Debates around ‘who controls who more’ in the relationship between ministers and bureaucrats are axiomatic in public management theory. Ministers have considerable oversight and control over bureaucrats, while bureaucrats are able to draw on de facto influence that derives from ‘delivering’ large policy systems on behalf of ministers. Although these competing views help to set out the parameters of influence, understanding the actual dynamics of influence in policy systems requires a more expansive and systemic approach. Actors at all levels inevitably play simultaneous roles as ‘principals’ and ‘agents’, and perceive their situations as combining elements of constraint and autonomy. I show in this paper how four generic groups of actors in the UK prison system – ministers, senior officials, governors, and private sector contractors – perceive their ‘constrained autonomy’ in a system under ‘chronic capacity stress’. I use qualitative textual coding of stakeholder interviews to map out these countervailing dynamics, and show how dualistic models of principal-agent can miss important systemic influences on how policy systems perform in reality.

Paper presented at the 2014 Political Studies Associations Conference, Manchester, 16 April 2014, as part of the Executive Politics and Governance group panels.
Constituency-oriented legislators and survival-oriented bureaucrats and administrators, not philosopher kings, support, finance, and administer public programs that produce public goods. *Ken Shepsle and Mark Bonchek*¹

The quest for more formal understanding of the dynamics of influence between legislators and bureaucrats has long been a preoccupation at the intersection of political science and management economics. The economistic language and theory of principals, agents and transaction costs, transposed upon hierarchical and disaggregated public policy systems, has helped to generate many useful theoretical propositions (Milgrom & Roberts, 1992). These offer models for thinking systematically about why legislators or bureaucrats do what they do. We can impute the vagaries of human behaviour into these economistic models, and this has given rise to the increasing popularity of ‘behavioural’ economics (Low, 2012; Oliver, 2013). If all this could be boiled down to a relationship between ‘constituency-oriented’ legislators and ‘survival-oriented’ bureaucrats, as the quotation above suggests, the job of modelling would be far easier. But explaining why actors behave as they do requires more nuanced understanding of the many determining factors, not least the socially-determined institutional and systemic contexts in which they operate.

Legislators and bureaucrats operate in exactly such contexts, shaped by a wide range of pressures from above and below (and from the side). So we may see it as peculiar that theorizing on the subject has tended to search for parsimonious ‘modelled’ explanations that simplify these complexities in terms of dualistic principal-agent dilemmas. Research in this area has traditionally focused on the varying capacities and mechanisms of legislators as ‘principals’ to deal with problems of moral hazard in their control of bureaucrats as ‘agents’ acting on their behalf. Critics have lined up on one side or the other, accentuating either the ability of agents to pursue nuanced forms of rent-seeking vis-à-vis legislators, or the capacity of legislators to oversee and control effectively the outputs of bureaucrats. Implicit in much of this literature is that legislators and bureaucrats can and do behave in ways that serve their own interests, and to a large degree have autonomy to do so.
Yet there are important limitations for interpreting the real-life predicaments of actors involved. For a start, in assigning labels of principals or agents to these actors we are effectively discounting the fact that they operate in chains of principal-agent relationships. By definition we must interpret the predicaments of all actors as combining principal and agent roles simultaneously. Furthermore, it is unlikely that actors will be able to totally compartmentalize their different perspectives or roles. Actors must find ways of managing the countervailing dynamics between them, and this may involve all manner of strategies of finessing, playing off against each other, coping and compromising, or settling for sub-optimal outcomes. Indeed, any simple dualistic principal-agent interpretation seems deterministic when seen in this extended systemic context.

In this paper I show how it is possible to map these ‘simultaneous’ principal-agent dynamics in a policy system. The focus here is on one system in particular – UK prisons – and the issue of how the system has managed crowding and capacity stress over many years (Bastow, 2013). I interpret a ‘policy system’ in this context to encompass a set of cascading relationships between groups of actors running from voters down through the legislature, executive, and public administrative apparatus. Figure 1 gives a simplified overview of this cascading system in the context of prisons. At its heart are four generic yet distinctive groups of stakeholders – ministers, senior officials, frontline managers or ‘governors’, and private sector contractors operating prisons. These constitute an executive core of the system, and are the primary empirical focus for this paper (grey-shaded in Figure 1). I also include other groups of actors that play an important role in shaping the policies and operations of the prison system, for example, the judiciary, Treasury, and unions. These actors also have a strong bearing on decisions and actions of these four core executive groups. Based on extensive interviewing with these four different groups of stakeholders, and systematic qualitative coding of these interviews, I show how each group of actors, to varying degrees, show signs of having to manage principal and agent dilemmas simultaneously, and do so in a way that inherently sustains manageable equilibrium in their bit of the system.
In the next section of the paper, I discuss three important aspects of the legislator-bureaucrat literature and introduce a simple schema that shows six dynamics that come to bear on each of the four groups of actors that I cover. This schema serves as a coding framework for fine-grained empirical analysis of transcripts from extensive semi-structured interviews with 28 relevant officials (7 from each of the four groups). I use meaning-based qualitative coding techniques to assess the balance of constraints andautonomies mentioned by interviews in these interviews, and construct a profile of the overall systemic balance. In the final part, I discuss how these empirical insights have implications for the three aspects of the literature discussed in the first section. I argue that it is necessary to look at the wider systemic context to understand how actors manage their predicaments of constrained autonomy, and how the systemic effects of actors doing this at all levels can shed light on why policy systems sustain sub-optimal situations of capacity stress.
Principal-agent simultaneity in policy systems

The relationship between ‘principal’ and ‘agent’ has been central to our understanding of dynamics between politicians and bureaucrats. Milgrom and Roberts (1992) remind us that the ‘term has come to be used in economics to refer to situations in which one individual (the agent) acts on behalf of another (the principal) and is supposed to advance the principal’s goals’ (p170). At the heart of this relationship lies a problem of moral hazard, ‘when agent and principal have differing individual objectives and the principal cannot easily determine whether the agent’s report and actions are being taken in pursuit of the principal's goals or are self-interested misbehaviour’ (p170). Applied to the relationship between politicians and bureaucrats, this basic dilemma raises three important questions.

- Where does the relative balance of power between these two groups of actors lie? Should we assume that legislators have mechanisms and tools with which to control the motivations and outputs of bureaucrats? Or are bureaucrats in a position to constrain principals through monopolistic control over information and technical expertise?

- What determines the motivations and incentives of legislators and bureaucrats? Are they solely influenced by self(ish) interest, or are there other motivations or considerations that come into play?

- Why do legislators delegate certain competences or tasks to bureaucrats while keeping hold of others? How do principals solve this ‘delegate or DIY’ dilemma? If they delegate, then they incur the costs of oversight and the risk of things going wrong. If they decide to retain control over tasks, then they incur the costs of actually doing the work themselves plus the costs of being seen to be responsible for failure.

The first of these focuses on the relative power of principal vis-à-vis agent. As mentioned, political science and public choice literature over the decades have used this duality to model hierarchically ordered relationships in policy systems. Throughout the 1970s and 1980s, attention turned to the de facto influence of bureaucrats to constrain
and shape policy, as well as engage in rent-seeking forms of behaviour vis-à-vis elected principals. Niskanen (1971) argued that control over information and true costs of production enabled bureaucrats to act as ‘perfectly discriminating monopolists’, forcing the legislature to accept oversized budgets and sustaining the relative influence of bureaucrats. This idea of bureaucrat autonomy has long been an important strand in public administration in the US (Wilson, 1989) and in the UK (Page, 1992). As Page (1992) explains, ‘officials can be expected in any bureaucratic system to have substantial influence in decision-making’ (p145), with the consequence that ‘decisions made within it will be subject to the logic internal to the official organizations and their interaction rather than any publicly expressed policy preferences’ (p147). In the public choice realm, work on ‘bureau-shaping’ (Dunleavy, 1991; James, 2003) and ‘principled agents’ (Besley, 2006) have continued the theoretical push towards showing how and why bureaucrats continue to exert decisive influence over legislators. Apparently oblivious to this strong push in the non-US literature, Moe (2012) provides perspective on the wider problem,

The normal way of thinking about bureaucrats assumes that they have no political power at all; bureaucrats are difficult to control, and have a measure of power, because they have informational leverage over their superiors. They are experts. The idea that they may also have political power and that, in some realms of behaviour, politicians may actually be agents of the bureaucrats - and acting as such in their delegation decisions - is entirely foreign and never seriously considered. As a result, an important part of the delegation story is missed, and theorists tend to underestimate what bureaucrats can do to get their way (p37)

The countervailing argument to this is that legislators as principals have considerable tools and power to constrain bureaucrats. As Moe (2012) himself points out, the emergence of ‘congressional dominance’ arguments from the early 1990s onwards offer a response to these views of passive legislatures vis-à-vis influential bureaucrats. As its label suggests, this literature incorporates a strong US bias of the kind implied by Moe’s remarks above. Nevertheless we can draw upon its essence to set up a countervailing argument that says that legislatures (and core executive) have an extensive array of oversight and control mechanisms with which to keep bureaucrats in check. There are
clear parallels here between the emergence of these literatures, and the intensification of performance management mechanisms and cultures in both the US and the UK (Talbot, 1999; Van Thiel & Leeuw, 2002), as well as growth of regulatory oversight in all its cultural-institutional forms (Hood et al., 2004). From the early 1980s in fact, critics have pointed out that that legislatures are quite capable of exerting authority over their bureaus and can structure the bargaining any way they want (Miller and Moe, 1983). As Wood and Waterman (1991) put it, ‘when bureaucratic activities stray from the desired result, policy makers apply sanctions or rewards to bring them back into line. Thus, the theory is dynamic, positing well-informed central decision-makers who systematically mould the preferences of bureaucratic agents’ (p80).

Institutional choice arguments over the years have provided a further line of attack for those who view legislators as holding a balance of power. Following critics such as North (1990) and Scharpf (1997), institutions are created by individuals and subsequently constrain the choices and actions of individuals. Hence in order to understand power dynamics between legislators and bureaucrats, we must understand the often malevolent influence of the institutions that they create and sustain. Of legislation in the US, Moe (1990) points out that ‘dominant coalitions can hammer out formal agreements about the kinds of institutions they want and impose them on the losers (and society as a whole) knowing they will stick’ (p242). In later work, however, Moe (1995) also reminds us that it is not always the case that legislators hold the balance of influence in terms of setting up new institutions. Bureaucrats may have strong influence over the shape of institutional reforms. Furthermore, even if legislators are able to put in place institutional configurations that they want, bureaucrats may subsequently be empowered to pursue their own ends towards greater autonomy by dint of technical or operational expertise that is incorporated in these new institutions (p145).

It is unlikely this axiomatic ‘who controls who more’ argument will ever be solved largely because there is a strong element of truth in each. Critics have been inclined to align themselves more closely with one perspective or another. But to dogmatically insist on one or the other seems a difficult position to hold empirically. It overlooks the fact that in any policy system, different actors at different levels will incorporate a simultaneous roles of principal and agent vis-à-vis those above and below them in the system. If we look at the problem from the perspective of these individual
actors at any particular point in the system, it is inevitable that they play a part in a much more expansive chain of principal and agent relationships, all of which involve multifaceted and countervailing dynamics. We can begin by thinking systematically about the probable important dynamics.

**Figure 2: Six key aspects of simultaneous principal-agent dynamics**

![Diagram](image)

Figure 2 outlines six potential dynamics that (could) shape the behaviour of actors and come to bear on their decisions and actions. Three of these dynamics are from the perspective of the agent (arrows 1, 2 and 3), and three from the perspective of the principal (arrows A, B and C).

Starting from the agent’s perspective, three possibilities exist:

1. Agent is constrained by the principal;
2. Agent has autonomy from the principal to act or make decisions; or
3. Agent is constrained by another third party or feature of the system.

From the perspective of the principal, three possibilities exist:

A. Principal influences or controls the agent;
B. Principal is constrained by the agent; or
C. Principal is constrained by another third party or feature of the system.

We can link these six possibilities with the discussion above. In [1] and [A], the implication is that the principal is able to influence or control the agent, and the agent’s perspective confirms this (*i.e.* the agent perceives that they are constrained by the principal). In [2] and [B], the opposite is implied in that the principal perceives herself...
to be constrained by the agent and this is confirmed in the agent’s perception that they have relative autonomy to act or make decisions. Finally, in [3] and [C], principal and agents respectively perceive that they are constrained by third party stakeholders (or some direct feature of the system resulting from their behaviour).

If each actor in the system plays a simultaneous role of principal and agent, it is conceivable that they will perceive their own predicaments as a combination of any of these six dynamics. Any actor might perceive their ability to control or influence other actors below them, whilst at the same time be constrained by actors above. Conversely, actors may feel that they have relative autonomy to shape their own situations vis-à-vis their superiors, yet at the same time, perceive considerable constraints or barriers from below. Theoretically, all six aspects of the schema can be ‘in play’ for an actor at any particular time. And a major part of their day-to-day work will consist of managing the various countervailing dynamics and keeping things in some kind of manageable equilibrium. We will return to this schema in the next section below.

The second area of interest in the literature has been the motivations that explain behaviour of legislators and bureaucrats. To a large degree, we have seen a convergence of the various strands of literature. On the one hand, the strict focus on rational self-interest of ‘strategic’ actors in public choice theory has been gradually softened as part of process of bringing together with more traditional political science institutional and cultural approaches. This combination acknowledges that actors can be influenced by a whole range of institutionally and culturally determined factors that stretch beyond narrow economistic conceptions of strategic self-interest. Brehm and Gates (1999), for example, distinguish between three varieties of bureaucrat response to direction from above – working, shirking and sabotage – and remind us that 'subordinates can respond to organizational rules in a multitude of ways when producing bureaucratic output. Defection and compliance can take on a variety of forms, ranging from 'go slow' to sabotage to even working to the rule to such an extent that it works against the intended policy’ (p19). Many of these themes are picked up in Lipsky’s concept of ‘street-level bureaucracy’ (1980).

Besley and Ghatak (2003) re-interpret traditional economistic themes for a public sector setting, and argue that in such cases where profit maximization is weak, it is the strength of mission commitment amongst actors and employees that explains fluctuations in public sector performance. As Besley and Ghatak (2003) put it, ‘the
notion of a mission replaces the conventional focus on profit. We argue that people work harder when they buy into the mission of the organization and this raises productivity’ (p237). The theme of alignment of mission is still important, however, it is clear that the approach is drawing on explanatory variables that are much broader than pure and narrow strategic interest.

A third major theme in the literature relates to how principals make decisions about whether to delegate tasks or competences to agents. As Shepsle and Bonchek (1997) put it, ‘the very act of delegating generates a problem of control in which specialists may have opportunities to pursue private objectives at odds with the public purposes of the institution (what organization theorists refer to as moral hazard)’ (p310). The dilemma for principals of whether or not to delegate responsibilities or tasks lies in what Moe (2012) calls ‘a trade-off between expertise and political control’ (p15). Ministers, for example, may be inclined to delegate management and delivery of technical tasks to bureaucrats or skilled officials, but in doing so, they incur the political risk of these tasks going wrong or the costs of having to monitor or oversee performance. The implication is that principals are able to assess the political risks and opportunity costs of delegation, and make an informed cost-benefit analysis accordingly. As Epstein and O’Halloran (1999) put it ‘policy will be made in such a way as to maximize legislators’ political goals’ and that legislators will prefer to make policy themselves as long as the political benefits they derive from doing so outweigh the political costs; otherwise, they will delegate to the executive’ (p9).

The idea of an inherent trade-off in these decisions is central to Horn’s (1995) transaction costs approach. In making these judgements, legislators think about four key dimensions. They seek to [1] minimise the time and effort taken to define and present the legislative deal in a way that increases its benefits to supporters or reduces the cost it imposes on political opponents; [2] maximize long-term commitment to their legislative reforms in the face of future legislation by other coalitions; [3] minimize agency costs incurred by ensuring administrative compliance; [4] minimize the transaction costs of uncertainty by allocating responsibility for collaborative outputs to the level most easily able to absorb the impact of any failure (pp14-22). As Horn points out, achieving optimal trade-off across all four dimensions is not easy and outcomes inevitably incorporate costs in one form or another. The difficulties that legislators or principals
have in attempting to change the direction of the system means that they will be inclined to take a seemingly less resistant path and change the policy itself.

Presidents have had very mixed success in attempting to change the direction of an agency by changing its senior management. Even then, my guess is that it is much easier to ensure the development of new policy or change the nature of policy advice - areas where there is much less reliance on subordinate staff - than it is to change the way existing legislation is administered. (Horn, 1995, p111)

In public sector systems that find themselves typically under capacity stress (e.g. prisons), there is often the perception that there is not sufficient capacity for these systems to achieve effective performance, and hence principals may be reluctant to delegate too much for fear that the system will not be able to cope. Quoting work by Huber and McCarty (2004), Moe (2012) reminds us that ‘even though agencies may have considerable expertise about their policy environments, they may also be quite incapable - due to mismanagement, corruption, or patronage, among other things - of carrying out policy effectively’ (p30). We might also count capacity stress as one of these inhibiting factors that make principals reluctant to devolve responsibility and power.

**Mapping dynamics of constraint and autonomy of actors in the prison system**

Illustrating the balance of constraints on actors in a policy system requires a combination of in-depth qualitative inquiry and some way of systematizing the range of dynamics and perceptions into a comparative framework. In order to map potentially complex systemic constraints, we must talk directly to these actors in some detail about how they perceive constraints on them and their ability to influence the system. Also important is to be able to condense this potential wealth of material into directly comparable metrics that we can use to understand the characteristics of constrained autonomy. In this section I describe how I have operationalized this by carrying out extensive semi-structured interviewing and systematic coding of interview transcripts in order to turn rich qualitative material into comparable metrics.
My focus is on one UK policy system – prisons – in particular how actors in the systems have perceived and dealt with the chronic problem of crowding over the years (Bastow, 2013). I have shown in previous work how the UK prison system has been successful during the last thirty years in making important improvements in its operational performance, while at the same time managing and coping with incremental levels of stress resulting from running the prison system at ever-higher levels of capacity. Figure 3 provides context for this over three decades, showing indexed trajectories for crowding and quality-adjusted productivity as a proxy for performance. From the early 1990s onwards, both trends can be shown to follow an upward path, suggesting a system that has been able to demonstrate performance improvements despite increments in crowding and capacity stress. Importantly, this period of convergence in these two trends is also coterminous with waves of strong managerialist reforms in the prison system from the early 1990s onwards. Strong command-and-control management and centralized coordination of the prison population has been critical in allowing the system to operate at these continually high levels of capacity (Bastow, 2013).
As part of this previous research work, I conducted 120 in-depth semi-structured interviews with a wide range of actors across the UK prison system to find out how they perceived the problem of crowding and capacity stress, and their ability to influence it. For this paper, I chose a sample of seven interviews from each of four key groups of actors – senior ministers, officials, public sector governors, and officials from private sector prison operators. I explain the selection for each of these groups in their respective sections below. I transcribed each of these 28 interviews verbatim, and loaded them into the qualitative text analysis programme Nvivo. I carried out a detailed qualitative coding procedure to operationalize the schema in Figure 2 above. I worked carefully through each transcript and coded text that corresponded to any of the six categories explained in the schema. The key here was to identify thematically coherent chunks of text (usually anything from a short sentence up to a short paragraph) that conveyed a particular ‘unit of meaning’ that could be interpreted as illustrating any of these six dynamics (Braun & Clarke, 2006).

I took care to apply strict rules about which pieces of text I coded as relevant. I coded only text that related to the current job of the interviewee (i.e. excluding all text relating to their previous positions and the experiences that gained from those
positions), and only their perceptions of their specific position in the system vis-à-vis other actors. In short, this included anything that related them to other actors in the system in the particular position for which they had been selected for inclusion in this sample of 28. With the exception of senior ministers, I choose only interviewees who were in their respective role at the time they were interviewed. I also did not code any of the following:

- General description by the interviewees about their background, the overall prison system, or general problem of crowding;
- Any observations relating to the interviewee’s previous roles in the system;
- Any ‘imputed’ view or perception from the point of view of another actor in the system (e.g. ‘so-and-so would probably tell you that...’)

Working through each transcript, I coded each chunk of text as a specific unit of meaning. If the interviewee made a specific point that corresponded to any of the six categories, they were coded as +1. If they made a point and then provided example(s), then the example(s) were coded as additional +1. The total number of coded units of meaning depended greatly on the length of the interview, and across all 28 interviews the totals ranged from 46 to 87. The data I have provided in the tables below are presented in standardized percentages of total units of meaning coded.

I applied the same careful process to each line and paragraph of transcribed text. I examined whether each unit of meaning supported any of the six categories in the schema, perhaps more than one for the same chunk of text. For example, if a governor was talking about the burden of complying with centrally-imposed performance management targets or the pressure from senior officials to expand the capacity of their prison temporarily to absorb additional prisoners, then these were coded in the category ‘Constrained by principal’. Similarly, if ministers were bemoaning the difficulties of implementing policy priorities due to ‘resistant’ civil servants, these were coded in the category ‘Constrained by agent’. Perhaps if governors were talking about the difficulties of implementing change in their own prisons due to staff resistance, these were also coded as ‘Constrained by agent’. This will become clearer as I discuss each of the four actors in turn.
(a) Senior ministers

Of those I interviewed at the ministerial level, I selected the four most recent Home Secretaries (2 Labour and 2 Conservative) and the three most recent Prison Ministers (2 Lab and 1 Con). Figure 4 summarises the percentage of total units of meaning coded for each minister, and I have calculated an average and standard deviation across the seven. The largest percentages for each minister are marked in bold. Perhaps not unexpectedly we notice a fair amount of variation across the seven ministers in how they viewed the balance of autonomy and constraints upon them during their terms of office. The most consistently high-scoring category for ministers is ‘As Principal - Constrained by Other’, and the main constraining actors involved here were the senior judiciary and the Treasury. Home Secretaries 2 and 3 in particular majored strongly on the influence of the judiciary to decide the fate of attempts by ministers to manage downwards the demand-side pressure of the prison population, and practically all ministers pointed to the critical influence of the Treasury to curtail the amount of funds available for expanding the supply of prison capacity. Only one Home Secretary did not major so strongly on these third party constraints, and focused much more directly on the constraining effects of a ‘resistant’ civil service. Such views were shared by other ministers, but perhaps not as uniformly as we expect. Some ministers, it seems, perceived a more resistant civil service than others.

![Figure 4: How former Secretaries of State and Prisons Ministers view their autonomy and constraints to impact prison crowding](image)

| % of total references by each respondent | As an Agent | | As a Principal | |
|-----------------------------------------|------------|-----------------|-----------------|
|                                        | Constrained by P | Autonomy from P | Constrained by Other | Influence over A | Constrained by A | Constrained by Other |
| Home Sec 1                             | 2          | 21              | 0                | 0               | 67              | 9                |
| Home Sec 2                             | 12         | 23              | 0                | 0               | 7               | 58               |
| Home Sec 3                             | 12         | 15              | 12               | 0               | 8               | 54               |
| Home Sec 4                             | 12         | 35              | 0                | 4               | 15              | 35               |
| Minister 5                             | 24         | 8               | 2                | 0               | 47              | 20               |
| Minister 6                             | 32         | 12              | 0                | 17              | 14              | 25               |
| Minister 7                             | 25         | 19              | 1                | 6               | 25              | 24               |
| Average                                | 15         | 19              | 1                | 2               | 21              | 31               |
| STDEV                                  | 10         | 9               | 4                | 6               | 23              | 18               |

*Note: ‘Average’ is calculated by taking the average of the mean and median across the 7 results. This has the effect of reducing averages, hence the total ≠ 100.*

15
Of course much of what ministers said in interviews was couched from the perspective of their role as ‘agents’ of multiple principals in the shape of top-level government and a legislature (and by default, an electorate). Interestingly here, all Home Secretaries perceived their autonomy vis-à-vis principals as relatively higher than the extent to which they were constrained by principals (i.e. column 2 > column 1). For Prisons Ministers, however, a more junior political role, and one that is inherently closer to the operations of the prison system, the relative perception is reversed, and it is clear than all Prisons Ministers viewed the constraints on them from above as being far more prominent than their own autonomy. This reflects perhaps a much stronger sense of autonomy amongst the top ministers, perhaps even a sense of ‘bossist’ hubris in the belief that they are or should be able to implement their political visions given time. The sense of constraint from above, and in this we include the tabloid press, is nevertheless still an important consideration for most ministers. But overall, the net constraints for ministers appear to be marginally greater from the side and from below.

(b) Senior officials

I selected seven officials who had worked for the Prison Service or the National Offender Management Service at the most senior level. These included five former Director Generals (listed in no particular order in Figure 5) and two other top officials. Looking across all seven interviewees, it is clear that the most prominent perceptions are as agents (roughly two thirds) rather than principals (one third). In this sense, the direction of focus tends to be upwards rather than downwards, particularly in their role of working to ministers and being the link between the political and managerial dimensions of the system as a whole. The relationship between autonomy and constraint here is perhaps less clear than the same relationships with ministers that we saw above. Three out of seven officials appeared to see themselves as more autonomous than constrained vis-à-vis ministers, but in practically all cases, these officials were also keenly aware of the constraints on them from ministers. Official 2, for example, majored strongly on autonomous aspects of the role (43 per cent of coded references) but also scored second highest percentage for constraints (32 per cent). This is clearly not an either-or dynamic, but rather one of strong countervailing dynamics.
Figure 5: How senior officials viewed their autonomy and constraints to impact prison overcrowding

<table>
<thead>
<tr>
<th>% of total references by each respondent</th>
<th>As an Agent</th>
<th>As a Principal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Constrained by P</td>
<td>Autonomy from P</td>
</tr>
<tr>
<td>Official 1</td>
<td>24</td>
<td>34</td>
</tr>
<tr>
<td>Official 2</td>
<td>32</td>
<td>43</td>
</tr>
<tr>
<td>Official 3</td>
<td>19</td>
<td>26</td>
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<tr>
<td>Official 4</td>
<td>20</td>
<td>8</td>
</tr>
<tr>
<td>Official 5</td>
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<td>13</td>
</tr>
<tr>
<td>Official 6</td>
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<td>38</td>
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<td>Official 7</td>
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<td>21</td>
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<tr>
<td>Average</td>
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<td>26</td>
</tr>
<tr>
<td>STDEV</td>
<td>10</td>
<td>13</td>
</tr>
</tbody>
</table>

Note: ‘Average’ is calculated by taking the average of the mean and median across the 7 results. This has the effect of reducing averages, hence the total ≠ 100.

On average, senior officials were less likely to see themselves as principals. Nevertheless just under one third of references either related to their ability to influence or control actors below (7 per cent) or the tendency to be constrained by them (15 per cent). These percentages varied quite a lot depending on the particular official. For example, Official 4 strongly emphasized the inherent resistance to managerialist reforms from governors and staff. We might interpret both of these percentages in fact as artefacts of broad managerialist change across the system throughout the last two decades. At least three officials accentuated themes of control and influence over governors and staff as a result of managerialist change. Similarly, four officials gave at least some coverage to the constraints experienced by the senior management in attempting to bring about managerialist reforms.

(c) Frontline managers – public sector governors

As we move down to the level of prison governors, we see much clearer signs of constraints and coping perceptions. In total I interviewed 35 ‘governing’ governors who were in post in a prison at the time of interview. I therefore had to take a random sample of 7 of these 35 governors for this paper. It is interesting how standard deviations in Figure 6 below are in general much smaller than in the previous two tables, suggesting that governors are inclined to share similar types of views about their role and predicament in the system. At first glance, it is clear that governors much more inclined
to perceive the constraints upon them principals above, and this almost undoubtedly reflects the strong command-and-control cultures that have been sustained in the management of the prison system throughout the late 1990s and 2000s. The perception amongst many managers and governors interviewed is that centralized discipline and coordination of the national prison population has been a key influence in the ability of the system to cope satisfactorily with the rapid rise in the prison population throughout the 1990s. For many, this strong command-and-control has been a necessary element of this coping mechanism. Indeed, many confirmed that senior management had strengthened this centralized discipline throughout. See Bastow (2013, chapter 6) for further details.

**Figure 6: How public sector prison governors viewed their autonomy and constraints to impact prison crowding**

<table>
<thead>
<tr>
<th>% of total references by each respondent</th>
<th>As an Agent</th>
<th>As a Principal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Constrained by P</td>
<td>Autonomy from P</td>
</tr>
<tr>
<td>Governor 1</td>
<td>48</td>
<td>20</td>
</tr>
<tr>
<td>Governor 2</td>
<td>42</td>
<td>27</td>
</tr>
<tr>
<td>Governor 3</td>
<td>28</td>
<td>35</td>
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<td>Governor 4</td>
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<td>Governor 5</td>
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<td>17</td>
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<tr>
<td>Governor 6</td>
<td>46</td>
<td>16</td>
</tr>
<tr>
<td>Governor 7</td>
<td>49</td>
<td>8</td>
</tr>
<tr>
<td>Average</td>
<td>42</td>
<td>20</td>
</tr>
<tr>
<td>STDEV</td>
<td>8</td>
<td>9</td>
</tr>
</tbody>
</table>

**Note:** ‘Average’ is calculated by taking the average of the mean and median across the 7 results. This has the effect of reducing averages, hence the total ≠ 100.

Despite this strong perception of top-down constraints, governors also had a fairly well developed sense of their own autonomy to shape the culture and operations of their prisons. Indeed, many talked about the inherent quid pro quo arrangements that were common in terms of negotiating with their line managers mutually acceptable compromises on crowding. Throughout the 1990s and early 2000s, for example, during periods of heightened population stress, governors would ‘offer up’ extra capacity in their prisons (perhaps by doubling up cells or agreeing to new house-blocks) in return for additional financial resources or facilities being put into the prison. In this sense, governors had a strategic eye for how the population pressures could bring new
opportunities’ for shaping and improving their establishments. It is also interesting that many governors felt a similar sense of constraint from the local judiciary as clearly have felt from senior judiciary. Many governors talked about the difficulties of getting local judges to modify their sentencing to curb the flow of demand for local prison capacity. As principals too, governors frequently talked the difficulties that they experienced in getting their own staff to take on new ways of working, and inherent resistance and rent-seeking behaviours still apparent in public sector prison officer cultures.

(d) Private sector contractors and prison ‘directors’

The fourth group of actors encompasses private sector firms that are involved in running privately managed prisons under contract to NOMS and the Ministry of Justice. This is a market that has grown since the early 1990s to accommodate around 17 per cent of the total prison population in England and Wales (involving four incumbent firms). I interviewed around 25 officials that have had experience in operating or managing privately-operated prisons, and I selected seven officials currently in post, and either at ‘director’ (equivalent to ‘governor’ in the public sector) level or in a senior executive role. At first glance, the contrast is striking. Practically all seven interviewees accentuated their own autonomy vis-à-vis principals, reflecting a keen sense amongst these officials that they have considerable scope to operate their prisons as they want, depending of course that they meet contractual obligations and satisfy their financial commitments to their own senior management. This sense of autonomy touched on practically all aspects of operating their prisons, particularly an ability to introduce innovative change or modify staffing arrangements. Indeed, a great many directors in the private sector had transferred across from previously being governors of prisons in the public sector, and practically all of them remarked on the greater strategic and operational freedoms afforded them in their private sector role.
Figure 7: How private sector prison contractors viewed their autonomy and constraints to impact prison crowding

<table>
<thead>
<tr>
<th>% of total references by each respondent</th>
<th>As an Agent</th>
<th>As a Principal</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Constrained by P</td>
<td>Autonomy from P</td>
</tr>
<tr>
<td>Exec 1</td>
<td>33</td>
<td>55</td>
</tr>
<tr>
<td>Exec 2</td>
<td>32</td>
<td>41</td>
</tr>
<tr>
<td>Exec 3</td>
<td>44</td>
<td>47</td>
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<tr>
<td>Director 4</td>
<td>31</td>
<td>47</td>
</tr>
<tr>
<td>Director 5</td>
<td>17</td>
<td>60</td>
</tr>
<tr>
<td>Director 6</td>
<td>22</td>
<td>44</td>
</tr>
<tr>
<td>Director 7</td>
<td>40</td>
<td>42</td>
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<tr>
<td>Average</td>
<td>27</td>
<td>47</td>
</tr>
<tr>
<td>STDEV</td>
<td>10</td>
<td>7</td>
</tr>
</tbody>
</table>

Note: ‘Average’ is calculated by taking the average of the mean and median across the 7 results. This has the effect of reducing averages, hence the total ≠ 100.

Although private sector officials have a keen sense of their comparative freedoms, it is clearly not sufficient to characterise their predicament as solely one of complete autonomy. As agents, in particular, both of the commissioning ‘customer’ (i.e. Ministry of Justice) and their own senior firm management, they also have a well-developed sense of the constraints on them to deliver services according to contractual obligations and meet profitability targets. As many directors have pointed out, there are many requirements and requests received from the Ministry for marginal increases in capacity as well as modifications in service specifications in order to maintain a degree of acceptable consistency across the national prison estate as a whole. Indeed, often directors talked about having to scale down their own services in order to allow the Ministry to maintain this broad consistency across public and private sector prisons. Directors also talked about the very real financial and commercial constraints that they feel in terms of having to deliver an expected rate of return to their own shareholders year-in year-out.

As principals, private sector officials appear to see themselves as much less constrained by their own managers and staff, or indeed third parties. This may reflect a more ‘can-do’ attitude prevalent in private sector staffing cultures, but it will also reflect the greater level of ease with which directors are able get rid of disruptive or low performing staff. Undoubtedly, private sector prisons have suffered from high levels of staff turnover and instability resulting therefrom (Bastow, 2013a). Nevertheless,
discussions with private sector officials have surfaced more positive attitudes to staff education and training, as well as creation of positive incentives for career development for talented or enthusiastic staff. A combination of these factors would explain the relatively high score for ‘Influence over agent’ and the near-zero average scores for perceptions of constraint originating from mid-level managers and staff.

In the final section, I draw these four separate elements into an overall system view, and discuss how this approach can shed light on the three key aspects of the literature discussed in the first section of the paper.

The balance of constrained autonomy across the prison system

Looking at the different aspects of autonomy and constraint perceived by different groups of actors in the prison system has shed light on the importance of viewing the predicaments of these actors in the context of the (whole) system in which they must operate. Even at this very simplified level, we can show that these four groups of actors perceive their situation as encompassing different mixes of countervailing pressures that imply neither pure top-down nor pure bottom-up lines of influence. We can draw from this simple observation that all actors are more constrained than we think they are, even top ministers. Yet at the same time, they are also more autonomous than obvious constraints suggest. We can hypothesize fairly confidently that it is not sufficient to focus on one level of the system or one group of actors within in attempting to understand and explain the outcomes of systems as a whole. Rather we must understand the behaviour and actions of actors within in terms of the predicaments they face as part of a system. Furthermore we must do this from a relatively joined-up theoretical perspective that integrates agency and cultural-institutional understanding of these predicaments. As Besley (2006) points out, we face a ‘multi-layered agency problem between voters, politicians, and bureaucrats which has not been studied extensively in the agency model’ (p232). Similarly, this presents challenges for governance approaches to public policy, particularly in the need to build more individual actor perspectives into general explanations of institutional outcomes. As Peters (2010) puts it,
Largely structural definitions do tend to provide relatively little place for agency in processes of governance. Although the structures are important for shaping decisions and for channelling the activity of individuals and political groups, it is important to remember that the actual decisions made are made by individuals, whether as single actors or through interactions. (p16)

The analysis so far has potential to do both of these of things. We have started from the perspective of four groups of strategic actors that make up a core part of the prison system. In exploring their own deep-seated views and perceptions about the chronic problem of crowding and capacity stress in the prison system, we have been able to profile the balance of perceptions across each group. We can now draw together these four levels of the system, and think about how the different levels relate to each other, and highlight the countervailing dynamics that appear. We can also shed light on how actors may be inclined or incentivized to adapt their behaviour in particular ways that the problem of crowding and capacity stress is sustained.
Figure 8: Whole system view of perceived autonomy and constraints of different groups of actors

Note: These variables represent the Average lines in each of the four tables presented in the previous section. For presentation purposes, constraints have been charted on these graphs as negative values, and autonomy and influence have been charted as positive values.
With this synthesized picture of ‘real actors’ and a whole system in mind, I return to the three questions set out in the first section above and ask how this analysis can shed light on these dilemmas. The first dilemma asked where the relative balance of power between legislators and bureaucrats can be seen to lie. What can Figure 8 tell us in this respect? Clearly, neither public choice style accounts of bureaucrat power nor ‘congressional dominance’ style accounts of legislator influence can hope to encapsulate the full picture. As we move down the levels for ‘Constrained by principal’ (column 1), the perceived constraints become much higher. In other words, as we go deeper into the system, actors perceive the constraints upon them to be greater. This would seem to contradict public choice ‘rent-seeking’ or ‘shaping’ explanations. On the other hand, senior officials have a much higher perception of their own autonomy vis-à-vis principals than, say, the ministers to whom they are answerable. This appears to support ‘shaping’ explanations, in the sense that within the contours of the system, officials do consider themselves able to shape or determine the direction and priorities of the organization. We see this perception of room to shape and innovate far more intensively amongst private sector officials. Here it is the commercial contract that acts as a kind of shield behind which private sector officials can innovate in all sorts of ways.

Similarly, it appears that actors’ perceptions of constraint from agents diminish as we move down the system (column 5). For example, 21 per cent of references by ministers on average referred to some aspect of constraint imposed upon them upwards by their senior officials. This dropped to 15 per cent amongst senior officials vis-à-vis governors, and to 12 per cent amongst governors vis-à-vis their staff. This may reflect a disinclination amongst operational staff to criticise lower levels of operational staff, as well as a tendency amongst lower levels of the system to focus their views on constraints above them (rather than below). It may also reflect the simple fact that there is less ‘system’ beneath them to constrain them. It is interesting to compare across to the respective views of agents vis-à-vis their principals. As mentioned, 21 per cent of ministers’ references highlighted constraints from senior officials, and this is mirrored by a relatively high rate of senior officials perceiving their own autonomy vis-à-vis ministers (26 per cent). The potential paradox comes however when we acknowledge that comparatively more references by senior officials relate to the constraints upon them by ministers (29 per cent). Of course, we should not think that these are the same
constraints in each case. It is likely that officials will perceive constraints in some aspects but freedoms in others, and it is likewise for ministers. The point is that autonomy and constraint can exist simultaneously in qualitatively distinct ways.

The second major theme in the literature relates to questions about how we should characterize motivations and incentives underlying actors’ choices and behaviours. What does the analysis here tell about the interactions between strategic self-interest and institutional-factors that determine these choices and behaviours? We have built up a picture of a policy system from the individual actors and their perceptions on their role and predicament in the system. We have illustrated in this respect how self-perception relates to self-interest, and how these perceptions and interests cumulate to shape and sustain institutional cultures of the system. Governors, for example, show strong perceptions of constraint by the system above, and in this sense we can characterize them as sustaining ‘coping’ or ‘fatalistic’ worldviews – taking a professional pride in ‘making the system work’ despite external and managerialist constraints on them. Peculiarly, however, they enjoy considerable autonomy as ‘bossist’ leaders to shape the cultures and operations of their particular prison (Hood, 1998).

Looking at the very top of the system, ministers see themselves as strongly constrained by senior judiciary. Even though they regard themselves as relatively autonomous to shape prison and wider criminal justice policy, they are keenly aware that this autonomy will only get them so far before they are met with considerable political barriers from the judiciary. For many Home Secretaries, these barriers have proven too much, and efforts are reform have unravelled and lost momentum as a result. This sustains a somewhat fatalistic worldview even at the very top of the system.

This point leads to a further important point that the system itself can be seen to determine the motivations and incentives of actors. It does not seem sufficient to explain outcomes only in terms of strategic self-interest or institutional-cultural factors. A third important dimension has to be the systemic context in which actors must operate. As the analysis has shown, they are keenly aware of their position in the system, their constraints and relative autonomy, and they are able to respond adaptively to these perceptions of what is possible, what is desirable, and what basically is beyond their ability to influence. Senior officials, for example, are strongly aware that their allegiances lie in responding to ministerial priorities and directions, as well making sure that ministers are not embarrassed or compromised by operational matters. But as we
have seen they are also strongly aware that they have autonomy actually to shape the system by design and authority. If ministers are unable to find consensus with senior judiciary, or if they are prone to appeasing the Prison Officers Association (POA) on issues around privatisation or market testing, then senior officials must adapt to these constraints imposed upon them by dynamics in the system far beyond their control. We can observe such adaptation at all levels of the system. This is a function of keeping the system operational and stable, and it is an important aspect alongside strategic self-interest and culture in any theoretical approach to explaining policy outcomes.

On the ability of actors to find optimal delegation of responsibilities, the analysis raises interesting questions too. At the ministerial level, we find comparatively stronger perception of the constraints emanating from below, particularly from senior officials (see column 5). For many ministers the response has been to intervene more directly in operational matters, and this has been commonly observable during times of acute capacity stress in the system. Governors and officials, for example, have frequently mentioned the tendency for ministers to want to get a grasp on the operational minutiae of capacity, largely to ensure that nothing is being hidden from them and to reduce the risk that operational foul-ups due to capacity stress will embarrass them publicly. For many officials and governors, this is seen as ministerial ‘meddling’ in operational matters, whereas for the ministers themselves, it is seen perhaps legitimately as a mechanism to counteract perceived constraints from agents below. For managers and governors too, the limitations of delegated responsibility are only too clear. As implied already above, political interventions and the uncertainty that inevitably comes with decision-making in the political realm can directly constrain the ability of managers to manage the system as they would like. Delegation of managerial competences comes with certain fatalism on the part of senior officials that their own ability to shape and influence the system is constrained by political vagaries and directions from ‘on high’. Autonomy, in the traditional business management sense, is inevitably distorted by this political uncertainty. As Wilson (2000) reminds us,

No agency head can ever achieve complete autonomy for his or her organization: politics requires accountability, and democratic politics implies a particularly complex and all-encompassing pattern of accountability. (p189).
Management economists have pointed out that there is no optimal solution to this delegation problem, and that an optimal strategy lies in a dynamic shifting between centralization and decentralization over time (Nickerson & Zenger, 2002; Roberts, 2004). As Roberts explains,

> When the norms drift too far in the direction induced by the current allocation of decision-making authority, performance starts to suffer. The solution is to switch to the other allocation, thereby reversing both the drift in the strength of the norm and the declining performance’ (p56).

Optimality therefore comes in the form of a continual and acceptable level of ‘near enough’ self-optimality. In many respects, this serves as rather appropriate way of thinking about the dynamics of a policy system over time. The snapshot provided in Figure 8 is exactly that – a snapshot of a point in time. Perceptions about autonomy and constraint will ebb and flow over longer periods between centralization and decentralization. The problem however is that no one actor in the system has the strategic luxury of being able to steer the system as a whole through these neatly-conceived phases of one or the other. Indeed, this is the luxury of the economistic bird’s-eye viewpoint. Even senior ministers who are perhaps closest to the strategic apex of the system exhibit a keen sense of the constraints on their ability to steer the system. They may want to delegate more influence to managers but constraints in the system below will not allow them. The potentiality for managerial delegation to find an effective balance is inherent constrained whichever way one looks at it. It becomes subject to a great many systemic factors that are beyond their control or influence.

**Conclusion**

There is much to understand in the way that large and core state public policy systems operate, not least the way in which actors within perceive and adapt to the predicaments that they face. Clearly the general theoretical perspective must start with these actors, incorporating their strategic interests and the way in which institutions and cultures impinge upon these ‘rational’ factors. I have tried to show with this paper that we must also take into account the fact that these actors sit in linked chains of responsibility and
power, responsive to those actors above and in a variety of ways responsible for those actors below. Political science and management economics has deployed principal-agent theory in many useful ways to shed light on how these hierarchical and structured relationships work. In a complex policy system however each actor can play roles of principal and agent simultaneously depending on their perspective and their direction of focus. Indeed a major challenge of their role is to find ways of keeping these different constraints and autonomies in some kind of manageable equilibrium or balance. In doing this at one level, inevitably an actor will shape and influence the prospects for other actors in the chain of doing it at their level too. For this reason, we can argue that dualistic and narrow interpretations of principal-agent relationships in policy systems are missing an important systemic set of influences. Using some simple qualitative coding of interviews with four key groups in the prison system, I have tried to illustrate this fact that actors have to manage qualitatively distinct and countervailing dynamics of constraint and relative autonomy. There is considerably more scope to delve into the detail of constraints and autonomies by coding these transcripts in more sophisticated ways. Indeed there is much potential for expanding the empirical and theoretical understanding of constrained autonomy in chains of principal-agent relationships. This paper has shed light the underlying systemic factors that have helped to sustain chronic crowding and capacity stress in the prison system throughout the managerialist era.

References


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\(^{i}\) See Shepsle and Bonchek (1997) p274

\(^{ii}\) In more recent years, Niskanen (2012) has modified this view to accentuate autonomy of bureaucrats over ‘discretionary’ budgets. He draws parallels between his own views and those of contemporary Gordon Tullock on this issue. As he puts it, ‘by separate paths, [Tullock and I] had both come to believe that bureaus act as if they are maximizing their budgets (a hypothesis, by the way, that I now believe is inferior to a hypothesis that bureaucrats act to maximise their discretionary budget, the difference between the actual budget and that necessary to supply the output expected by the sponsor)’ (p101).

\(^{iii}\) Douglas North (1990) writes ‘Institutions are a creation of human beings. They evolve and are altered by human beings; hence our theory must begin with the individual. At the same time, the constraints that institutions impose on individual choices are pervasive. Integrating individual choices with constraints that institutions impose on choice-sets is a major step towards unifying social science research’ (p5).