

Street-level Bureaucrat Discretion: A Systematic Literature Review

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Workshop: Ethics, Self-Interest and Sabotage in the Public Sector

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Abstract

Street-level bureaucrats occupy an important power position which they owe from their discretion. Broadly, discretion is their decision-making power over sort, quantity, and quality of sanctions and rewards during policy implementation. Understanding street-level bureaucrat discretion is therefore essential to the study of public administration. However the field holds three lacunas. Firstly, the field lacks conceptual clarity. Second, insight is limited in how the inherent potential for abuse of their discretionary power actualizes in practice. Thirdly the field misses a comprehensive view of how the broad contextual changes, notably New Public Management (NPM), New Public Governance (NPG), and the rise of information and communication technologies (ICTs), in public administration and policy implementation affect street-level bureaucrat discretion. We seek to address these lacunas by means of a systematic literature review of street-level bureaucrat discretion and discretionary behaviour. Strengthening methodological rigour, we shape our analysis and reporting following the 'Preferred Reporting Items for Systematic Reviews and Meta-Analyses' (PRISMA) approach. We contribute by providing a classification, overview, and future research agenda.

Keywords: Discretion, Street-level bureaucracy, Public Administration, Systematic literature review

NOTE: In this paper we report on work in progress. We gratefully invite and welcome any and every suggestion for improvement at this time.

1 Introduction

Michael Lipsky (Lipsky, 2010) drew attention to the considerable power position of street-level bureaucrats. Street-level bureaucrats are public employees who work directly with citizen-clients and have substantial discretion when doing so (Lipsky, 2010, p. 3). Classic examples are teachers, police officers, and social workers. Their powerful position is a direct consequence of their discretion. For instance, when stopped for an offence a police officer can decide to give you a fine or let you off with a warning. Discretion can be broadly conceptualized as decision-making power over sort, quantity, and quality of sanctions and rewards during policy implementation (Hill & Hupe, 2002; Lipsky, 2010; Tummers & Bekkers, 2014). Street-level bureaucrats require this discretion to deal with dilemmas and complexities of their work, such as high workload, limited resources, and non-standard citizen-client situations. The choices street-level bureaucrats make – based on their discretion – are the final delivery of formal policies that would otherwise remain ‘nothing but paper’ (Pressman & Wildavsky, 1973). Studying street-level bureaucrat discretion is thus crucially important for a comprehensive understanding of policy implementation.

This importance is mirrored by a considerable number of studies on discretion following Lipsky’s influential work (Brodkin, 2011, 2012; Hupe, 2013; Hupe & Buffat, 2014; Maynard-Moody & Portillo, 2010). Moreover, the theory of street-level bureaucracy and discretion has so far not only been extended, revised and reworked (Maynard-Moody & Musheno, 2003; Rowe, 2012), it has even suffered (exaggerated) death (Evans, 2004; Ogletree, 1988) and subsequent revival (Barrett, 2004; Kirton, Feast, & Goddard, 2011; Schofield, 2001). However, in spite of this vast literary corpus the systematic comparative study of street-level discretion is still lacking (Goldman & Foldy, 2015; Hupe, 2013; Hupe & Buffat, 2014). To date, the field lacks a comprehensive view of street-level bureaucrat discretion both as studied and as used. In this article, we aim to provide such an overview.

A first problem in contemporary study of discretion is lack of conceptual clarity. Few studies clearly define discretion and scholars tend to entwine multiple dimensions of the concept as object of study (Hupe, 2013). For example, scholars often note discretion is *granted* in relation to rules, such as formal policy, that delineate potential courses of action. However often the same studies proceed to engage with discretion as *used* by street-level bureaucrats, addressing the latter as ‘discretion users’ (Oberfield, 2010), making ‘discretionary choices’ (Brodkin, 2011), and showing ‘discretionary behaviour’ (Walker & Niner, 2005). However, *granting* discretion and *using* discretion differ conceptually. Social workers might feel they are not granted much discretion for example, yet can still be seen to use it regardless. In other cases they may for instance either refrain from action or explicitly break rules when they feel that this is needed, thus transgressing the delineated courses of action but arguably still acting ‘discretionary’ (Maynard-Moody & Musheno, 2003, p. 114). The current situation thus lacks “construct clarity” necessary for systematic accumulation of insights (Suddaby, 2010). Our first contribution is therefore to provide an overview of how street-level bureaucrat discretion has been conceptualised to date.

Secondly, it is unclear when and why certain variations of discretionary *behaviour* occur (Hupe & Buffat, 2014). Meanwhile it is widely acknowledged that *granting* street-level bureaucrats discretion carries inherent potential for harmful or discriminatory *use* in the treatment of citizen-clients (Meyers & Vorsanger, 2003). This relates to the ‘bureaucracy problem’; not the existence of discretion per se, but the fact “that neither policymakers, administrators, nor agency clients can trust that it will be used well” (Brodkin, 2007, p. 2). This problem is relevant as street-level bureaucrats often occupy their power position *vis-à-*

vis dependent citizen-clients (e.g., poor, uneducated, or dependent citizens), lacking not only information, skills, and power to persuade, but also access to alternative service providers or meaningful exit strategies (Handler, 2010, p. 18; Maynard-Moody & Musheno, 2000, p. 335). Thus street-level bureaucrat discretion has far-reaching potential consequences (Gofen, 2014; Maynard-Moody & Musheno, 2000, 2012; Meyers & Vorsanger, 2003; Sandfort, 2000; Van De Walle, 2016). Meanwhile accumulation of insights in behavioural variation is hampered by heavy reliance on qualitative inquiries and case studies (Hupe, 2014; Jewell, 2006; Meier, O'Toole, & Nicholson-Crotty, 2004; Tummers, 2012; Tummers, Bekkers, Vink, & Musheno, 2015). Therefore we aim to systematically integrate these qualitative insights along with available quantitative studies to analyse how and why harmful or discriminatory variations of discretionary behaviour occur.

Thirdly, it is unclear how street-level bureaucrat discretion changed since Lipsky's (1980) initial work in light of a drastically changing operational context for street-level bureaucrats. With New Public Management (NPM) arising at the end of the 80s, this has subsequently been followed up by New Public Governance (NPG), and both developments took place under broad influence of information and communication technologies' (ICTs) rising importance (Bovens & Zouridis, 2002; Buffat, 2015; Dunleavy, Margetts, Bastow, & Tinkler, 2006; Hood, 1991; Hood & Peters, 2004; Osborne, 2006; Pollitt & Bouckaert, 2011). Meanwhile, despite its importance to the study of discretion is widely circumscribed, substantive understanding of the role of context varies (Hupe & Buffat, 2014, p. 549). Thus despite scholarly attention to these developments we argue there is not yet a systematic understanding and overview of how these fundamental contextual changes have affected street-level bureaucrat discretion (Sager, Thomann, Zollinger, van der Heiden, & Mavrot, 2014; Thomas & Davies, 2005; Tummers et al., 2015; Zang, 2016). In short, the field lacks of comparative insight in how twenty-first-century public administration has transformed street-level bureaucrat discretion. This provides fruitful basis for systematic analysis of insights and inventory of avenues for future inquiry.

To deliver a comprehensive overview of how the mentioned aspects of street-level bureaucrat discretion have been studied to date and develop a research agenda we ask three main questions:

RQ1: How has street-level bureaucrat discretion been conceptualised to date?

RQ2: How has the harmful and discriminatory potential of street-level bureaucrat discretion been studied to date?

RQ3: How have major developments in street-level bureaucracy (NPM, NPG, ICT) affected street-level bureaucrat discretion?

We address these questions through a review of the available literature on street-level bureaucrat discretion and discretionary behaviour. This study contributes by providing a conceptual overview and new start for research on street-level bureaucrat discretion in dynamic times of governance. We do this via a *systematic* literature review. A systematic literature review is fitting as it allows us to combine and integrate insights from the rich body of work available. Differing from traditional reviews a systematic review is transparent and replicable entailing several explicit and reproducible steps, such as: identifying all likely relevant publications in a standardized way, extracting data from eligible studies and synthesizing the results (Cooper, Hedges, & Valentine, 2009). Strengthening methodological rigour, we shape our analysis and reporting following the 'Preferred Reporting Items for Systematic Reviews and Meta-Analyses' (PRISMA) approach (Liberati et al., 2009). This

means that we make all our search strategies and analyses transparent, which eases replication.

Next, we first develop a brief theoretical framework that shaped the contours of the systematic review. This is followed by a discussion of the methodological choices made in terms of the review process. We then answer our research questions. We conclude by discussing these findings, showing limitations and by formulating a research agenda. Note at the time of the present conference work is in progress, as such account is partial.

2 Theoretical framework

2.1 A background to discretion

The concept of discretion as studied in public administration strongly builds on understandings developed within and across related fields such as law, political science, economics and many more (Hawkins, 1994; Hupe, 2013). We fully acknowledge that the history of discretion as a scholarly concept is thus broader and richer than the brief discussion we will present here and kindly refer to others for overviews (Hawkins, 1994; Hupe, 2013). In this broader context we use this discussion to inform and position our review on street-level bureaucrat discretion. We aim to develop a preliminary understanding of discretion serving as a sensitizing framework for our review.

Many notable early notions of discretion stem from law. Generally, it has been argued discretion as granted by law “may be examined as a quality of rules, as a quality of behaviour, or as a sense that people have of their freedom to act” (Lempert, 1992, p. 187). In line with discretion as a quality of rules, Dworkin (1977) drew attention to the conditionality of discretion. The freedom discretion describes emerges in relation to a set structure or rules, thus discretion is “the hole in the doughnut [...] an area left open by a surrounding belt of restriction” (Dworkin, 1978, p. 31). More in line with discretion as a quality of behaviour a more nuanced approach can be found in Roscoe Pound (1914) who distinguished the “discretionary” from the “technical” in judicial decisions, illustrating how certain leniency is a necessity to meet needs of individual cases, yet also acknowledging problems with both. Finally, although not completely from the perspective of the official, Kenneth Culp Davis (1971) related administrative discretion directly to matters of (in)justice. He considered public officials’ discretion present “wherever the effective limits on his power leave him free to make a choice among possible courses of action and inaction” (Davis, 1971, p. 4). This ability to make uncontrolled decisions was considered a problematic “characteristic of our system”, that demands inquiry into protection against injustice that comes from it (Davis, 1971, p. 58). Together these historic notions illustrate the multifaceted views of discretion within and across disciplinary boundaries and how multiple conceptual understandings of a multifaceted phenomenon can come to coexist and overlap.

2.2 Classifying discretion

The disparity between historical understandings of discretion shows how it can be problematic to assume different iterations of the term discretion to mean the same. This has implications for our approach. First, it sets boundaries of our goals in the present article. It shows a complete overview of the general study of discretion is a neither manageable nor desirable ambition. Instead, our first focus is on developing a conceptual classification of discretion as studied in street-level bureaucracy. Second and flowing from this focus we place ourselves strongly within the public administration discipline.

From the field of public administration a helpful distinction can be drawn from Hupe (2013) who recently attempted to clarify some of the conceptual conflation around discretion. He differentiates between two dimensions of discretion, *discretion-as-granted* and *discretion-as-used*. Put simply, *discretion-as-granted* is the degrees of freedom that are granted to street-level bureaucrats through policies and mandates. In a sense, it is like the ‘hole in the doughnut’ approach by Dworkin. *Discretion-as-used* signifies actual behaviour of street-level bureaucrats in relation to these mandates in a given setting (Hupe, 2013, p. 12). This is more in line with the decision oriented approach of Pound, decisions that can strictly follow delineated options or apply more lenience.

We extend this helpful distinction to also reflect the dimension of personal perception mentioned earlier (Lempert, 1992, p. 187). By including such a *discretion-as-perceived* dimension we can introduce the psychological and sociological perspective more explicitly. Based on the Thomas theorem (Lewin, 2008), or the notion that people behave on the basis of their perceptions of reality, not on the basis of reality itself, this dimension denotes to “the perceived freedom of street-level bureaucrats in making choices concerning the sort, quantity, and quality of sanctions and rewards on offer when implementing a policy” (Tummers et al., 2015, p. 5). It has been shown that when street-level bureaucrats perceive to have discretion, they also act differently (Tummers, 2011). Hence, *discretion-as-perceived* can be a precursor of *discretion-as-used* which exists in the grace of a form of *discretion-as-granted*.

We combine these three conceptions of *discretion-as-granted*, *discretion-as-used*, and *as-perceived* as our basic framework to which we add based on insights found in the literature where needed. We present the discerned forms of discretion in table 1.

Table 1. Three preliminary conceptualizations of discretion

Dimension	Granted	Perceived	Used
Unit of analysis	Regulatory structure	Attitude	Behaviour
Example	A police officer granted the option to issue either a fine or a warning for an offence by law.	A teacher feeling that policy hampers her in helping disadvantaged children learn more.	A social worker only assigning citizen-clients to partake in counselling programmes when judged worthy.

2.3 Harmful and discriminatory discretion

In terms of the potential of misuse discretion the brief historical discussion shows how normative concerns are inherent to the study of discretion (Loyens & Maesschalck, 2010). Similar observations can be found within public administration. Lipsky (2010, pp. 98–99) already recognized how rationing and favouritism caused systematically longer waiting time for black patients in a Chicago hospital emergency room, for others see (Brodkin, 2007; Epp, 2010). However, it must be noted that both the historical account (Pound, 1914), as well as theoretical and empirical work from public administration (Maynard-Moody & Musheno, 2003), offer examples that show the harmful and discriminatory potential embedded in discretion is not one-dimensional. In fact, discretion can offer protection from systemic errors related and technical fallacies related to policy. It is therefore imperative to observe that clear-cut judgement of whether discretionary behaviour is harmful or discriminatory is impossible, especially in a literature study as the present. This is why we focus on how the

potential for harmful and discriminatory treatment of citizen-clients is examined in other works. Thereby we look for situations where it is considered or described and situations in which it is notably absent or where discretion is used to prevent harm or discrimination.

2.4 Context and discretion

Finally, two important points can be deduced from our brief outlook in light of our third research question. First is that attention to context is imperative when looking at discretion as object of study. The mere fact that discretion-as-granted is itself a constitutive context within which discretion-as-perceived and subsequently as-used can actualise provides illustration of this fact. With this in mind, support from the field of public administration (Bovens & Zouridis, 2002; Brodtkin, 2011; Busch, 2017; Landsbergen, 2004), we conjecture the influence of contextual changes such as NPM, NPG, and ICT is considerable. Second, the development of disciplinary differences in the understanding of discretion is likely reflected in similar differences of the phenomenon in different institutional contexts, a point well-argued in the public administration discipline. As such sensitivity to such differences is imperative throughout our review.

3 Method

We conduct a systematic review on street-level bureaucrat discretion. The procedure involves four explicit and reproducible phases: screening and assessment, data extraction, analysis of the data, and synthesizing the results (Moher, Liberati, Tetzlaff, Altman, & Grp, 2009).

3.1 Information sources

Potentially relevant works will be extracted from four sources. We consult three digital databases (Web of Science, Scopus & Google Scholar) using a variety of search terms discussed below, supported secondly by two-way citation-tracking of a number of key overview publications concerning street-level bureaucrat discretion. This means that in addition to incorporating these essential works themselves we tracked all studies cited by and citing these works. Works are considered overview publications when they self-identified, or were referred to by other studies as review, synthesis or overview article. Thirdly we analyse a number of key journals, which will be selected based on initial search, and finally we contact experts with the question where gaps can be discerned and how these are best amended.

For the present paper, we are at the state that we have conducted one search via Web of Science.

3.2 Search

During our electronic search we used several search terms. The terms are divided over three levels, which were entered simultaneously. Whenever available we used truncation symbols to include different word variations such as plurals. Terms were connected using Boolean operators. The full search strategy is part of the online material [to be added after all searches are done, not at stage paper is in for PMRC]. Within each level all terms are connected using the [OR] operator to ensure maximum coverage. The [AND] operator was used between levels to provide specification. The first level concerned the main topic of study and contained the terms [Discretion] and [Discretion behaviour]. The second level specified the search to [Policy Implementation] and [Public Service], [Public Administration],

and [Public Service Delivery]. The third level narrowed the search to discretion at street-level using the terms [Street level], [Frontline], [Front line], and [Field level] combined with [Work] and [Bureaucrat].

For the present paper the following search code was entered in Web of Science:

TOPIC: (((Discretion OR "Discretion* behavio\$r*") AND ((policy implementation OR (serv* OR administration OR "service deliver*") AND public)))) AND (("work*" OR "bureaucra*" OR "street level" OR frontline OR "front line" OR "field level")))*

The search scanned titles, abstracts, and keywords.

3.3 Data collection procedure

For the present paper the procedure was as follows. The mentioned code line was entered in Web of Science. This produced a total of 357 potential studies. We screened title and abstract of the resulting publications for inclusion based on prior specified eligibility criteria specified below, cautioning to err on the side of inclusion. Note authors and journals were blinded in this process to limit researcher bias. This produced a selection of 157 potentially eligible studies. Of this selection 10 were unavailable and we have so far scanned the full-text of a random subset of 80 available studies of which 50 have been included for the final review so far. We present our preliminary PRISMA flowchart in figure 1.

3.4 Eligibility criteria

Eligible works are empirical academic studies (Theses, Conference Articles, Journal Articles & Books), conducted by at least a PhD student, containing explicit reference to the place of dissemination (e.g. Publisher, Journal & Conference), published in English. We focus on literature that explores, describes, or analyses street-level bureaucrat discretion and discretionary behaviour in interactions with citizen-clients. For the present article one author appraised the academic works using predefined data fields and study quality indicators.

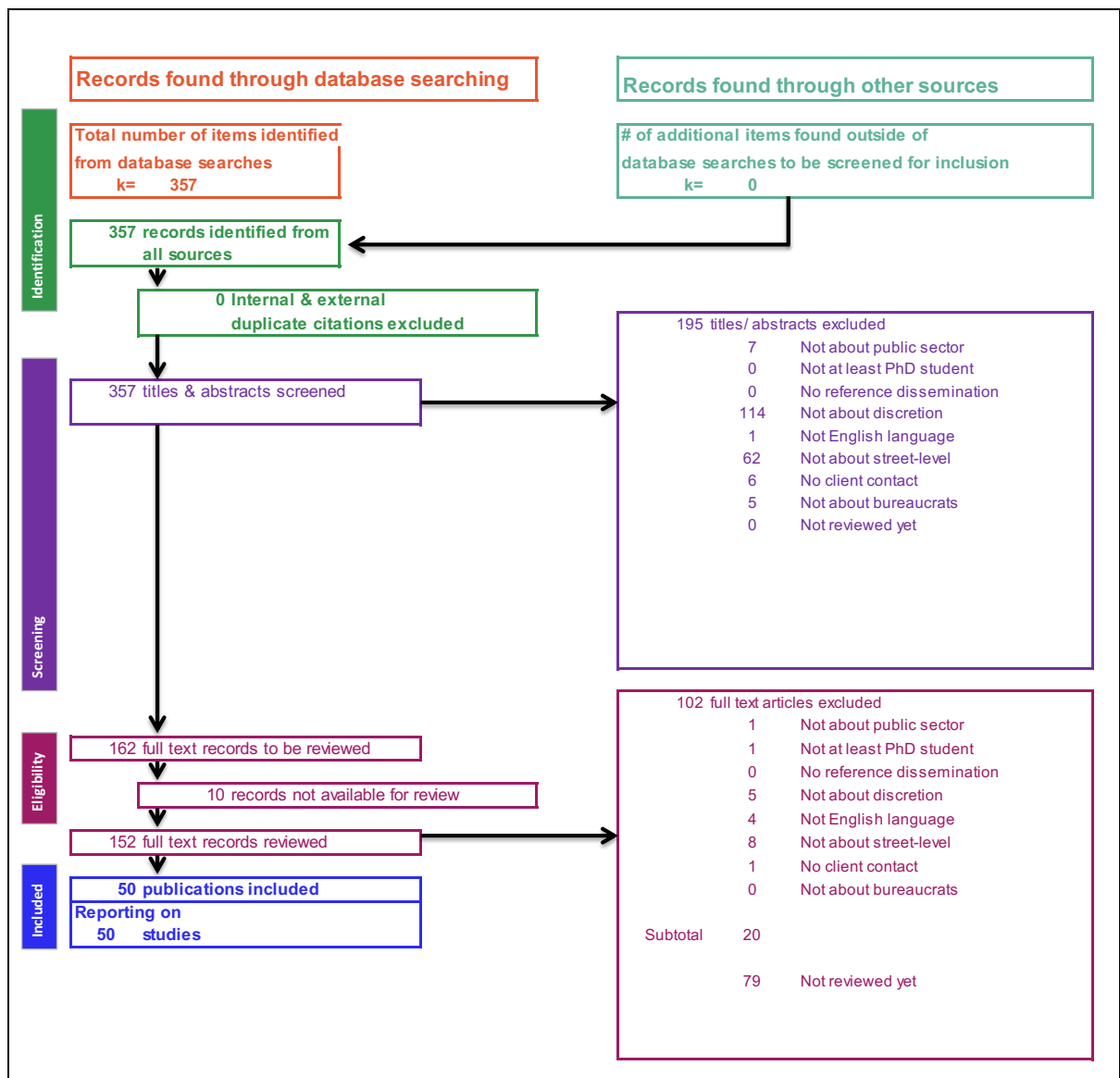


Figure 1. PRISMA flowchart

4 Results

At present substantive results are yet to be obtained, we provide some background characteristics of the studies incorporated so far. Figure 2 presents the number of articles presented per year, while figure 3 presents the journal frequency.

5 Discussion

To be written.

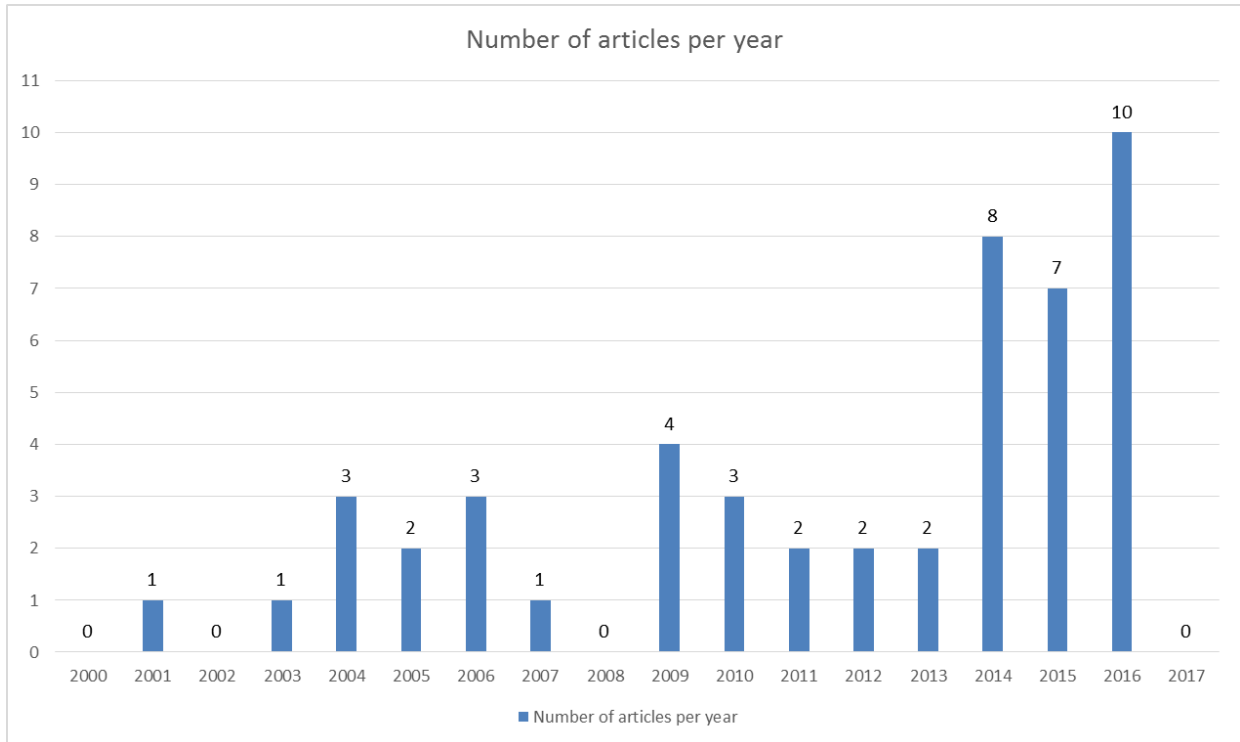


Figure 2. Number of articles per year

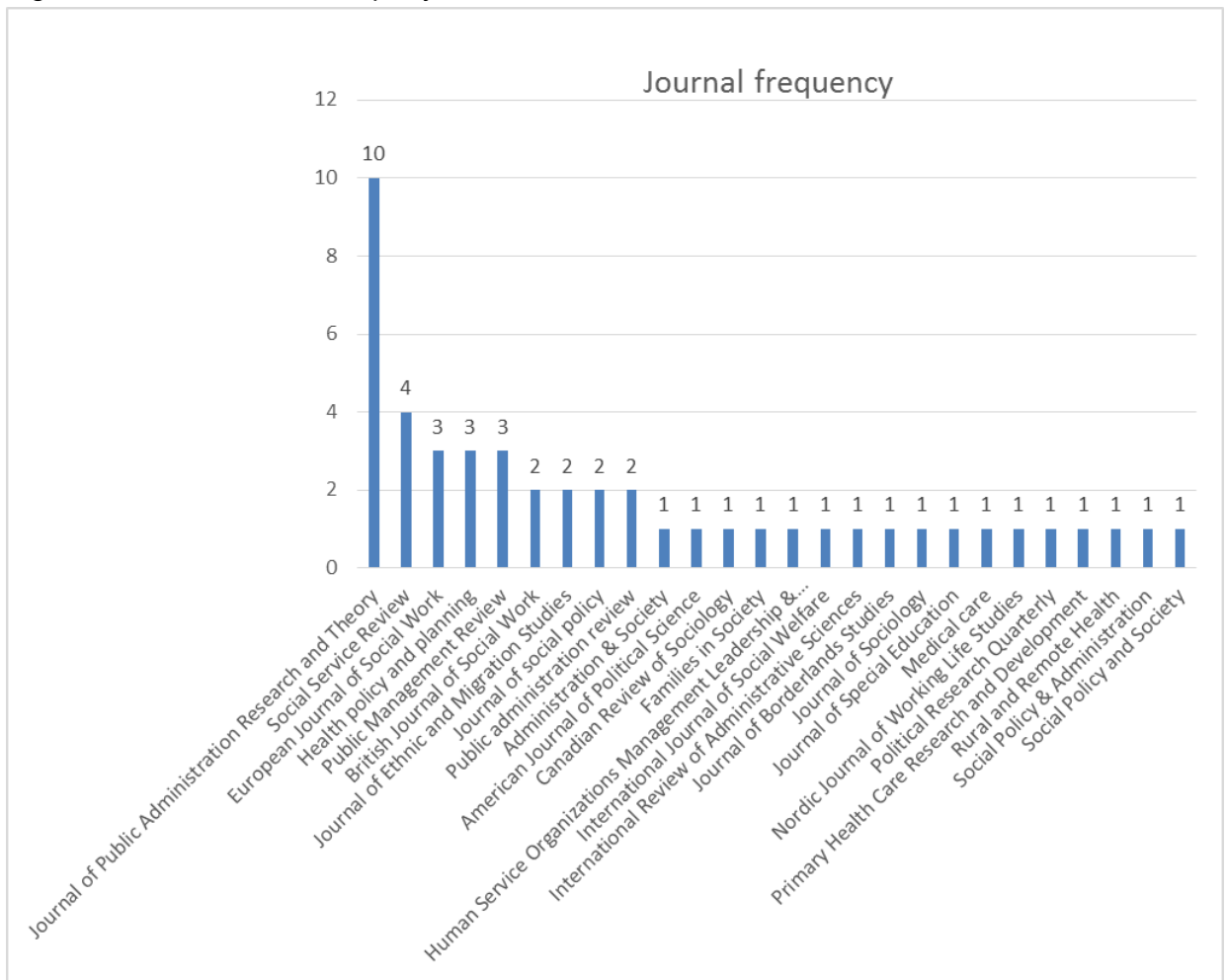


Figure 3. Journal frequency

6 Literature

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