

Book Review

Pamela Herd and Donald P. Moynihan
Administrative Burden: Policymaking by Other Means
New York, NY: Russell Sage Foundation, 2018

Reviewed by Donald R. Officer

The subtitle of this volume is a nod to Clausewitz's infamous observation that, "War is a mere continuation of policy by other means." The Prussian strategist's calculated encapsulation was not, despite its cryptic phrasing, intended to downplay the ruthless practice of state engineered violence. Nations which successfully wage war do not pull their punches. Nor do those governments who deliberately impose, insert or tolerate what the authors of this book politely call, administrative burden.

At least not all the time. Administrative burden in practice operates like low-key insurgency more frequently than large-scale assault. The ultimate opponent is usually the political opposition. Unfortunately for the governing party, the opposition at one level or another is also in the game. To avoid offending crucial wavering supporters and losing votes everyone needs, qualifiers in the form of hoops to jump through, costs to incur and forms to fill stand between citizens in need and the stamp of official approval.

In a deeply divided society with divided government that risk is inevitable. Sadly, it is regular citizens like you and me who must hunker down and try to avoid a direct hit. As in real war, especially when it either supplements or undermines official policy, the consequences of extreme administrative impositions can be very damaging, even deadly.

In the 1930's, for instance, a pitiless policy administered by American and Canadian immigration officials imposed high fees, impossible documentation requirements and secret quotas on targeted emigrants fleeing the Nazis. Those cruelly high barriers contributed scores of victims to the Holocaust. Since then delayed action during the Balkans breakup and harsh restrictions on migrants fleeing the Middle East and North Africa have installed impassable blockages that effectively closed all avenues to unwanted refugees. Then there's Donald Trump's manufactured but now very real southern border crisis. Policy by other means.

In *Administrative Burden*, the earliest and most egregious of America's twentieth century migratory horror stories are the ones most extensively discussed by authors Herd and Moynihan. The entire book reads more like a select report than a broad survey with its focus on particular American internal politics largely at the federal level. Nonetheless, this sampling of obstructive bureaucracy either as state sponsored hypocrisy or subversive opposition tactics is representative of the timeworn practice. Consequently, as explained by Herd and Moynihan in the acknowledgements, "... we were surprised to learn that no single theoretical framework reflected these common experiences." It's as if nobody wants to discuss the phenomenon.

The specific instances that prompted the authors' surprise were personal. The first was a stack of confusing immigration forms Moynihan had to complete after finishing his PhD. Herd likewise faced inconsistent guidelines, poorly informed caseworkers and other hurdles to gain promised support for her disabled daughter. The agony here as in many cases of administrative burden was watching procedures that appeared to honour a legally guaranteed benefit being delayed or rejected in administration for no good reason. Herein lies the crux of the problem.

Although this book concentrates its fire on the multitudinous blockages and fruitless diversions of the American system, nobody outside that ambit should feel complacent. Herd and Moynihan home in on issues associated with voter suppression, abortion rights restrictions, the nightmarish maze of healthcare delivery and the bipartisan scapegoating that serves up frustrating gridlock or discouraging denial. On the plus side, the authors offer encouraging words for successful programs like social security and the earned income tax credit which generally run smoothly without interference as they deliver on promises to citizens across every spectrum.

In Canada, we have our own share of administrative burdens. Policies devoted to addressing laudable objectives like ameliorating climate change or slowing non-renewable resource depletion are deliberately undermined by subsidies to industries or practices that undo the effort. Much public money underwrites basic research vitally needed in Canada's economy and society. Yet we rarely properly support applied innovation. Our health care system is envied by many other nations, yet we fail to implement obvious efficiencies to greatly improve outcomes as well as the bottom line. We choose instead to shore up contradictory goals.

Like the United States, Canada shares the headaches of federalism. Administrative burdens ensure that both countries are simultaneously both over and under governed. For historical reasons, national policies continue to support industries of dubious benefit to either country. Yet when they are prevented by law or lobbies from canceling unpopular but actually essential subsidies, passive aggression in the form of hidden back door administrative burdens make sure no pesky protections have any real impact. For example, military procurement in Canada has a long history of hesitation and endless review. The usual outcome means kicking the can (or hardware) down the road for the next administration to consider. Where provinces take a different approach that opposes federal intentions, litigation and burdensome heel dragging delay everything, hopefully until the election cycle changes the landscape. Take cap and trade, for example.

One less obvious motive for applying administrative burdens is to shrink financial burdens that otherwise would fall to the state to pay. When your political party runs on wholesale cost cutting how better to do it than by downloading administrative expenses to vulnerable members of the public? This is precisely what Republican and Conservative party governments have been doing for decades. In the USA renegeing on support for poorer or less well-informed constituents allowed right wing governments to win in two ways: by reducing enrollments for legislated benefits and by avoiding costs that would have been incurred in operating enrollment support programs. Who remembers Ontario premier Mike Harris's omnibus bill that dumped dozens of pricey programs on cash strapped municipalities? Current premier Doug Ford seems to be emulating Harris with his recent attacks on health care and education budgets in Ontario. Or is this a smoke screen? Our editor had a look at the 2019-20 Budget. Despite bragging about dealing with the deficit, this turns out to be misleading. There is no mention of what the deficit looks like, except in gross numbers: Surprise! It increases. There is no offsetting increase in revenues. Is this

a stealth approach to building wiggle room? It appears the Province is already making more funds available to parents of autistic children than officially planned.

Every bureaucracy has its own agendas regardless of how loudly its leadership claims to be in step with its masters be they elected or imposed. Lacking constitutional authority to overtly resist, public servants find ingenious ways to thwart programs they deem to run counter to their own best interests or designs. Peter Drucker wrote the oft quoted lines that explain how almost every organization or institution operates, “Culture eats strategy for breakfast.” When the culture is one of corruption and cronyism, the possibilities are endless. Human resources and other staff functions confront more tensions surrounding identity: profession, team or unit, ethnicity, region, age, gender, union affiliation; all touch on nerves prompting more burdens in defense of dignity.

So many ways emerge to kick back with few consequences. If the minister proposes an ugly, cumbersome process to advance his or her pet project, senior advisors might suggest starting with the minister’s riding. Suddenly the whole idea evaporates. Would it have met a public need? Who knows? – that’s beside the point. Judgement is further complicated by the unavoidable conclusion that many administrative burdens really are needed. If policies are to take effect, erratic efforts or frivolous requests must be constrained and channeled. Sometimes the continuing public service appreciates politically inconvenient nuances that must be documented and examined however aggravating the delay. The reverse is also true. Political exigencies of the moment sometimes should carry the day, if only to maintain public confidence.

Herd and Moynihan perform an excellent service for Americans who are being short changed in terms of taxes they have paid, rights they are constitutionally guaranteed and opportunities that sadly may never materialize. In an interview for *American Prospect* last April, author Moynihan told reporter Kalena Thomhave (2019) that some consequences of administrative burden are unintended. Ironically, extra questions on a form designed to help disadvantaged applicants so complicate the application process they may bring the process to a premature conclusion. The same cautions go_ for Canadians, although the inequality may be less pronounced, and the pain somewhat lessened. Or so we believe.

This discussion should not stop here. Employees pressed into administrative burdening may be made complicit in dishonourable conduct. Good ideas and imaginative initiatives die on the vine whenever they counter the subversive undertow of administrative burdening. Furthermore, intentional interference ripples out far beyond the basic practice. Lobbyists and suppliers look to step in when a government plan laden with provisos kills its own effectiveness. Since they’ve already paid the inducements and done the schmoozing, it’s time to reap the benefits. Sole source contracts come their way. The cycle continues, companies and often whole industries benefitting are now also corrupted. If codes or standards are skewed, the public, already forced to subsidize fraudulent activity through tax dollars, now gets to be twice swindled, first as betrayed citizens and second as badly served consumers.

The downward moral spiral which administrative burden tends to facilitate does not necessarily come to pass nor does it tend to happen suddenly. However, over time, consequences can be immense. Wherever the obstruction originates, some level of mistrust and suspicion will be generated and may fester. Honest participants in reasonable processes frequently become embittered when the politics do not end with program implementation. Caught in the vortex of administrative burden some spend their lives trying to rationalize what they’ve seen and done

nothing about. Perhaps they really couldn't have made a difference or are totally convinced of that. For society and governments, the creation of administrative burdens is a huge opportunity cost along many dimensions. Considering the ominous challenges we now face collectively, it is a cost we can ill afford. We have not even touched on the greatest risks of reversal and inaction.

Western civilization has transformed itself in extraordinary ways over the past three centuries. Thereafter, by force or imitation the rest of the world followed. Whether those changes will prove to be for good or ill on balance, most readers would agree they are astonishing in scope. What we have not adapted to meet those changes is how we do government. The most predominant versions have basically remained in use since classical or mediaeval times. Societies have accepted most advances in science, technology and commerce but government, although mediated somewhat by bureaucracy, the media and opinion polls remains essentially execution by command and control as provided by ruling elites.

According to Francis Fukuyama (2018) and others, social, philosophical and even technological thinking since the time of Rousseau has been moving steadily towards a growing belief in the importance of an inner as opposed to a socially defined (and largely fixed) external self. The provenance of the theory might be debated, but the trend is evident. Democracy would make little sense without this development since valuation of the inner self is what leads to the importance of the vote [franchise?]. In an odd way this same trend of self-assertion justifies administrative burdens because they reassert the limits of the self as it runs up against the obligations of the state. That might seem like a stretch but consider how filling out forms to explain your intentions or to ask permission to do something you believe is your prerogative makes you feel. The tax department even reminds you it's a crime to make a false statement.

Fukuyama, who was best known for his 1990's book *The End of History* in which he predicted the triumph of liberal, capitalistic regimes after the collapse of the Soviet Union is not unexpectedly disturbed about the expanding influence of aggressive identity politics delivering real and potential conflict. In *Identity* he holds little hope for easy resolution and seems to implicitly come down on the side of hard categories and definitive prescriptions as a way to save failing state authority. Overall, it is the levels of conflict and violence he fears most. Unfortunately, some disputes can only be worked through via compromise or waffling.

Bureaucracy originated with the earliest civilizations as it became necessary to keep track of transactions as a function of increasing financial complexity and lengthening supply chains. Other institutions, especially those under the thumb of the theocratic and political authorities, were quick to see the advantage of tracking the movements of goods and persons. Archaeologists assure us these are reasonable inferences to make in examining the markings or fragments which survive. The obligation of reporting was downloaded to the earliest publics and so the administrative burden was born. But this was only the beginning.

In his review of *Administrative Burden*, Cass Sunstein (2019) estimates the download of American federal form completion would come it at about \$264.06 billion USD annually. This would probably boil down to a figure north of \$30 billion CDA for Canadians. Then there's the expense of ancillary calculation, expert interpretation, operational delay, opportunity cost etc.

However, it wasn't until I read Kwame Anthony Appiah's (2018) *The Lies That Bind* that I truly began to see the larger human costs of the administrative burden. A big part of the burdensome paper chase, runaround and all too often painful indignity (or worse) to life is the

stamping and parsing of what the state calls identity. Philosopher Appiah muses on the arbitrary yet too often docile acceptance of what official documents inform us is who we are. Appiah's father descended from West African royalty and his mother came from upper middle-class English parentage. Constantly confronted with questions about his own identity posed by curious others in two worlds, he began as a philosopher to question the disputatious nature of identity.

Leading us through issues of creed, country, color, class and culture in *Lies That Bind* (2018) Appiah reached two significant conclusions. First, the edges of all those subcategories are so blurred that the more we know the less we can distinguish. Second, in this crowded, increasingly intertwined social world we have constructed, intersectionality of subgroups is an unavoidable aspect of every single person. Bureaucrats hate that, making pigeon-holing all but impossible. And for being so annoyingly composite we must make a burdensome, time-wasting account of ourselves whenever we are required to self-identify. Up close identity questions look funny or quirky but panning out often exposes a landscape of futile tragedy. This is the other side of the contentious coin that Fukuyama has left on the table for us to quibble over.

Administrative burdens are not all politically motivated. Official ones as noted earlier are frequently needed to prevent free riders from taking advantage of unmerited social support or to prevent really serious theft and fraud. Bureaucracies eager to prove their effectiveness tend to over regulate and (selectively) over police. Indignant individuals who believe their rights are being violated versus authority surrogates tasked with maintaining order are conflicts waiting to happen. A complex sense of self combined with a complicated need for clear context makes for volatile chemistry. Researchers are emphatic on one point: normal adults believe in their own self-determination which includes self-efficacy or belief in their ability to make and act on reasonable decisions.

Recently in an American city a patient attached to an IV pole was arrested for stealing hospital property simply for stepping out of the building to breathe some fresh air. How demeaning. Dignity is most important when the inner self is threatened. We laugh, but both patient and police might have felt impugned in the incident cited above. Authority, that is government, needs to catch up to a changing social climate. Wherever authority is also authoritarian, tragedy is brewing. Look at hotspots like Hong Kong and Sudan for recent evidence of assault on human dignity. But likewise, when fear of offending overtakes the expectation of basic civility things start to fall apart. Look closer to home. Looking at administrative burdens in this light might be prudent for everyone.

This reviewer was once employed by government to help administer compliance reporting. The success of that process depended on a shared desire to see the system succeed. If branches and directorates reporting lost faith in the integrity of our efforts, the entire department's mission was at risk. If deep mistrust begins to set in or people think annoying procedures don't matter, cynicism and disengagement follow. How big a burden is that?

Without reflection, without sorrow, without shame
They've built around me great, high walls,
And I sit here now and despair.
I think of nothing else: this fate consumes my mind:
Because I had so many things to do out there.

Constantine P. Cavafy as quoted by Anthony Appiah in *The Lies That Bind*

Note to society: Eliminate passive resistance, treat all citizens with respect and keep burdens fair or nobody will observe the restrictions they need to.

About the Author:

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