

Administrative responses to democratic backsliding: When is bureaucratic resistance justified?

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Abstract

Populist, illiberal, or outright autocratic movements threaten democracies worldwide, particularly when such extreme political forces gain control of executive power. For public administration illiberal backsliders in government pose a dilemma. Trained on instrumental values and expected to implement neutrally the political choices of their elected superiors, bureaucrats lack orientation of how to act in situations when obeying their own government may mean becoming an accomplice to democratic regression. Against this background, this article maps the dubious demands of backsliders in government as well as the potential reactions of bureaucrats to them. Public administration thinking is subsequently examined with a view to showing how administrative resistance to democratic backsliding could be normatively justified. Finally, the article provides practical recommendations to enhance the resilience of democratic public administration in the face of illiberal challenges.

Keywords: administrative disobedience, bureaucratic resistance, democratic administration, democratic backsliding, ethics of office, moral dilemmas, public values.

1. Introduction

Liberal democracies worldwide are imperiled from within by the rise of populist, illiberal, and outright authoritarian movements (Diamond, 2022; Lührmann & Lindberg, 2019; Pelke & Croissant, 2021; Wiebrecht et al., 2023). Where such movements conquer political power, a major threat derives from democratic backsliding, that is, the “state-led debilitation or elimination of any of the political institutions that sustain an existing democracy” (Bermeo, 2022, p. 156; Waldner & Lust, 2018). Backsliders¹—conceiving themselves as tribunes of the people and as endowed with a mandate above the established constitutional limits—feel vindicated to “aggrandize” executive power and dismantle institutional counterweights capable of frustrating their ambitions (Bermeo, 2016; Coppedge, 2017; Levitsky & Ziblatt, 2018).

While itself part of the executive, the public bureaucracy is the first state institution backsliding governments are “confronted with” and also the first they “have at their disposal” with which to pursue their illiberal agendas (Green, 2019; Rockman, 2019). That twofold challenge has put the spotlight on the bureaucracies of the affected states, because, first, public organizations have frequently themselves become the object of backsliding, suffering from hostile actions toward their personnel and their missions (Bauer & Becker, 2020; Peters & Pierre, 2019, 2022). Second, as no government, not even of the most elite-bashing, anti-establishment kind, can govern without relying on (at least parts of) the existing administrative machinery, the bureaucracy, willingly or not, risks becoming an accomplice of the new regime in implementing its backsliding efforts (Bauer, Peters, & Pierre, 2021; Bauer, Peters, Pierre, Yesilkagit, & Becker, 2021; Finer, 1997).

So far studies within the field of public administration (PA) concerning democratic backsliding have predominantly explored administrative deformations and the illiberal shift in policies driven by bureaucratic politics (Bauer, 2023). Much less attention has been given to the reactions of affected civil servants (Kucinkas & Zylan, 2023; Schuster et al., 2022; Story et al., 2023), let alone to the inevitable normative questions regarding what can be expected from a democratic civil service to safeguard the liberal democratic order from being undermined or even overthrown (Heath, 2020; Rockman, 2019; Yesilkagit, 2021).

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Against this background, this article maps the dubious demands of backsliders in government as well as the reactions of democratic bureaucrats to them. PA thinking is examined in light of which situations administrative resistance to democratic backsliding might be normatively justifiable or even compelling. Finally, the article provides practical recommendations to enhance the resilience of democratic PA facing illiberal challenges. The article advocates resuming the debate about the normative foundations of administrative resistance as a right and obligation, individually, and collectively, of the democratic civil service, to preserve the integrity of the political order (Kucinskas & Zylan, 2023; Terry, 2003).

In sum, it is argued that in the face of backsliding threats, the state bureaucracy must defend the democratic state and can do so only on the basis of a reinterpretation of what constitutes adequate administrative behavior. Only through an institutionalist perspective of the bureaucracy can we truly grasp the vital significance of cultivating an ethos of administrative resistance to safeguard liberal democracy and offer guidance for equipping the civil service to effectively confront this challenge (Selznick, 1957). Crafting a comprehensive theory of administrative resistance in times of democratic backsliding exceeds the scope of this article. However, it is hoped that this contribution will stimulate the debate concerning the normative underpinnings of administrative behavior during periods of government-driven democratic regression.

2. Rogue governments and liberal bureaucracy

Guided by accounts of comparative democracy and autocratization (Levitsky & Way, 2002; Pelke & Croissant, 2021) PA scholars have started analyzing the threat posed to democratic administration by backsliders in government (Bauer & Becker, 2020; Bauer, Peters, & Pierre, 2021; Bauer, Peters, Pierre, Yesilkagit, & Becker, 2021; Green, 2019; Peters & Pierre, 2019; Rockman, 2019). Backsliders (like any movement which has risen to executive office) have two overarching targets, namely keeping their power and achieving their policy priorities. Backsliders appear, however, to be willing to go far beyond what can be considered normal politics and regular political management to reach these goals (Bermeo, 2022; Hajnal, 2021; Levitsky & Ziblatt, 2018; Lotta, Tavares, & Story, 2023; Morais de Sá e Silva, 2022; Moynihan, 2022). In other words, there is always a sensitive balance between the elected leaders of the executive—incorporating the principle of popular majoritarian sovereignty—and the permanent civil service—which wields a functional power constituted by policy expertise and legal process know-how (Weber, 1968). However, the clash of those two roles appears to be exacerbated under backsliders' expansive illiberal agenda (Box, 2017, 2021). In considering the impact of this clash on democratic PA systems, the literature can be divided into two groups: studies that examine how backsliders transform bureaucratic organizations and those that focus on administrative deformation as a strategy or variable to enact illiberal policy changes.

2.1. Administrative deformations

As backsliders do not accept any restriction to their interpretation of the popular will, they essentially aim at a de-pluralization of both political institutions and political culture to get what they want politically (Milhorance, 2022; Peci, 2022). This translates necessarily into an anti-pluralist agenda to transform democratic PA systems (Bauer, 2023; Bauer & Becker, 2020, p. 21). Depending on the democratic and institutional robustness of the administrative order of a state, on the one hand, and on the ideological position of backsliders toward the role of the state on the other (rather laissez-faire or interventionist), the patterns of how backsliding impacts on the bureaucracy vary (Bauer & Becker, 2020; Lotta et al., 2022). In addition, backsliders rely on a variety of strategies to transform bureaucracies into (in their eyes) reliable instruments to execute their illiberal agendas, all driven by mistrust against what they conceive as an excessively “liberal” and “establishment-elitist” civil service full of “pockets of resistance” (Bauer, Peters, & Pierre, 2021; Bauer, Peters, Pierre, Yesilkagit, & Becker, 2021). Backsliders centralize administrative structures; they are keen to strengthen top-down command and control; they cut administrative budgets to quell independent parts of the services; they see to a cleansing of staff on ideological lines, patronizing government favorites; they undermine democratic norms of how to run the civil service; and they reduce external accountability as well as the interaction with (organized) society (Bauer, Peters, & Pierre, 2021; Bauer, Peters, Pierre, Yesilkagit, & Becker, 2021; Rockman, 2019).²

2.2. Illiberal policy change

Beyond goals and strategies aiming at such administrative backsliding directly, PA scholars also investigate whether and how backsliders employ administrative transformation tactics to change policies' substantial outputs and impact (Drezner, 2019; Morais de Sá e Silva, 2022). Studies show that backsliders indeed manage to change public policies by fiddling with bureaucratic capacities thereby, inter alia, circumventing time-consuming revisions of undesired legislation in parliament (Morais de Sá e Silva, 2020). They often do so covertly and by subterfuge, wary not to provoke societal or institutional deliberation about the aims of such policy change and thereby reducing the risk of a potential backlash. Illustrative cases comprise President Trump's strategy to marginalize the Environmental Protection Agency in order to alleviate regulatory pressure from polluting industry (Dillon et al., 2018) or to undermine the capabilities of the US foreign policy bureaucracy in order to erode multilateral problem-solving attitudes (Drezner, 2019).³ In the short-term, this tactic constitutes negative strategies aiming at hampering the bureaucracy's capacity to do its job, for example, by publicly bashing administrators, dismissing experts, decreasing operational agency budgets or deploying loyalists as partisan leaders. In the long run, it is likely that the resulting administrative changes have a profound impact on policy design. At any rate, backsliders employ bureaucratic politics and bureaucratic reorganization strategies as shortcuts to reach policy aims by subterfuge.

In sum, stimulated by the debate about the decline of liberal democracies and alerted by drastic examples of what backsliders in government do to their civil services in Hungary (Hajnal, 2021; Hajnal & Boda, 2021), Poland (Mazur, 2021), Brazil (Morais de Sá e Silva, 2020, 2022) and in the United States (Horwitz, 2021; Moynihan, 2021), a substantial body of PA literature on the topic has emerged. We now possess a selection of instructive examples of how backsliders treat and transform their bureaucracy in order to achieve de-pluralistic agendas, why they do so, and with what results. Backsliders see democratic bureaucracy as an elite club and as a threat to the achievement of their political goals. They clamp down especially on the "liberal" components of democratic PA, that is, transparency culture, scientific expertise provision, the bureaucracies' interest intermediation role, societal consultation and participation mechanisms, decentralizing rooms for maneuver, and so forth. Backsliders' image of the bureaucracy is a strictly hierarchical and instrumental one, one of absolute loyalty and obedience toward their own, often personal, leadership idea. While an instrumental conception of the civil service belongs to backsliders' core beliefs, the question is how democratic administrative elites—so much despised and at the same time feared by backsliders—react to the anti-liberal policy demands of their superiors.

3. Where precisely do backsliders clash with bureaucrats?

In order to answer the question of where precisely backsliders clash with bureaucrats, we need a concrete notion of what backsliding conflicts between bureaucrats and governments are about. Only then can the bureaucratic responses to such backsliding be systematically assessed. When considering bureaucrats in their roles as both instruments and casualties of regressive governance, the underlying dynamics can be ordered into four categories. First, there are outright power abuses by political superiors, frequently taking the shape of decisions that bypass established procedures and prerogatives. A second aspect involves deliberate endeavors to diminish the role of the bureaucracy as a liberal institutional counterbalance to the power of the elected executive. The third dimension revolves around regulation and policymaking, that is, procedural changes or changes of policy substance, into an illiberal direction. Finally, conflicts arise from the creation of an intimidating workplace setting that puts civil servants under professional and social stress. These four conflict categories, gleaned from the pertinent literature, shall be briefly illustrated.

Outright power abuses, that is, the violation of existing rules, are reported on a lower scale (e.g., unduly intervening in recruitment or promotion decisions), but also in dramatic political situations (e.g., when Donald Trump tried to overturn the presidential election results in Georgia).⁴ Potential further examples comprise Bolsonaro's violation of indigenous rights⁵ and Trump's role in the attack on the US Capitol Hill to prevent the transition of power to his successor in January 2021.⁶

The second category of potential conflicts arises because in liberal institutional settings, the democratic bureaucracy de facto counterbalances the power of the elected executive. Its objective expertise, its de facto autonomy, and its commitment to due legal process require the bureaucracy to act as a "counter-majoritarian check"

to government projects, despite the latter resting on a legitimacy derived by the majoritarian principle (Heath, 2020, p. 345; Wildavsky, 1979). Backsliders' response to such constraint consists in "reforming" the PA to bring it back into line and make it a pure instrument for implementing governmental policy. Most of the PA literature about backsliders in government is precisely about such "structural deformation" geared toward weakening the bureaucracy's weight in the checks and balances equation (Bellodi, Morelli, & Vannoni, 2023). The strategies for that weakening may vary. Trump rather "sabotaged" PA (cutting agency budgets to zero, appointing partisan opponents of agency policy as heads of the agency, weakening environment protection enforcement capacities, etc.) (Box, 2021; Goodsell, 2019) while Orbán in Hungary "captured" the state administration (vertical centralization, comprehensive politicization of staff at all levels, structural reforms) (Hajnal & Boda, 2021). Similar examples are reported from Brazil under Bolsonaro (Koga et al., 2023; Morais de Sá e Silva, 2020; Peci, 2022). The aim, however, remains always the same, subordinating the bureaucracy to the illiberal primate and thus eliminating any independent administrative discretion that might otherwise impede the progress of government initiatives.

While the second category depicts potential constellations where bureaucrats come into conflict with backsliders regarding deformation of the administrative organization itself, the third category covers such deformations with respect to policymaking. Such conflict emerges most often around regulatory rollback initiatives. The repealing of the US Clean Air Power Act, Amazon rainforest and deforestation policy in Brazil, the abolition of LGBTQ+ rights in Brazil and Hungary are examples in which bureaucratic resistance has been reported. Bureaucratic resistance concerns less political policy change per se (as a result of regular political processing via parliament, etc.) but rather the abolition of participation and deliberation rights (which, by cutting out potential dissenters, indirectly produces more illiberal outcomes).⁷ Beyond such "negative" dismantling backsliders also have "positive" policy objectives, like regulatory tightening in immigration and human rights where clashes with mission sensitive civil servants are likely.⁸ In sum, while it depends upon the specific preferences of the backsliders in question, illiberal policy change (as regulatory tightening or easing as well as the shift in public spending priorities) constitutes a potential area of conflict between a backsliding government and mission conscious liberal bureaucrats.⁹

Finally, civil servants are reported to suffer from a broad range of unfair and ethically doubtful behavior by superiors at work, especially by political appointees catapulted to managerial jobs despite dubious levels of experience (Lotta, Tavares, & Story, 2023; Morais de Sá e Silva, 2022). It appears that the resulting workplace dysfunctionality is deliberately pursued to weaken liberal attitudes and styles within bureaucratic units. Backsliders' management style can be characterized by a commanding and authoritarian approach toward their staff. Bosses assume an overly dominant and controlling role, often displaying an attitude of superiority. This demeanor results in mistreatment and disrespectful behavior toward employees, especially those who criticize government initiatives on professional grounds, encompassing actions like belittling, berating, and demeaning of staff members, as well as ignoring their input and disregarding their well-being. This type of workplace atmosphere is reported to lead to a sense of fear, intimidation, and low morale among employees, as they feel powerless and undervalued because of the oppressive behavior of their bosses (Kucinkas & Zylan, 2023; Lotta, Lima, et al., 2023).

In summary, conflicts between backsliders in government and democratic bureaucrats arise in four areas: direct power abuses, the erosion of bureaucratic capacity for checks and balances, the implementation of illiberal policy change, and deliberate workplace disruptions. What do we know of how democratic civil servants react in such situations of conflict?

4. From administrative reactions to bureaucratic resistance

Empirical research about the responses of democratic civil servants to backsliding superiors relies conceptually on theories about workplace dissatisfaction, first and foremost on guerilla government approaches (O'Leary, 2013; O'Leary, 2017) and dissent shirking concepts (Brehm & Gates, 1999, p. 30ff.), both inspired by the classic work of Albert O. Hirschman about responses to organizational decline (Hirschman, 1970). Exit, voice, loyalty, and neglect (Farrell, 1983; Golden, 1992), combined with components of public sector motivation research (Ripoll & Schott, 2023), do thus constitute the typical heuristic frames within which to study the patterns and mechanisms behind bureaucratic responses to political superiors who act unethically, pose unprincipled demands or pursue policies perceived as going against the common good of society (Kucinkas & Zylan, 2023; Schuster et al., 2022).

A survey vignette experiment conducted with Brazilian bureaucrats, for example, asks whether civil servants would be willing to act as veto players by refusing to implement policies that undermine democratic institutions, and comes to the optimistic assessment that a majority would be willing to shirk and sabotage if assigned to implement policies that are perceived to restrict democratic rights, such as the freedoms of the press and expression. It turns out that prosocial individual values correlate positively to such a guardianship attitude (Guedes-Neto & Peters, 2021; Story et al., 2023). Such a positive linkage between public sector values and hypothetical guerilla behavior shows also in a survey by Schuster et al. (2022).¹⁰

While virtually all studies about bureaucratic reactions to backsliding start off with the exit-voice-loyalty-neglect heuristic, some doubts emerge about the appropriateness of the scheme. The skepticism mirrors criticism which has already been ushered toward the classical studies in the field. For example, the exit category is ambiguous because a “silent” exit might be innocuous from the perspective of backsliders (or, worst, provoking exits might be part of backsliders’ objective so jobs can be filled with supporters—Peters & Pierre, 2022).¹¹ Quite a different matter is a “noisy” exit, that is, when a top civil servant leaves an important position making her or his protest public (Kucinkas & Zylan, 2023, p. 1770). Only the latter would count as “resistance,” but has been, so far, empirically quite rare.¹²

The survey studies further indicate that outright direct sabotaging of unprincipled governments (not implementing, internally mobilizing against government action, directly undermining implementation, leaking) is rare and seems to be the least preferred option in the case of ethical or professional clashes.¹³ Civil servants—at least in the vignette experiments—prefer, first, to try to voice dissent, and if this does not work, to exit silently instead of directly and consciously undermining regressive governmental action (Schuster et al., 2022, p. 12; Story et al., 2023).

Kucinkas and Zylan interviewed civil servants working for the Trump administration, analyzing thus first-hand experiences about working under backsliding rule. They show how pressured civil servants want to hold on to their missions, cautiously calibrating responses to dynamic and increasingly threatening environments (Kucinkas & Zylan, 2023, p. 1763). Such a dynamic picture also emerges from Lotta and colleagues who see bureaucrats carefully considering their reactions according to the quality of pressure wielded by backsliding governments (Lotta, Lima, et al., 2023).¹⁴

To sum up so far, the research on bureaucratic responses to backsliding is still in its infancy. While the exit-voice-loyalty-neglect heuristic constituted a plausible starting point for empirically studying bureaucratic behavior under illiberal rule, these categories need to be re-designed to conceptualize bureaucratic “resistance” (instead of “responses”). This is the case because “exit” comprises quite different intensities of resistance (“silent-passive” vs. “noisy-active” variants), while superficial “loyalty” obviously cannot be counted in any way as a form of administrative resistance, even if bureaucrats work on under backsliders in a spirit of a disengaged inner emigration. Focusing on forms of bureaucratic resistance, the empirical insights provided so far can be ordered in four categories. There is first, and most mildly, the “silent exit.” Officials finding themselves in ethical or professional conflict can ask to be transferred to another post (or leave the civil service). Individually, the latter especially is a tough choice, and deserves to be respected as such. From the perspective of the matter that might be at stake, that is, specific backsliding projects pursued by illiberal governments, silent exit is a relatively innocuous form of resistance, at least as long as it remains an individual and not a collective act. More intense in terms of incurring political damage appears to be professional “neglect” (aka “dissent shirking”). An agent who covertly neglects tasks can significantly hinder or delay the realization of a government’s principal objectives, and such negligence is exceptionally challenging for supervisors to detect. “Sabotage,” that is, the deliberate damaging, obstructing, or undermining of backsliding action, constitutes an active and risky undertaking by an official. “Sabotage” goes far beyond mere “neglect,” it needs more determination and it carries also a greater risk of detection and subsequent punishment. Finally, one could conceive a category of “counteracting” which is not only an active form of resistance, but also one that takes place in or seeks the public sphere. That is why a “noisy exit” should be subsumed under that heading. Officials who counteract their government want to correct a state of affairs which they see from their professional perspective as harmful. Counteraction goes beyond mere sabotage; it represents a higher level of personal responsibility, aiming to set an example and encourage others to see the better option, thereby carrying a mobilizing dimension.

In sum, “exit,” “neglect,” “sabotage,” and “counteracting” are the forms of bureaucratic resistance to democratic backsliding so far provided by the literature. The question is under what conditions, if any, can a particular form of bureaucratic resistance be justified from a normative perspective?

5. Two images of politico-administrative relations and corresponding civil service ethics

At its core, the inquiry into whether and when bureaucratic resistance to governmental backsliding can be deemed justified is contingent upon the perspective taken regarding the interplay between the elected government and the permanent bureaucracy¹⁵; or, extending the focus further, it depends upon how the relationship between democracy and PA is conceptualized.

One can distinguish between an instrumental perspective on the one side, and an institutional or public value-based perspective on the other (Ingber, 2018; Nabatchi, 2010; Olsen, 2006; Ventriss et al., 2019). In the instrumental perspective, the bureaucracy is a downstream function wholly subordinated to the elected government; and it is the one that incorporates the democratic expression of the political will of a community alone. In the institutional perspective, the relationship between bureaucracy and other political actors is seen as being more complex. The institutional image sees “democracy and public administration as mutually supportive, as each depends on the other for its realization” (Ventriss et al., 2019, p. 276). The main arguments constituting the two perspectives, which encompass two distinct ethical models for bureaucratic behavior, shall be briefly elaborated.

The instrumental perspective relies on the classical works of Wilson (1887), Weber (1968), and Goodnow (1900), which promote a dualist view between government and bureaucracy, usually referred to as the politics-administration dichotomy. While its empirical veracity is regularly questioned (Appleby, 1947), the dichotomy—at least implicitly—informs large parts of mainstream PA theorizing of the relationship between bureaucrats and politicians (Overeem, 2005). Accordingly, the bureaucracy belongs to the sphere of preparing and implementing public policies separated from the political world of (redistributive and value-based) decisionmaking (Bertelli, 2021; Finer, 1941; Shepsle, 2010, Chapter 13).

In the top-down logic of the instrumental perspective, the bureaucracy is but a tool of government. Hence, the main concern is how to keep the bureaucracy under control. Any independent or political proactive behavior of bureaucrats is in this perspective undesirable or worse. As the bureaucracy has potentially overwhelming powers, the main task of a theory of the relationship between democracy and administration is to help to minimize the risks of self-aggrandizement, domination through knowledge, operational secrecy, and structurally insufficient parliamentary control (Weber, 1968).

It is evident that in such a pessimistic—“pessimistic” in view of the desirability of active and autonomous bureaucratic behavior—line of thinking about the perils of bureaucratic power, the focus is on how to keep it in check.¹⁶ The problem of democratic backsliding, that is, potential harm coming from the own government, has no place in this perspective, and entertaining an idea of active bureaucratic guardianship against such backsliding remains beyond reach. Not to be misunderstood, the instrumental view yields valuable hypotheses about bureaucratic “power” and “pathologies” in policymaking. However, this perspective provides little analytical lever to justify or even explore neutrally the bureaucracy’s capacity to counter democratic backsliding.

Instead, the institutionalist image provides for more complexity in the relationship between government and administration. It bestows greater autonomy and, consequently, increased responsibility upon democratic bureaucracy. The narrative suggests that as the welfare state expands, accompanied by the managerial demands inherent in modern governance, the bureaucracy necessarily gains further discretion, to an extent difficult to accommodate by the instrumental model (Fukuyama, 2023). This extended discretion is not a pathology but a result of differentiation processes and natural limitations in how executive power in democracies is organized (overcharging a relatively small group of popularly elected individuals holding direct democratic legitimation by giving them the formal responsibility over a large apparatus with often thousands of staff). Arguably developed liberal democratic systems function only because an auto-pilot guides their administrations, which run on (and are contained by) three accountability relations into which bureaucrats are trained and socialized (Carpenter & Krause, 2015).

According to Rohr (1998), Cooper (1990), du Gay (2020), and Heath (2020) civil servants are thought to have three ethical frames or poles of allegiance, namely, one to elected officials, second to the public directly, and third

to some independently determined interests of the state. It starts to get difficult when the three become misaligned, that is when “questions about the fundamental obligations of the civil servant arise” (Heath, 2020, p. 48). To assess the potential for “misalignment,” the guiding concepts of administrative neutrality, mission, and constitution need to be briefly revisited.

Administrative neutrality means that the civil servants must be neutral with respect to partisan political disagreements surrounding their job. It thus acknowledges that disagreement usually exists in a population about what constitutes the common good and via which policy it should be pursued. In liberal democracies, however, the range of available policy choices, as well as the selection of instruments to pursue them, is limited by the rule of law or other higher public values like fairness or equal citizenship. Administrative neutrality is thus not “absolute,” but contextual, and it does not absolve the bureaucracy of its responsibility to act as a constraint against policy or instrumental choices that, if adopted, would exceed the liberal consensus of a polity, even when these choices arise from majoritarian politics (Heath, 2020, p. 93).

Bureaucrats also have obligations which arise from the office they are holding, that is, a responsibility emerging from their professional expertise combined with their institutional role (Waldo, 1952). Friedrich has clarified the professional side of the argument, justifying independent bureaucratic agency on the basis of its superior expertise provided for by technical standards of how best to achieve substantial policy objectives (Friedrich, 1960).¹⁷ Du Gay invokes a normative responsibility in the form of an “ethos of office” which would also constitute a “bulwark against populism” (du Gay, 2020, p. 77). Claiming to build upon Weber’s ideas while pushing the concept further, du Gay promotes a progressive interpretation of the public office. This interpretation encourages and necessitates bureaucrats to uphold stability and predictability within society, thereby safeguarding the very foundations upon which individual as well as collective liberty is built. They achieve this by wholeheartedly pursuing their professional missions (du Gay, 2020, p. 83; du Gay & Lopdrup-Hjorth, 2023).

Ultimately, the imperatives for bureaucratic behavior also encompass the safeguarding of the values upon which a regime is founded (Bertelli & Schwartz, 2022; Rohr, 1998), and thus the preservation of the integrity of the polity itself (Cooper, 1990).¹⁸ For running and conserving a constitution according to those values some kind of “administrative statesmanship”¹⁹ is required, which Larry D. Terry has framed into the concept of administrative conservatorship (AC). Stretching over legal, managerial, and institutional dimensions, AC offers the most decisively prescriptive and proactive position in the discussion about bureaucratic agency, discretion, and leadership in light of making a stand against democratic backsliding. Public administrators are thus conceived of as guardians of state institutions and protectors of the democratic way of life (Terry, 1990, p. 396).²⁰

In sum, the two images of politico-bureaucratic models—instrumental versus institutional—lead to two very different ethical conceptions for bureaucratic action, referred to as bureaucratic and democratic ethics. The democratic-institutional image goes back to Kant and Hegel (Frederickson & Rohr, 2015; Meier, 1997; Nabatchi et al., 2011; Olsen, 2006, 2008; Stivers, 2008). It regards the bureaucracy itself as a democratic institution with its own normative and moral values (Waldo, 1952). And it is from the vantage point of such institutionalist thinking that developing the conception of a proactive bureaucracy able to guard against backsliding seems possible. Bureaucracy, in such a perspective, has a necessary and justifiable degree of autonomy and legitimate stamina nonadaptive to political leaders and environmental demands (see also Bertelli, 2021). Administrative legitimacy is based on constitutional principles, rule of law, due process, and impartial expertise, or, put differently, the deontological ethical standards of the bureaucrats are based on their mission and the democratic constitution (Nabatchi, 2010; Olsen, 2006, p. 16ff.; Olsen, 2008). Administrators thus cannot be value neutral and purely instrumental; they need to ground their behavior on higher order moral principles such as constitutionalism and the public interest, which in a liberal state is defined by social equity and justice (Nabatchi et al., 2011; Woller, 1998).

The point here is not to play off one image of the politico-administrative relationship against the other. Both have their merits and function. Rather, one needs to be conscious about the scope conditions of each of them. If efficiency is the major concern, organizational designers are well advised to consider incentive and control concepts as provided by the instrumental view. If democratic stability itself is at stake, and if majoritarian politics propels illiberal backsliders into power, democratic bureaucracy has to recall its “hybrid” character. The administration is obviously an instrument of government. But loyalty and political neutrality in view of the projects of the rulers of the day are by no means unlimited. They are confined by the fact that the bureaucracy is also a

liberal institution that can be called upon to counter unwarranted majoritarian demands with—at the very least—mission-related expertise and constitutional-preserving watchfulness (Fukuyama, 2023, p. 2; Koga et al., 2023). It is this counter-majoritarian function that normatively justifies bureaucratic resistance to democratic backsliding, especially when values like neutrality and preserving the integrity of a political system clash. Bureaucratic resistance thus can be justified theoretically by manifesting ethical misalignments. The question that then lingers is whether resistance is a right or a duty, and how bureaucrats can ascertain the appropriateness of the mode of their resistance to specific instances of democratic backsliding.

6. Is there a right or duty to resist? And if so, how?

The institutional perspective on the relationship between government and bureaucracy is capable of justifying bureaucratic resistance to a government when liberal values and standards are violated. However, how can bureaucrats be guided in making such a choice? And if they decide that resistance is, in their situation, the way ahead, what kind of resistance would be appropriate given that backsliding comes in quite diverse forms?

The answer is that it depends. Officials confronted with a backsliding action will need to assess the severity of the projected action and choose their response accordingly. For example, if a backsliding action concerns the potential violation of legal rules or procedures, the resistance of the bureaucracy should certainly be more rigorous than in cases when the managerial style within an organization is at stake. In general, a government, also an illiberal one, has greater legitimacy to reorganize its own organizational basis (i.e., the bureaucracy and how it is managed) and to decide about policy (the latter being its prime function), than it enjoys with respect to decisions impinging on the powers of other state institutions or societal actors. Greater resistance is thus appropriate when illiberal actions pose a threat to the democratic system itself, such as undermining the rule of law, infringing on civil liberties, or eroding checks and balances.

In this perspective, clamping down on bureaucrats and pursuing policy changes will constitute less severe instances of backsliding when compared to actions aimed at altering the existing power balance in favor of the incumbent government or infringing on formal laws, rules, and procedures. In the former cases one could speak about a “right of bureaucratic resistance,” but in the latter cases this right moves in the direction of a “duty” given the obligation of public officials to preserve the polity which they embody. The bureaucratic response to democratic backsliding is thus best conceived as “graduated,” that is, with increasingly illiberal government practices (ranging from workplace intoxication, via illiberal policy change, to the much graver weakening of checks & balances on government action to direct power abuses) also the bureaucratic resistance is justified to intensify (from exist, via neglect to sabotage and eventually counteracting). In other words, bureaucrats have a right to resist democratic backsliding in the form of workplace intoxication or illiberal policy changes, but they have a duty to resist more severe forms of backsliding, such as the direct violation of constitutional norms or the weakening of institutional checks and balances. The bureaucratic response to democratic backsliding should be proportionate to the severity of the threat, ranging from simple non-compliance to active sabotage.

7. Practical implications and recommendations

If the concept of graduated bureaucratic resistance to democratic backsliding is embraced, it should be clearly outlined in civil servant training manuals, and civil servants should receive comprehensive training on its practical application. As national administrative systems are on specific path-dependent historical paths and interact differently with their governments, and given variation in how the rule of law plays out in this relationship (Knill, 1999; Shefter, 1994),²¹ there is no panacea, no “silver bullet” to ensure administrative resilience against backsliding. Instead, a comprehensive approach is required, one that spans the whole spectrum of value-based leadership and democratic culture, organizational structures, and possible institutional innovations.

Administrative leaders should not only espouse values of democratic resistance but also actively shape the organizational culture in line with these principles. The consciousness of the complex role of the bureaucracy in a democracy—its commitment to liberal democratic values—needs to be explicated and intensified. Such democratic norm consciousness of bureaucrats is key and needs to be continuously nursed. This means that the “liberal” side of the bureaucrat’s job needs to be well understood; especially when in the face of majoritarian-backed

up requests that go against professional or constitutional values, it is not a foregone conclusion that elected government officials have it their way.

Democratic leadership values need to be made a criterion for the recruitment and promotion of public officials, especially for top-level appointments (Babalola et al., 2019; Demir et al., 2023, Železnik & Fink-Hafner, 2023, p. 219). Candidates should be evaluated on their ability to identify ethical dilemmas, analyze value trade-offs, and balance the interests deriving from political stakeholders and common goods as codified in the constitution. Furthermore, bureaucratic units and agencies should explicitly state their commitments to democratic values in mission statements, organizational principles, and ethical practices (Goodsell, 2011; Rainey & Steinbauer, 1999). In that respect, open internal deliberation about potential and real norm clashes could be deliberated about in institutionalized ethical dialogue forums (Demir et al., 2023, p. 219). Employees would thus be encouraged to voice ethical concerns and contribute to intra-organizational democratic decisionmaking. It is not enough for administrative leaders to merely vocalize democratic values; they must actively mold the organizational culture to align with these principles.²²

A crucial source of dissent—and thus a basis for resistance—is professional expertise. In order to enable civil servants to stand by their missions two things are crucial. First, employee job security needs to be safeguarded. The link between job security and employee behavior, including loyalty and willingness to voice critique, is well-established (Breevaart et al., 2020; Resh, 2019; Saxlund Bischoff, 2022, p. 13). Civil servants need also to be aware of potential legal liabilities they encounter personally if they give in to unprofessional political considerations. Professionalism is not only required on an individual level, but the degree to which an organization is dedicated to achieving its mission can also bolster its resistance to external political pressure. An unwavering focus on mission attainment serves as a bedrock of organizational resilience against backsliding. An element of strengthening organizational resilience certainly also lies in the revival of administrative law as a core expertise of the public service. Harnessing such legal expertise, for example, by relying again more on employees with law degrees, could probably help to resist illicit orders. Legal expertise within the bureaucracy should therefore be expanded (Saxlund Bischoff, 2022, p. 14).

Finally, structural and institutional designs that could help to hamper an illiberal conversion of democratic bureaucracy need to be considered. An interesting idea might be to establish an independent council-like body, composed on equal terms of randomly selected citizens, representatives of civil society, and a cross-section of the most important political institutions of a state, which would report on the quality of the democracy in a country. While only endowed with deliberation and information rights, such a council could have the power to indicate several (intensifying) degrees of imperilment of the democracy. If a certain threshold is reached, that could commit the employees of all political institutions, especially in PA, to a higher level of professional vigilance. In sum, raising the norm consciousness of bureaucratic elites about their duty to preserve the integrity of the political system itself, fostering organizational ethics of democratic leadership, and staying truthful to professional standards are major means to frustrate backsliding in practice.

8. Outlook

Bureaucrats have a right, and under certain circumstances, the duty to resist democratic backsliding. After laying out how the threat of backsliding affects PA, and what responses of bureaucrats can be observed, the conception of the bureaucracy as an institution (and not just an instrument) of democratic governance was employed to normatively back up a scaled right of bureaucratic resistance rising in intensity with the severity of backsliding as pursued by rogue governments.

It may seem “unfair” that such a great responsibility is laid on the shoulders of civil servants; democracy is, after all, something that needs to be defended by all citizens. However, serving the democratic state (and enjoying respective privileges when doing so) carries with it a special responsibility for preserving the democratic order (Bertelli & Schwartz, 2022). It remains, however, the duty of the designers of the civil service and the administrative system to provide optimal contexts to support the civil servants in exercising this function in dire times. Organizational contexts and bureaucratic cohesion need to be strengthened in ways able to reproduce a democratic culture that supports individual bureaucrats to do what is appropriate (March & Olsen, 1983), namely to stay truthful to the democratic ethos, professional missions, and constitutional values.

It is in this respect, that is, how group socialization and incentives are best designed to prompt individual bureaucrats to stand up against undemocratic and illiberal seductions, where more PA research is needed most.²³ A further implication is to revisit the thinking about bureaucratic discretion which, in a backsliding perspective, assumes a much more positive character. If based on democratic values and guided by common good considerations bureaucratic discretion transcends the wishes of the government of the day. Therefore, this article advocates the conception of a liberal bureaucracy, that is, a bureaucracy that is responsive to elected leadership but within the confines of its mission and constitutional values including human rights and the rule of law (Dahlström & Lapuente, 2022; Heath, 2020). By rediscovering this counter-majoritarian function of our liberal PA we can provide the justification for bureaucratic resistance against democratic backsliding.

In summary, civil servants cannot remain value-neutral and purely instrumental when the political integrity of the democratic systems they serve is at stake. Only by reviving the perspective on how to infuse democratic values into the bureaucracy can we embrace the possibility of actively safeguarding democratic administration in the face of backsliding by incumbent governments (Selznick, 1957; Terry, 2003).

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DATA AVAILABILITY STATEMENT

The data that support the findings of the study are available from the corresponding author upon reasonable request.

Endnotes

- ¹ Populist, authoritarian or outright autocratic movements are subsumed in this article under the term “backsliders” because the focus lies on how such political forces, once in government in democratic regimes, pursue an illiberal, anti-pluralist agenda to transform their society, polity, and public administration. See Moffitt (2020), Müller (2016), Mudde and Rovira Kaltwasser (2017), Levitsky and Ziblatt (2018), Levitsky and Way (2002), Coppedge (2017), Bauer and Becker (2020), and Urbinati (2019).
- ² Backsliders may also “sideline” their own bureaucracy by using other existing channels or creating new ones, like para-bureaucracies (see González-Vázquez et al., 2023). This, however, goes beyond the study of direct interactions between bureaucrats and backsliders focused here.
- ³ Another prominent case is Bolsonaro’s U-turn in Brazilian human rights engagement. Morais de Sá e Silva shows how the promotion of human rights at home and abroad was reversed by persecuting activists and marginalizing human rights bureaucrats within the civil service (Morais de Sá e Silva, 2020, p. 647).
- ⁴ See AP, <https://apnews.com/article/trump-georgia-election-investigation-grand-jury-willis-d39562cedfc60d64948708de1b01led3>, last accessed 16 August 2023.
- ⁵ *The Guardian*, <https://www.theguardian.com/world/2021/jan/23/jair-bolsonaro-could-face-charges-in-the-hague-over-amazon-rainforest>, last accessed 16 August 2023.
- ⁶ See BBC news, <https://www.bbc.com/news/world-us-canada-64071723>, last accessed 16 August 2023.
- ⁷ Like abolishing membership of potentially dissenting groups in advisory councils, abolishing hearings altogether, reducing civil society access to policy deliberation, and so on, thus facilitating “steamrolling” governmental policy.
- ⁸ To substantiate this claim. The anti-immigration stance is also very visible in the case of Orbán’s government which has pursued an anti-immigration policy, using rhetoric that some perceive as xenophobic. This has been used to galvanize support for the ruling party while polarizing public opinion on immigration-related issues. The disregard for human rights was visible also under Bolsonaro. Human rights organizations, for example, have raised concerns about Bolsonaro’s approach to human rights issues, particularly regarding marginalized communities and indigenous peoples. His policies and rhetoric have been criticized for potentially exacerbating social inequalities and endangering vulnerable populations.

That is similar to the immigration and travel ban under Trump. One of the most controversial policies of Trump's administration was the so-called "Muslim Ban." In January 2017, he signed an executive order that temporarily banned entry into the United States for citizens of several predominantly Muslim-majority countries. This policy was criticized for targeting individuals based on their religion and nationality, which raised concerns about religious discrimination and human rights. Family Separation at the Border: The "Zero Tolerance" immigration policy, implemented in 2018, led to the separation of thousands of migrant children from their parents at the US–Mexico border. The policy aimed to prosecute all adults crossing the border illegally, including those seeking asylum. Critics condemned this policy as inhumane and a violation of human rights.

- ⁹ Not to be misunderstood, mission conflicts can arise about various policy projects, and it is not the case that backsliders always want "fewer rules" or "less spending." But it is also the case that similarities in the policy preferences with neoliberal right conservative movements exist. For example, regulatory liberalization preferences of backsliders often concern gun control laws (Brazil, USA) and the expansion of public spending on domestic security and the military.
- ¹⁰ A study that predates the debate on backsliding, focusing on reactions to "illegal requests" by superiors, comes, however, to a more gloomy assessment, with one quarter of the surveyed civil servants willing to compromise their legal obligations (Saxlund Bischoff, 2018, 2022).
- ¹¹ Even worse, silent exits have some gloomy implications. Because public service-motivated officials seem over time more likely to quit their job under "unprincipled principals," and can therefore be replaced by ideological followers of the rulers, backsliders' grip on their administrations will become ever stronger the longer they manage to stay in power (Schuster et al., 2022, p. 433). The replacement of career civil servants with less well-educated staff entails the risk of declining professionalism over time.
- ¹² Dissenting officials may prefer to change job within the civil service instead of leaving the civil service for good.
- ¹³ Probably norms of bureaucratic loyalty and neutrality weigh in here and put a break on open resistance. Democratic civil servants act cautiously and, even under considerable stress, in the spirit of obedience to elected superiors of any kind (see Kucinskas & Zylan, 2023).
- ¹⁴ Lotta and colleagues further demonstrate that different individual characteristics affect the bureaucrats' behavioral intentions in these situations (similar Schuster et al., 2022). The dilemma of individual bureaucrats confronted with doubtful demands is further worsened as usually, such demands lie in a gray zone of not necessarily unlawful action (Ripoll & Schott, 2023).
- ¹⁵ This relationship being one of the core questions of PA as a discipline, there is no shortage of theoretical offers and analytical nuances varying over time and also across experience emerging from diverse national political systems and legal cultures (see Svava, 2006, for an overview). Whether the question is framed in terms of the politics-administration dichotomy, the constraint versus the runaway agent, new public management versus public value school, the answers one gets might be slightly different. For the sake of this space, the debate is simplified, but see Ventriss et al. (2019) and Stivers and DeHart-Davis (2022) for recent accounts and overviews.
- ¹⁶ The underlying Hobbesian micro-foundation of the instrumental perspective has merged into the public choice or economics of bureaucracy school (see the works of Anthony Downs and Niskanen), which conceives bureaucratic behavior as the realm of individual selfishness and rent seeking at the taxpayer's expense under the veil of information asymmetries and infested by principal-agent pathologies (Shepsle, 2010). The lineup of theorists undergirding the instrumental perspective of the bureaucracy stretches from Marx, over Wilson, Weber, Goodnow, Michels, Downs, Niskanen, Dunleavy, and Moe, to name just a few.
- ¹⁷ For an overview of the arguments of Carl J. Friedrich and his opponent Herman Finer in the famous Friedrich-Finer debate on administrative responsibility, see Jackson (2009). Bureaucrats' superior professional judgment that would guide them to balance demands for compliance from the top of the hierarchy with their mission to further the public good in concrete circumstances. In sum, the bureaucrat's inner guide to do what is adequate—in professional terms—constitutes their functional responsibility (see Friedrich, 1960). Echoing Hegel, administrative responsibility, for Friedrich, stems from professional standards, that is, from a superior understanding of what is necessary and right to do in order to reach a certain common good. His position conceives thus a certain degree of bureaucratic independence, but the problematic of "unprincipled principles" is not tackled in his work. Friedrich's concern is, rather, how bureaucrats can remain truthful to their mission when unexpected circumstances arise along the journey of a public policy from inception to implementation.
- ¹⁸ Anthony Bertelli, more on the basis of positive empirical theory, argues that bureaucrats indeed play a significant—but underappreciated—role in shaping public policy and the implementation of democratic decisions. Although being unelected, civil servants have the authority to interpret and execute laws—and they do so as they translate the often abstract and general democratic values that are decided upon in the political process to concrete programs (Bertelli, 2021). Bertelli and Schwartz's "complementary principle," that is, that public administration should reinforce the

democratic values of the system of representative government it serves can thus be read as positive theory of bureaucratic values in the tradition of Herman Finer's approach (see previous footnote; Finer, 1941). In other words, applying Bertelli and Schwartz's "complementary principle" leaves little room for resistance to backsliding by illiberal governments beyond refusal to do anything illegal on behalf of the rulers (Bertelli & Schwartz, 2022, p. 21).

- ¹⁹ "Public administrators need to serve and they need to preserve. They must be responsive to the demands of political elites, the courts, interest groups, and the citizenry, while at the same time preserving institutional integrity" (see Terry, 1990, pp. 407–408).
- ²⁰ Terry, following Philip Selznick, thus reminds us that public bureaucracies obtain much of their potential moral authority through the incremental social process of developing organizational values that meet the needs and expectations of the community (Selznick, 1957).
- ²¹ To distinguish between "instrumental" and "autonomous" public administrations, as Christoph Knill (1999, p. 114) suggests, might constitute a promising starting point to provide a differential proposition and an empirical strategy for empirical research in that context.
- ²² A tangible result of such intra-organizational efforts could be that commitments to democratic administrative culture are made transparent; for example, bureaucratic units and agencies could explicitly declare their allegiance to democratic values in mission statements, work principles, and ethical guidelines. Such democratic value transparency reinforces the organization's commitment to its democratic mission.
- ²³ Referring more, for example, to the thinking of Hannah Arendt and adopting a more positive image of the human condition, coining bureaucrats as community beings endowed with moral judgment (Arendt, 2013). Such a line would see the reality of civil service as networked, interactive, and bottom-up rather than top-down, instrumental, and so forth. It is true that this line of thinking defies some parts of Weber's ideas. But Weber arguably puts high hopes into the containment of bureaucratization by charismatic leadership. It can be argued that this even goes in the direction of the populist conception of politics. One has to consider however that Weber was writing about these issues rather as an engaged political observer and not as sociological theories (see Mommsen, 2004).

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