unattended assumptions in the public administration and management literatures. We argue that it is a key assumption for the representative bureaucracy literature, the key characteristic of street-level bureaucracy, and a required element to understand the impact bureaucrats, at different levels of government, have on policy implementation.
The review reveals a number of important insights. First, the literature does not discuss how different levels of discretion may have differential impacts on policy outcomes. The second assumption we derived from the literature is that the level of discretion will vary across individuals and programs, but we lack evidence on the degree to which different levels of discretion matter differently for policy outcomes and perceived representation. As a result, we argue that public officials perceive they have discretion regardless of the type of task, but that in many cases, when discretion is very limited, it is perceived by external actors as not existent.

Combined, discretionary actions result not only from the interpretation of existing programs and organizational environments, but also from novel actions that can be considered as formulating policy from the bottom-up, reducing inequalities.

Even though much has been written about what influences the existence of discretion and how it is characterized, there have been very few empirical analyses observing the direct implications of discretion on policy outcomes. One of the main problems has been that it is very difficult to observe discretion in the lowest level of implementation because in many cases public officials design mechanisms to systematize its usage and hide it when linked to actions that are not considered within legal statutes (Maynard-Moody & Musheno, 2003). In this sense, the representative bureaucracy literature has had problems in isolating the effect of active representation on policy outcomes as it is difficult to identify a unique outcome variable. Even if one would be able to identify it effectively, separating which are results from the level of saliency of an issue and which are results derived from discretionary actions might be challenging. There are then two sets of problems. One associated to how to be able to observe hidden discretionary actions when public officials design mechanisms to disguise them by developing standardized procedures. The other has to do with the actual empirical study of these
actions and their effect on implementation. The field faces the need for the identification of novel outcome variables and methodological approaches to observe their interaction.

A novel theoretical framework to inform a metric of discretion would allow us to: a) quantify different levels of discretion and their differential impact on policy outcomes; b) reconcile the effect of bureaucratic perceptions of their own discretion with regards to external organizational and political constraints, and c) have a metric of discretion applicable across policy contexts and different types of bureaucrats.

**A Conceptual Framework for a Metric of Bureaucratic Discretion**

In the previous sections we argued that discretion is a critical assumption in the policy formulation and implementation literature, and a distinctive feature of street-level and front-line bureaucrats. We presented a series of elements that directly affect bureaucrats’ exercise and perception of discretion. And we asserted that in order to analyze discretionary actions we need to recognize that bureaucrats at every level shape policy when implementing programs and centrally designed guidelines.

Our theoretical framework relies on four assumptions. First, that all bureaucrats at all levels of government have and may exercise some level of discretion. Second, since their ability to exercise discretion is affected by a series of contextual factors, bureaucrats have different levels and types of discretion. Third, that bureaucratic discretion’s effect on policy outcomes may be direct or indirect, and is always constrained by the level of discretion held by the bureaucrat. As a corollary, we argue that there is a distinction between the level of discretion a bureaucrat has and the level of discretion she perceives to have. Finally, and strictly linked to the previous point, even in cases in which bureaucrats recognize they have discretion they might not be willing to
exercise it. The combination of these elements impacts policy outcomes. In other words, we argue that the higher the level of discretion a bureaucrat has, the higher the level of discretion she perceives to have, and the higher the willingness to exercise it, the bigger the impact her actions have on policy outcomes.

We believe that bureaucrats’ actual level of discretion, the perceived level of discretion, and the willingness to exercise it are impacted by the organizational context they work in, the characteristics of their clients, and their attitudes and professional experience.

The organizational context affects discretion in several ways. First, considering the literature on policy formulation and policy implementation, we argue that depending on the level of government they work in, bureaucrats have different levels of discretion. Front-line and street-level bureaucrats exercise the highest levels of discretionary power, with variation depending on their specific tasks; and bureaucrats in higher levels of government have different levels of discretion depending on the span of control exercised upon them. Second, the type of organization bureaucrats work in has a deep effect on their levels of discretion. We argue that regulatory agencies have more standardized procedures and therefore higher levels of control over their bureaucrats, limiting the amount of discretion, or circumscribing it to what the literature refers to as administrative discretion, the selection among accepted choices. Organizations providing services, on the other hand, such as welfare agencies, educational organizations, law enforcement, and health care, provide contexts where people have higher levels of discretionary power. The type of organization and their role in the provision and regulation of public services, defines the level of saliency and the influence of the political environment. In areas where conflict is a salient feature, bureaucrats have discretion but its
exercise is more likely to be controlled or overseen through organizational or social mechanisms, such as media control.

Clients’ characteristics and attitudes constitute the second element affecting bureaucratic discretion. Depending on the type of population the bureaucrat works with and the types of services that are being provided, they make sense of their clients’ characteristics in different ways. The first distinction is rooted in the difference between voluntary and non-voluntary clients (Lipsky 2010). While clients applying for welfare, students, and people registering their cars at the Department of Motor Vehicles are not able to select into interacting or not with frontline bureaucrats. Other clients, such as people applying for grants, or people participating in community promotion programs, self-select into this interaction. We argue that clients in different areas have specific characteristics, but they also have particular personal characteristics that influence the way they interact with the public sector. We argue that bureaucrats make sense of all these characteristics; that they are able to evaluate their clients in ways that influence the level of discretion they are willing to use.

Finally, we see bureaucrats’ experience and professional training as the third set of elements affecting their use of discretion. These influences can be formal and informal. First, formal influences on discretion arise from bureaucrats’ levels of professionalization and expertise. People with higher levels of technical expertise have higher levels of discretion. Specific technical skills provide bureaucrats with the tools to legitimize their actions. Second, their experience in the field provides them with informal legitimacy based on previous experiences. If the contexts where the interaction with citizens take place are fairly stable, bureaucrats with more experience would have faced similar situations before. Clients have similar personal characteristics and similar issues which make bureaucrats develop informal practices that
simplify their tasks and affect their use of discretion. Bureaucrats with more experience, rely on this informal knowledge to legitimize decision-making processes perceiving themselves to have more discretion.

These three elements influence the level of discretion bureaucrats have, perceive to have, and their willingness to exercise it, thus its impact on policy outcomes. Our framework provides the foundation to develop a metric of bureaucratic discretion that can be applied to analyze bureaucratic discretion, but that can be applied to the broader literature on policy implementation as well. In the case of the representative bureaucracy literature, our framework accounts for bureaucrats’ attitudes, the saliency of issues, and the context of their work. For the broader implementation literature this framework allows accounting for differences in the level of government implementing policy actions, and the types of policy areas. We argue that our framework can characterize and provide the basis to quantify discretion, and its resulting impact on policy outcomes considering specific policy implementation contexts.

Next Steps in Operationalizing a Metric of Bureaucratic Discretion

The overview presented here on the nature of discretion is the first step in a larger effort to develop a tool for systematically measuring discretion. To develop this measurement instrument, we currently envision a six step process. Our first step is to expand our review of the literature beyond what is presented here to inform the development of more clearly articulated research questions and potential hypotheses. In this step we will specify our target population and target audience, likely to be public employees, broadly defined, and the public administration scholarly audience. We will then identify potential test respondents, considering the level of government, service delivery area, etc. Based on these focusing activities we will refine the objective of the measurement instrument, research questions, and hypotheses.
Identifying key concepts to include in a survey instrument constitutes the second step in our effort. We will draw from the literature to generate broad statements representing key findings, and then use this synthesis to design a collection of potential survey items. From this, we will then narrow the concepts to be represented in the survey in a way that reflects our overarching theoretical framework, study objectives, and allows for hypothesis testing. This process includes identifying and defining primary variables of interest as well as their potential status (e.g., independent or dependent variable, mediator/moderator variables).

The third step is to formalize our survey questionnaire and data analysis protocol. We will translate the core concepts identified in the second step into survey items, drawing from existing measures where possible. In drafting the items, we will consider response options, survey layout and formatting, such as length and question ordering and skip patterns. A protocol for testing the survey items and analyzing key relationships will be designed. While designing this protocol we will consider how design and analytical strategies interact.

With a draft set of survey items and a testing protocol, our fourth step is to validate the measurement instrument. An expert panel will be invited to review the items to ensure we minimize measurement error and include all critical concepts. For example, the expert panel will be asked whether the items measure what they are intended to measure, are the proposed items appropriate for the population, and are the survey items sufficiently comprehensive so as to address our research questions. After revisions based on the feedback from the expert panel, we will conduct reliability tests and engage in an iterative process of revisions and testing. While a revise survey instrument, we will seek IRB approval to pilot test the survey.
Based on the pilot tests, our fifth step is to conduct multiple item and construct reliability tests to ensure the theoretical concepts group as we intended. These test results will inform revisions to the survey instrument items and measurement scales. With a revised scale, the sixth and final step will be to conduct a full test of the instrument, consistent with our protocol. Based on this administration of the survey, we will evaluate our data and publish our findings.

**Conclusion**

The review presented here is the first step in a larger effort to develop a more nuanced understand of discretion, so that we can develop an empirical measurement tool. Bureaucratic discretion is one of the most important concepts in public administration and management because it is a requirement to policy implementation and an omnipresent feature for all public servants. Yet in both cases discretion is assumed but rarely measured directly.

Based on an extensive literature review on the role discretion has in the street-level bureaucracy and the representative bureaucracy literatures, we presented an initial conceptual framework to identify elements influencing bureaucratic discretion. We ground our theoretical conceptualization on two questions. First, what are the elements affecting bureaucrats’ level of discretionary power? Second, under which conditions are bureaucrats more likely and willing to use their discretion?

The framework provides a theoretical argument on the nature of bureaucratic discretion, how it allows the translation of passive into active representation, and constrains its exercise. We argue that the literature on representative bureaucracy has focused on the administrative dimension of discretion, but that bureaucrats face three sets of tensions: one derived from administrative
constraints, one arising from the demands of the population served, and a final one defined by their beliefs, their profession, and its culture.
References


