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Thought Styles on Administrative Justice Systems

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Introduction

Mike Adler is rightly celebrated for having made significant theoretical and empirical contributions to the study of administrative justice. Relatively early in his career, Adler was much influenced by the publication of Jerry Mashaw's *Bureaucratic Justice: Managing Social Security Disability Claims* (Mashaw, 1983), an extended study of social security administration in the USA.[1] Mashaw famously proposed three competing models of administrative justice: bureaucratic rationality; professional treatment; and moral judgment. During the course of a number of empirical projects, Adler applied, developed and refined Mashaw's analytical schema, culminating in an important article in 2003, which definitively sets out his own framework for understanding administrative justice (Adler 2003). This article has been very influential and is now a standard point of reference for the field. Yet, it has also been the subject of some critique (Halliday 2004; Sainsbury, 2008; Cane 2009; Craven 2021), the core of which is that not all of Adler's suggested additions to Mashaw's schema speak squarely to Mashaw's working definition of administrative justice: "those qualities of a decision process that provide arguments for the acceptability of its decisions" (Mashaw, 1983: 24).

In this chapter, we re-visit Adler's seminal essay on administrative justice, offering an interpretation of its contribution which is sometimes overlooked by his critics: that Adler sought to move the agenda on from a narrower focus on frontline administrative decision-making to a broader consideration of administrative justice systems, including modes of redress. Adler's essay, in consequence, represents an important advance in our overall thinking about administrative justice. Indeed, we might suggest that Adler, in effect, developed Mashaw's definition of administrative justice. In contrast to Mashaw's definition, quoted above, implicitly Adler's definition of administrative justice is something like: those qualities of a system that provide arguments for the acceptability of its outcomes.

In reviewing Adler's contribution to administrative justice theory, we also seek to build on it. Adler's work is radical in its potential, and when taken seriously points to an important and far-reaching agenda for administrative justice scholarship. We live in an era where new political

[1] For an account of the significance of Mashaw's book on Adler's thinking, see Adler (2006).

narratives centred around populism and radically participatory theories of democracy challenge the narratives of legitimacy that have traditionally been advanced to support administrative government (see the chapter by Kagan in this collection; also Harlow and Rawlings 2023). Adler's work points to the range of legitimating arguments that may be seen as unconvincing to such populist thought-styles, and which (to emphasise the flip-side of the coin), pose a challenge to defenders of administrative government, which they must address if they are to offer a response to such provocations. A central feature of this challenge—implicit in Adler's work but which we bring to the surface—is the real possibility of a gap between how system designers, system operators, and system users in the field both imagine and experience administrative justice.

Drawing on Mary Douglas' grid-group cultural theory, we offer a high level 'map' of thought-styles around administrative justice systems – four distinctive ways in which participants in systems of administrative justice—whether users, operators or designers—frame the legitimacy of the system rationality that underpins it. Each of these frames, we argue, presents a distinctive set of challenges to the system's own "arguments for the acceptability of its outcomes" which, if left unaddressed, could have non-trivial implications for the success of systems of administrative justice.

In re-analysing Adler's work through the lens of grid-group cultural theory, we can observe that, whilst his work can be read as drawing attention to two families of thought styles, two others remain unexamined. As we argue, below, the styles of administrative justice identified by Adler align along what Mary Douglas calls the 'positive diagonal'. The contribution of this chapter, on the other hand, is to draw attention to the neglected 'negative diagonal' of thought styles which are—in different ways—critical of the more familiar legitimacy claims of administrative justice systems. By emphasising this negative diagonal, we argue, this chapter connects mainstream administrative justice theory with a strand of public law scholarship that has in recent decades been overlooked in administrative justice scholarship, no doubt due to its neglect in administrative justice policy, but which administrative justice scholarship would do well to reconnect with.

Mashaw, Adler and Administrative Justice

The details of Mashaw's models of administrative justice are well known. We need not spend too much time rehearsing them here. In essence, Mashaw argued that disability benefits decision-making could be organised variously, according to different legitimating values and goals.

'Bureaucratic rationality' as way of organising decision-making is principally concerned with distinguishing between true and false claims for benefits, within the limits of operational costs. Thus, it cares about accuracy, balanced by a concern for economic efficiency, and operates by way of information processing. To put it at its absolute simplest, the basic operational question underlying this model of administrative justice is: what is the truth of claimant's circumstances?

And the core legitimating narrative underpinning the model is: we apply the rules to an accurate understanding of claimants' circumstances.

'Professional treatment' is concerned with how best to support and improve the health and well-being of the claimant. Thus, it cares about service to the client and achieves it through seeking to understand the client's needs and applying professional knowledge to address them. The basic operational question is: what are the needs of the claimant? And the core legitimating narrative is: we apply professional expertise to meet claimants' needs.

'Moral judgement' treats the claimant as someone who is making a contested entitlement claim and who must therefore be afforded procedural protections in the application process. Thus, it cares about procedural fairness and organises itself in a way that secures them a full and fair opportunity to make their case. The basic operational question is: what does the claimant deserve? And the core legitimating narrative is: we given claimants a fair opportunity to present their case and take everything into account before determining what they deserve.

Adler saw great merit in these insights but felt that they could be expanded – both to cater for other facets of the public sector and to reflect trends in public management since the publication of Mashaw's book. Hence Adler added three new models: 'managerial', 'consumerist', and 'market'. If we were to restrict ourselves to a narrow focus on the administrative justice of frontline decision-making processes, we could have sympathies with Adler's critics about the extent to which his three models add something new. As one of us has argued previously (Halliday, 2004), there is really only one new frontline decision-making model that emerges: where the decision process approximates that of a market transaction. Here the underlying operational question would be 'what does the claimant want?' And the corresponding legitimacy narrative would be: we are responsive to claimants' input and reach a settlement about what they want. Taken as a fourth model of decision-making legitimacy, Adler's contribution to Mashaw's schema would look as follows:

Model	**Bureaucratic rationality**	**Professional treatment**	**Moral judgement**	**Consumerism/ Market**
Operational Question	what is the truth of claimants' circumstances?	what are claimants' needs?	what do claimants deserve?	what do claimants want?
Decision legitimacy narrative	we apply the rules to an accurate understanding of claimant circumstances	we applied professional expertise to meet claimant needs	we gave claimants a fair opportunity to present their case	we are responsive to claimants' input

However, as we noted above, Adler's ambition was broader than the ambit of the critique, seeking to include characteristic modes of redress in an understanding of broader administrative justice systems. His first move here was to attach characteristic modes of redress to Mashaw's existing three models: internal administrative review for 'bureaucratic

rationality'; second opinion or complaint to a professional body for 'professional treatment'; and appeal to a court or tribunal for 'moral judgment'. His second move was the addition of his three new models, each of which had its own characteristic remedy: publicity for 'managerial'; voice or compensation for 'consumerist'; and exit or private law court action for 'market'.[2]

Model	**Bureaucratic rationality**	**Professional treatment**	**Moral judgement**	**Managerial**	**Consumerist**	**Market**
Characteristic Remedy	Administrative Review	Second opinion / Complaint to a Professional Body	Appeal to a court or tribunal	Publicity	Voice and/or compensation	'Exit' or private law court action

Adler's inclusion of modes of redress or accountability within his treatment of administrative justice is significant. Whilst representing distinct stages or dimensions of administrative justice practice, there are important analytical benefits in considering them together. As Adler noted in his 2003 essay, "internal and external procedures should not be seen as alternatives, and it is important to recognize that, for good reasons, they are frequently combined" (2003: 329). Thus, an individual may experience both frontline and redress decision-making as part of their single claim for a public benefit.

Just as important, however, Adler draws our attention to the fact that modes of redress do not simply revolve around the rectification of individual grievances. To some extent, at least, we may also think of them as being about the shaping of administrative systems: voice, publicity or exit each have clear regulatory potential; but so too could the internal review, complaints or appeals about individualised decisions. In this way, Adler urges us to focus on administrative justice systems, comprising both frontline decision-making and modes of redress or accountability.

But perhaps more fundamentally, Adler's inclusion of external mechanisms within administrative justice points to an important, but often neglected, aspect of administrative justice systems, namely, that a system designer's view of what constitutes "an argument for the acceptability" of the system's decisions may not be shared by system users. A claimant with a competing sense of procedural legitimacy may be left disappointed by their encounters with the decision-making process. Thus, effective external forms of redress and accountability – a more systemic perspective – can contribute to the acceptability of a system's ultimate outcomes from the perspective of users.

Our ambition in this chapter is to build on Adler's distinctive contribution to administrative justice. To do so, we re-read his schema through the lens of grid-group cultural theory (GGCT) – an analytical resource that has considerable potential for drawing out high-level contrasts

[2] For an alternative characterisation of how these new models fit into the administrative justice landscape of the regulatory state, see Stirton and Lodge (2001).

between ways of seeing and approaching various social phenomena. It is to this that we turn next.

Thought Styles of Administrative Justice

Models of administrative justice, like all human artefacts, are contingent rather than absolute--a point that Adler has done much to underscore. The model of administrative justice that a particular scholar might propose, or that a given jurisdiction might introduce, is influenced both by the specific temporal and cultural context in which it operates as well as the preferences of the persons who are responsible for the existence of the systems or control the systems. A central challenge for scholars of administrative justice is, accordingly, to understand and critically appraise the impact these contexts and preferences have on models of administrative justice.

There is now an established literature that uses GGCT to answer this challenge (e.g., Halliday & Scott, 2010; Lodge & Stirton, 2010; Arvind, Halliday & Stirton, 2022; Kirkham, 2022). GGCT was developed by the British anthropologist, Mary Douglas, to study the aetiology of the 'thought styles' that underpin different cultural phenomena, and the cultural biases that are built into them (Douglas 1982). In the context of administrative justice scholarship, GGCT's value lies in the insight it provides into how these thought and cultural biases influence models of administrative justice, that is to say:

- the different worldviews (or 'cosmologies') that co-exist in any social or cultural space, and the subjective perceptions, preferences, and evaluative predilections that characterise the way each of them views administrative justice;
- the specific cosmology with which a given model of administrative justice is associated, and the manner in which it influences how the model defines the ends a system of administrative justice should pursue, identifies specific processes as having the propensity to effectively deliver those ends, and justifies (or ignores) the trade-offs, costs, and potential for adverse outcomes inherent in the model; and
- the consequences the subjective biases and blind spots inherited from the underlying worldview have on the system's form, function, and output.

The analytical scheme: Administrative justice in (cultural) context

GGCT's analytical framework builds on a taxonomy that uses two dimensions to classify social relations, contexts, and forms of organisation. These dimensions are usually represented in GGCT as perpendicular axes in a two-dimensional space. The vertical axis, called 'grid' in Douglas's work, represents social regulation; that is to say, the control rules, roles and prescriptions exercise over social life. The horizontal axis, 'group', represents social integration; that is, the extent to which behaviour is shaped by the sense of the value and importance of being part of a larger collective entity.

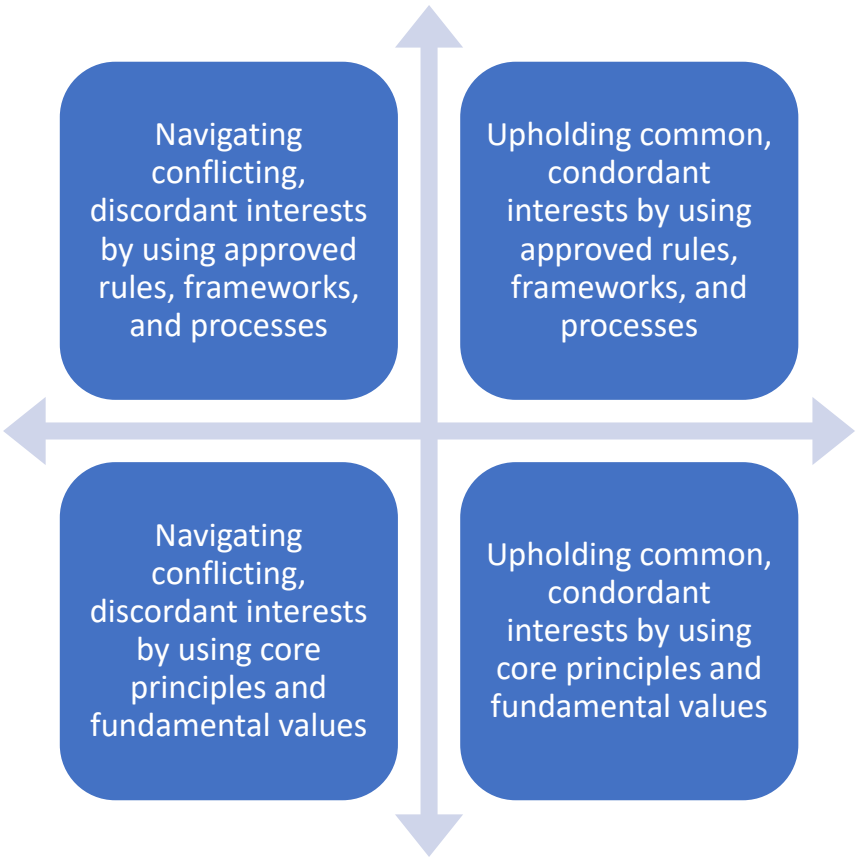
Thought styles on administrative justice systems

In prior work (Arvind, Halliday & Stirton 2022), we have argued that in the context of administrative justice the grid dimension is best understood as representing the character of administrative justice in relation to how focused it is on following proper rules and processes as distinct from working out from first principles what would represent a substantively fair outcome in an individual case. At the bottom end, or 'low grid', administrative justice frameworks and the individuals tasked with delivering it can engage more fully with substantive principles, values, and goals in determining whether the outcome reached in an individual case was a just one. At the top end, or 'high grid', they are more concerned with ensuring that the values, principles, and goals embedded in the system were used in a way that met appropriate and recognised standards, and less so with whether the application of those principles and standards produced an outcome that might be considered 'just' outside the framework they provide.

Group, similarly, is best understood as representing the extent to which the polity or domain being administered is seen as a field of contestation with discordant interests in constant conflict as opposed to a field of underlying concord where there is a real and realisable common good that will benefit all parts of the polity. At the left end, or 'low group', discord is real and simmers because competing interests are always in tension, and administrative justice's concern is to manage the contestation that inevitably characterises the conduct of public business in a discordant polity. To the extent that concord can be said to exist at all, it exists only as the coincidence of particular interests aligning on particular issues or decisions. At the right end, or 'high group', concord is real and emerges from a deeper well of shared interests. High group conceptions do not deny the reality of contestation, but regard it as representing instances where a person's private interests clash with interests that they too possess as a member of a polity: if industrialists' private interest as polluters clashes with the public interest in a clean environment, that is an interest that affects not just others but also the industrialists themselves. Administrative justice, in this conception, provides a vehicle for reconciling such conflicts by identifying and upholding the shared, concordant interest that lies beneath the surface of the apparent conflict.

Putting these two dimensions together, we can classify thought styles of administrative justice in terms of four quadrants, summarised in Figure 1 below.

Thought styles on administrative justice systems



The positive diagonal and models of administrative justice

In GGCT, these four quadrants are often described as lying on two diagonals. The upper right and lower left quadrants are linked by the 'positive diagonal'. This is not just because the diagonal has a positive slope, but, perhaps more importantly, because the thought styles associated with the bottom left and top rights have in common a positive, affirming attitude to authority and power (Douglas 1996: 46, 176–8). The upper left and lower right quadrants, on the other hand, comprise the 'negative diagonal', named for its negative slope as well as because it is not interested in holding power (Douglas 1996: 44, 178—181). In the remainder of this section, we discuss the two thought styles aligning along the positive diagonal before turning, in the next section, to the negative diagonal.

The upper right quadrant: shared interests and approved frameworks

Douglas frequently described the upper right quadrant as 'hierarchical' or as involving a 'complex collective' (Douglas 1996: 175): a form of social ordering that is both tightly integrated (in the sense of being built on a strong sense of shared interests) and tightly regulated (in the sense of being governed by a strong cross-hatch of rules, norms, and practices having binding or suasive force). Administrative justice in this quadrant is built on a cosmology that sees society as characterised by common, concordant interests, which administrators can identify and respond to by drawing on their professional expertise as administrators, regulators, or

domain experts. The emphasis on expertise means that social ordering in this quadrant has a top-down character and a focus on rules and processes produced through expertise; but the potentially exclusionary effects of a top-down ordering are mitigated by a clear sense of shared interests common to all. There may be disagreements as to the fairness of an individual outcome, and people may feel hard done by when their private interests receive what they believe to be inadequate consideration. However, the appropriate response to these outcomes is to ensure that the system has in fact correctly deployed its expertise to identify and give effect to deeper shared interests.

Embracing Adler's systems perspective, we can say that, of the six models of administrative justice so far discussed, three fit within this quadrant: bureaucratic rationality, professional treatment and managerialism. Bureaucratic rationality focuses on applying rules to an accurate understanding of a person's circumstances, while managerialism focuses on clearly defined standards such as efficiency and measurable performance indicators, all of which are characteristic of a thought style that emphasises the role in administrative justice of concordant interests, expertise, and recognised standards. For similar reasons, so does professional treatment, which emphasises the role of professional knowledge, expertise, and standards.

The lower left quadrant: divergent interests and core values

The lower left quadrant, which Douglas described as 'individualist', sits at the opposite end of the spectrum from the central community: a form of social ordering which is both weakly integrated (in that it lacks a strong sense of a common community with shared goals and commitments) and weakly regulated (in that it is unwilling to give a central place in its structures to a distinctive bureaucratic rationality, although it is not suspicious of authority per se). Here, interests are seen as fundamentally in conflict and lacking any deeper concord—a conflict that necessarily poses a fundamental challenge to administrative justice. At the same time, the commitment of this thought style to substantive values rather than formal criteria embedded in bureaucratic rationality leads it to the view that administrative justice's approach to dealing with conflict must lie in embedding within it certain core principles or norms of general application. These operate as rules of 'fair competition' between competing interests, or (to use a different analogy) like the rules of the road that manage conflicts between the interests of different road users by establishing principles of priority applicable to different situations. Mere expertise is inadequate unless anchored by norms and, indeed, may be counterproductive to administrative justice if it leads to the emergence of a distinctive bureaucratic rationality that rejects these norms.

Different models of administrative justice lying within this quadrant may emphasise different norms, but all share a common focus on the importance to administrative justice of upholding core substantive norms (and not merely procedures) anchored to demotic perspectives (and not merely grounded in expertise), and on preventing administrative agencies from developing distinctive bureaucratic rationalities at variance with these core norms. Of the six models discussed above, this too encompasses three: the model of 'moral judgment', and the 'consumerist' and 'market' models. As Adler highlighted, 'moral judgment' aims at conflict

resolution by providing a person seeking administrative justice with the opportunity to assert rights, and it seeks its legitimacy in the underpinning value of fairness—all of which reflect norms of general application and are phrased in terms that resonate with demotic perspectives of justice. 'Consumerism' is similarly grounded: as Adler pointed out, its use of devices such as citizen's charters expressly seeks to insulates its approach to administrative justice from slipping into bureaucratic rationality, embedding instead a commitment to recognising and upholding certain core expectations that users of public services have. Markets are similar: here, the laws of demand and supply are used to counter the emergence of bureaucratic rationality and keep the administration focused on meeting standards expected by the consumer.

The negative diagonal: a missing dimension in administrative justice models?

The two thought styles on the positive diagonal, discussed in the previous section, between them exhaust all six models of administrative justice discussed by Adler. It is not surprising that Adler conceives of models of administrative justice lying along the positive diagonal, since his operational understanding of the concept foreground arguments for acceptability of outcomes of the exercise of administrative power. The negative diagonal, on the other hand is, as Douglas puts it, "the diagonal of withdrawal and protest" (Douglas, 1996: 44). While an emphasis on models of administrative justice is not entirely absent either from top-left nor bottom right perspectives, we would not necessarily expect the same emphasis on articulating positive models of administrative justice that we see with the positive diagonal. Nonetheless, as we show in the remainder of this section, there is nevertheless value in reflecting on the implications of these two thought styles for administrative justice. As Harlow and Rawlings have argued, the contemporary 'poles' of administrative law thought have recently come under challenge from more critical populist perspectives (Harlow and Rawlings, 2023). Understanding the force of critique, and the kind of responses that they might potentially generate could be seen as part of a project of engaging with populist challenges to the dominant models of administrative justice.

The upper left quadrant: divergent interests and approved frameworks

Douglas described the upper left quadrant as 'fatalist' or (and perhaps more accurately) 'isolate': a form of social ordering which is weakly integrated in that it lacks a strong sense of common community and shared goals, but at the same time strongly regulated in that it leaves significant scope for the emergence of a cross-hatch of binding rules, norms, and practices. Like the upper right quadrant, social ordering in this quadrant has a top-down character and focuses on processes instituted by a competent authority. Unlike the upper right quadrant, here the potential for exclusion or marginalisation inherent in a top-down ordering remain unmitigated. There is neither a clear sense of interests that everyone shares, nor is there a sense of a polity whose common good can be easily identified.

None of the six models of administrative justice identified by Adler conform to this quadrant. Yet as Nonet and Selznick have recognised, there may be conditions under which a more top-down system of decision-making based on the arbitrary exercise of authority may be justified to deny claimants benefits to which they would otherwise be entitled—if only due to the lack of viable alternatives. Nonet and Selznick's analysis speaks to difficulties of making just decisions under conditions of austerity in which increased demands on the state are met with abundant power but scarce resources:

> Confronted with pressing issues of justice or public welfare, the government may seek to avoid commitments and resist demands. New claims are given low priority or brushed aside as illegitimate. Through neglect, the state controls the rise of expectations. It does so partly out of awareness of genuine limits to political and administrative capacity and partly out of fear that frustrated expectations will undermine the foundations of political allegiance and public peace (Nonet and Selznick, [1978] 2001 :37).

In such conditions, there is a mismatch (or gap) between the sorts of arguments for the acceptability of outcomes of the sort that align on the positive diagonal and what the state can deliver in terms of administrative justice. Street-level bureaucrats may attempt to paper over the cracks by taking on a role as 'gatekeepers' to processes that may in themselves still be justified in positive terms (Lipsky, 1980).

Alternatively, administrative procedures may instead rely on devices, such as lotteries, which are explicit in their arbitrariness in terms of *outcomes* but which adhere (or claim to adhere) to particular ideals of fairness in terms of *process* (Adler, 1983: 335). Making decisions about the allocation of public resources through chance is clearly negative, in the sense that it represents an abandonment of faith in the capacity of rules, expertise or participation to contribute to good decision-making. Yet, at the same time, lotteries might, in the face of such an abandonment, be attractive to public agencies as a form of decision-making. This is both because lotteries are transparent about the arbitrariness of outcomes, and because decisions over outcomes are made without regard to personal circumstances or characteristics. And as Halliday and Scott (2010) have noted, lotteries have been used for this purpose in immigration and educational sectors, precisely for this reason.

Nonetheless – and here we offer a provocation for further inquiry – we should perhaps not associate the upper-left quadrant solely with sortilege as a form of decision-making. There may also be merit in associating the upper-left quadrant with an underlying embrace of arbitrariness in the design of administrative systems—beyond the proper operation of the rules, frameworks and processes themselves. If, as Harlow and Rawlings (2023) have claimed, the populist turn in political discourse involves a rejection of pluralism as well as elitism, in favour of direct linkages between politicians and 'the real people', then we might expect such a politics to favour administrative systems that embrace more personalised styles of form and authority in administrative systems, along with a rejection of bureaucratically rational decision-making, in favour of direct and personalised messaging, as well as a general and basic disdain for procedural values in favour of 'getting things done' (Harlow and Rawlings, 2023).

We are not suggesting that trends towards a more populist politics, and towards administrative forms and processes conducive to such a style of politics, are inevitable or irreversible. Our provocation is simply that we can see in some strands of populist doctrine a tendency towards styles of government that emphasise the power-conferring function of rules, frameworks and processes, while minimising the role of devices for 'structuring, checking and confining' of executive discretion (Davis, 1969). Far from improving standards of administrative justice, such devices may be seen as an obstacle to asserting the interests of 'the real people', where these are resisted by other interests.

The lower right quadrant: shared interests and core values

The lower right quadrant was described by Douglas in her early work as 'egalitarian', but in her later work she adopted the less politically charged term 'enclavist': a form of social ordering that is tightly integrated, sharing with the upper right quadrant a sense of common community and shared interests, but also weakly regulated, sharing with the lower left quadrant a preference for generally applicable principles and norms over bureaucratic rationality. Thought styles in this quadrant tend to value simplicity and relationality, and to be wary of the tendency to authoritarianism inherent in top-down institutional arrangements. Administrative justice is accordingly built on a cosmology that sees society as characterised by shared interests and goals, but unlike the upper right quadrant it sees demotic norms and aspirations as a better instantiation of these shared interests than technocratic expertise, and it accordingly assigns a higher priority to actions like citizen empowerment (Lodge and Stirton 2010: 361—362). Indeed, dissatisfaction with the top-down hierarchism of the top right quadrant is frequently a major factor driving affiliation with this quadrant (Douglas 1996: 114—115, 176).

In the wider literature on public administration, it is arguably Robert Dahl's theory of polyarchy that presents the fullest account of a style of administration aligned with this quadrant. Dahl formulated polyarchy ('control of leaders') in opposition to hierarchy ('control by leaders') as a way of accounting for social configurations that made it possible for non-leaders to 'exercise a relatively high degree of control over leaders' (Dahl 1984: 227), and his work discusses in considerable detail the types of institutions and commitments that are necessary to sustain polyarchy.

Equally, in broader public law scholarship, we find – whilst not embracing the framework of GGCT – an emphasis on deliberation and consensus within decision-making that is certainly characteristic, we suggest, of the lower-right quadrant's thought style. Patrick McAuslan, for example, in his seminal *The Ideologies of Planning Law,* identifies a third model of planning law, in contrast to the more established private property and good public administration models. This model:

> … sees law as the provider of rights of participation in the land use planning process not by virtue of the ownership of property but by virtue of the more abstract principles of democracy and justice. These in turn come down to the argument that all who are likely

> to be affected by or who have, for whatever reason, an interest or concern in a proposed development of land or change in the environment should have the right of participation in the decision on that proposal just because they might be affected or are interested (McAuslan, 1980: 5).

While McAuslan's work focuses on land-use planning, the consensus and deliberation perspective is central to the work of the so-called 'Sheffield School of Public Law' that was influential in the 1980s. In one of his earliest articles, Tony Prosser (1982) builds on the work of Habermas and others to argue that the *participation* (in the sense of the parties affected by a decision taking part in a discussion free from domination with an equal 'say' in the decision) and *accountability* (the requirement that justifications in the form of reasons for action must be given by those exercising public power) can and should serve as key organising concepts of a critical public law.

A key underlying assumption here, with the writing of the Sheffield School authors, as with McAuslan, is that administrative justice is at best imperfectly characterised as a *lis inter partes* between the administration and the person that is the subject of some administrative action (such as a grant or refusal of planning permission). J D B Mitchell (1966, 135), invoked the maxim of Portalis: *Juger l'administration c'est aussi administrer.* As used by Mitchell, this phrase signifies not only that any legal decision has the potential to interfere with administrative processes. Mitchell also intended to underscore the idea that judging administrative matters inevitably involved subtle judgment about where the public interest lies. The point is put more affirmatively by Nonet and Selznick who (characterising one of the guiding assumptions of 'responsive law'), argue:

> If the legal order is to lend affirmative authority to purpose, the focus of legal analysis must be the social patterns and institutional arrangements that frustrate the achievement of legal ends, not the aggrieved individual per se. (Nonet and Selznick, [1978] 2001: 106).

In other words, characteristic of this particular thought-style is the denial, or at least weakening of, the dividing line between the making of policy and the judging of an administrative dispute. This requires in turn a style of administrative justice that is open and inclusive, because administrative disputes involve multi-dimensional considerations about how to use the endowment of the community (whether financial, or land, or otherwise) in the manner settled on by the community itself. A just administrative decision, on this account, is one around which broad consensus can be reached, after listening to the arguments publicly put forward, and subjected to critical questioning, by all the affected parties.

While there is an undoubted emphasis on procedure within the deliberation and participation style of administrative justice, it is in its substantive dimension that this style is at its most radical. Prosser, taking his inspiration from Habermas, makes the point that a public law of the sort he proposes would preclude outcomes that are stabilised by force, and would thus tend towards substantive as well as procedural justice (Prosser 1982: 11). Drilling down to the

specific concerns of administrative justice, McAuslan similarly sees this approach as extending beyond the purely procedural:

> Substantive aspects take in what may be called the alternative society; not just more lay input into the existing governmental system but new structures and processes of government which deliberately and significantly alter the balance between the governed and the governors; greater attention paid to social community and ecological factors which assume or are geared to reproducing the same kind of society that exists at present. The wider aspect of the ideology has the effect of putting it almost into the position of an ideology of opposition to existing government structures, process and policies…(McAuslan, 1980: 6)

Distilling the core propositions about the operational question and decision legitimacy narrative, as we have done above, we can see in deliberation and consensus that the key operational question is a slightly more complex one to formulate: it would be something like, "Where does the consensus lie?" And the legitimacy narrative around the decision becomes, "You were afforded a meaningful opportunity to participate in the decision, and were given a reasoned justification for it." Moving towards characteristic modes of redress, we can see some similarity with the consumerist style in that there is an emphasis on voice; however, the kind of voice that is envisaged by deliberation and consensus goes beyond the opportunity to express a preference. Voice, in the deliberation and consensus style means the opportunity of involvement, rather than merely input in the making of decisions. It also is a remedy by all those whose interests are affected, as in McAuslan's example of all those who might be affected by a development or land-use case, rather than just the property owner.

Experiences of Administrative Justice

In the section above, we used GGCT to compare and classify different normative models of administrative justice in the sense of 'those qualities of a system that provide arguments for the acceptability of its outcomes'. Yet, Adler, by emphasising in his treatment of administrative justice various forms of remedy and mechanisms of accountability draws our attention to the fact that people's empirical experiences of administrative justice may feel very different to their own aspirations for administrative justice. In the remainder of this section, we explore the implications of this in more detail, using the framework of GGCT again.

User experiences of administrative justice

Despite the fact that, in terms of design, much of the world of public administration may fall within the upper-right, bottom-right and bottom-left quadrants, there is reason to believe that, when it comes to empirical experiences of administrative justice systems, individuals may associate it more with the upper-left quadrant whereby they feel excluded or marginalised, "bypassed by authority and power" (Douglas 1996: 69). It is not hard to see why. There may be something profoundly unattractive to the modern liberal mind about the idea of the state's ends being at variance with the polity's: as Nonet and Selznick (1978) pointed out, in the

modern era administration is seen as a way of making law more responsive to wider social needs. Yet one should be cautious of succumbing to presentism. Administration does not inevitably produce responsive law: as Nonet and Selznick also showed, in the eras of repressive and autonomous law administration made law less responsive to wider social needs. This arguably remains true in the present day in at least some contexts. In the UK, it is explicitly true of colonial governments. As the House of Lords emphasised in *Bancoult (No 2)*, and as constitutional historians have argued, the constitutional order of the UK itself continues to be influenced by principles inherited from the Tudor era (Endicott 2015).

More generally, administrative institutions, like any other institution, have a natural propensity to being insulated from demotic thought styles and, absent institutions that effectively bring administrative justice back into contact with these thought styles, there is no guarantee that administrative justice practices will in fact meet the aspirations of individuals and groups in the relevant community, however much it may conform to its own internal standards.

Operator Experiences of Administrative Justice

While the above argument considers the experience of citizens or users of administrative systems, we might also consider the experiences of those tasked with operating the system. There are good reasons why the upper left quadrant is likely to play a greater role in the operators' experiences of administrative justice too. Policy is hotly contested in many polities today, and the goals administrators pursue as well as the ideas and principles those goals reflect can change radically with a change of government. Here, the policies that the executive pursues at a particular point of time may simply reflect a temporary truce or compromise between interest groups, rather than the deeper substantive values or expertise-driven pathways to shared goals that the positive diagonal presupposes; and administrators may consequently find themselves having to pursue goals or implement policies they regard as unjust or inadvisable because they clash either with their own values or with what they have learned through their expertise.

As Lo has shown in his study of Norwegian municipal government, administrative officials feel a 'moral and professional obligation' to work towards what they perceive to be the common good, even where that sits uneasily with the law's normative framework (Lo 2012). Where systems of administrative justice deny them this opportunity, the result is that administrative decision-makers lose faith in the ability of their rules and procedures to produce the right outcome (Hertogh 2010: 215, Halliday 2004:60). As Hertogh has shown, such a process, if sustained over time, can produce a situation in which administrative officials find themselves alienated from the rules and systems they are tasked with applying.

'Alienation' as a concept has been the subject of complex theorisation in the social sciences, but we use it here in the somewhat simpler sense in which it was introduced by Simmel. To Simmel, alienation was a product of the ascendency of objective culture—things created by humans, such as law, science, and so on—over subjective culture—more personal aspects of human life, such as values, feelings and beliefs. Simmel argued that the steady shrinkage of the domain of subjective culture, and the expansion of objective culture, made it ever harder for

individuals to identify with the cultural objects that constituted objective culture. Alienation was the result of this, a sense of meaninglessness in which cultural products cease to be meaningful to humans, and a sense of powerlessness, involving a loss of agency and creativity (Simmel [1907] 1978: 454ff). As empirical work has shown, it is precisely these two dimensions that characterise the sense of policy alienation administrative officials face in such environments (see e.g. Tummers, Bekkers, and Stein 2009), and they highlight the real risk that systems that are perceived by their designers as furthering a particular model of administrative justice end up being perceived very differently by the individuals tasked with delivering them. As a result, the upper left quadrant draws our attention to the alienating effect systems of administrative justice might have on the administrative officials tasked with administering them.

Conclusion

A short chapter such as this can at most point to the rich potential in the use of GGCT as one tool in the box of administrative justice theorists. It takes from Adler the importance of a focus on administrative justice *systems* and modes of redress—indeed it could be argued that it is this focus that distinguishes administrative justice scholarship from the broader canons of public administration and administrative law. But equally, it highlights how too narrow a focus on arguments for the *acceptability* of administrative decisions about individual circumstances risks overlooking those thought styles of administrative justice that align along the negative diagonal of withdrawal and protest, and which provide a basis for critique, rejection and transformation of administrative systems and their justificatory claims. Such critical perspectives play a particularly important role where the gap between the demands on administrative systems and and their potential to meet such demands are most hard-pressed. These are the conditions under which both top-left populism and radical demands for participatory justice are most likely to make themselves heard. Administrative justice scholars, practitioners and system designers ignore such perspectives at their peril.

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