

# **EMPATHY AS A PUBLIC VALUE: OVERCOMING ADMINISTRATIVE VULNERABILITY AND REHUMANIZING (DIGITAL) GOVERNMENT**

Malou Beck and Sofia Ranchordas<sup>1</sup>  
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## Abstract

Empathy is a fundamental value in evolutionary biology, human communication, and modern management. This paper argues that empathy, defined here as the ability to relate to others, should also be regarded as a public value and be employed as a response to the vulnerability experienced by many citizens when engaging with digital government, automated public services, and algorithmic decision-making.

Empathy in citizen-government interactions is increasingly important at a time when human interactions have become rare. The remaining human interactions are characterized by decreasing levels of assistance and compassion due to the lack of time, availability, training, and increasing polarization. This is problematic for two main reasons. First, it excludes citizens in vulnerable circumstances, thus ignoring the possibility that life, law, or socioeconomic circumstances can place citizens in situations that require additional understanding and thus empathic approaches. Second, since vulnerability is inherent to the human condition, empathy in the public sector is essential to ensure the adequate pursuit of the public interest.

Drawing on sociolegal and public administration scholarship, we argue that empathy can contribute to good governance as it has the potential to improve government communication, rehumanize government transactions, and contribute to the acceptance of administrative decisions.

**Keywords:** empathy; vulnerability; public values; AI; automation; digital government; red tape; digital exclusion; scarcity; altruism; compassion; public interest

## INTRODUCTION

Law has sought to harmonize two opposing forces since its very inception: the importance of issuing general and abstract laws that do not differentiate between citizens and are thus perceived as fair, just, and equal; and the need to make exceptions for special cases, tailoring the law to specific circumstances. The balance between generalization and particularism is delicate and often

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<sup>1</sup> Malou Beck is a PhD candidate at Tilburg Law School. Sofia Ranchordas is a Full Professor of Administrative Law at Tilburg Law and Professor of Public Law, Innovation, and Sustainability at Luiss Guido Carlo, Italy. This research was funded by the Dutch Research Council (NWO) in the context of the NWO-Vidi Project 'Vulnerability in the Digital Administrative State' led by Sofia Ranchordas. We thank the editors of this volume, especially Antonia Stanojević for their insightful comments and Madalina Nicolai for research assistance.

difficult to achieve.<sup>2</sup> This challenge is also visible in administrative law, which has long grappled with balancing the imperatives of the public interest against citizens' individual circumstances. On the one hand, administrative law must ensure consistency and the efficient, equal, and fair allocation of public resources while avoiding abuses of power. On the other, administrative law should not reduce citizens to data points, numbers, and other quantified elements. Indeed, citizens are not uniform, public policies are intricate and vague, and indeterminate legal terms permit multiple interpretations. This gives rise to the paradox that administrative law should be the same for everyone, but also be open to being, at times, slightly different for everyone, because not everyone is the same all the time. There are moments in life when we may find ourselves unable to make rational decisions, exercise our rights, and engage independently with bureaucracy. Life or circumstances may place us in vulnerable circumstances.

The well-known Dutch Childcare Benefit scandal and the Australian Robodebt<sup>3</sup>—both instances where thousands of citizens were wrongly accused of committing fraud—tragically illustrate what can happen when public authorities focus on general policies without considering citizens' needs and circumstances.

This chapter argues that promoting empathy as a public value can help achieve a delicate balance between generalization and particularism. This is especially valuable at a time when technology can be used either to standardize, guarantee consistency, and reduce 'noise'<sup>4</sup> or to personalize services to individuals' needs.<sup>5</sup> While personalization of advertisement and services is better known in the world of consumer goods and services, there is also margin to fit personalization in the public sector, namely through empathy.<sup>6</sup> Empathic approaches can respond to circumstances of acute vulnerability and ensure that we strike the balance between the required generalizations and the particularized approach that can ensure that individuals' needs are considered. This has been increasingly important with the digitalization and automation of government and administrative decision-making.

With the increasing automation and digitalization of governments in recent years there has been a growing call, particularly in the Netherlands, from both scholars and policymakers to emphasize the individual dimension of citizens.<sup>7</sup> In the age of automation, citizens often find themselves overlooked and reduced to categories by algorithms that fail to recognize their unique backgrounds, challenges, virtues, and circumstances. When they have direct contact with human

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<sup>2</sup> Goanta, 2022

<sup>3</sup> Ranchordas and Scarcella 2021

<sup>4</sup> Kahneman, Sibony, Sunstein, 2021

<sup>5</sup> Ben-Shahar and Porat 2021.

<sup>6</sup> Coglianese 2022.

<sup>7</sup> Brinkman and Vonk, 2022; Heukelom, 2020

civil servants, they are often confronted with bureaucratic systems, reduced assistance, and limited compassion for their challenges. As a result, citizens feel unseen and misunderstood by governments and their policy tools.

This chapter argues for the inclusion of empathy as a public value in the toolkit of public administration. Empathy adds to existing public values because it has explanatory power: it allows public authorities to understand how to pursue the public interest in a way that it fits individual challenges. Being able to empathize means being able to recognize what the other is experiencing and respond to it. While there are many definitions of ‘empathy’, Baron-Cohen defines it as follows:

*Empathy is our ability to identify what someone else is thinking or feeling, and to respond to their thoughts and feelings with an appropriate emotion.*<sup>8</sup>

Empathy is thus connected to compassion which involves recognizing someone’s suffering, responding emotionally to it, experiencing empathic concern, and having the desire to alleviate it.<sup>9</sup> Empathy differs from altruism, the wish to help others. Empathy, in this chapter, is understood primarily as a behavioral response, rather than a feeling. Empathic behavior shows an understanding of how heavy or tight the other person’s shoes are, thereby grasping why a person is walking in such a way. Could it be that this person’s shoes are so tight that walking straight has become impossible? Is this why this person cannot run, but only limp? Empathy as a public value does not mean that civil servants should feel sorry for citizens who find themselves in vulnerable conditions, even though feelings and behaviors may coincide. Instead, empathy here involves responding with appropriate measures while ensuring good governance, providing accessible and adapted communication, and training civil servants to better assist citizens in challenging circumstances, regardless of their personal beliefs.<sup>10</sup>

Our argument proceeds in four steps. First, we discuss vulnerability as the central problem of citizens’ interactions with digital government. Digital government often assumes that citizens should be able to independently engage with public services.<sup>11</sup> However, this gives rise to (administrative) vulnerabilities for those who are unable to do so. Drawing on socio-legal and legal feminist scholarship, we theorize vulnerability as a phenomenon that is universal and inherent (1), situational (2), multilayered and contextual (3), inflicted by power asymmetries and dependency (4), and imposed externally through the state, society, and its institutions (5). Second, we explain the value of vulnerability in helping us understand the importance of considering individual

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<sup>8</sup> Baron-Cohen, 2011, p.12

<sup>9</sup> Kanov et al., 2004; Strauss et al., 2016

<sup>10</sup> Coglianese, 2023

<sup>11</sup> Meijer, 2012

features and circumstances. As a third step, we delve into the concept of empathy, which we propose as a public value and a response to administrative vulnerability. Lastly, we consider possible critiques of empathy.

## 1. Self-reliance before digital government and vulnerability

Since the 1990s, governments have progressively transitioned from a ‘paper-based’ and analogical public administration to a digital government characterized by the increasing digitization of forms and automation of public services.<sup>12</sup> Today, ICTs, automated decision-making systems, and algorithms have become integral parts of government.<sup>13</sup> Consequently, the internet has become the primary, and sometimes exclusive, infrastructure for applying for welfare benefits, licenses, adjudicating claims, or filing tax returns.<sup>14</sup> These developments have significantly improved the efficiency of public administration, advanced coherence in administrative decision-making, and substantially reduced government costs.<sup>15</sup> However, the digitalization and automation of government have also produced new vulnerabilities for citizens, often manifested in citizens' inability to enforce their rights on equal terms or infringements of citizens' administrative rights, discussed in the following.

### 1.1. *Self-Reliance in Digital Government:*

Research shows that digitalization and automation of the public sector indeed has many positive aspects to it, such as convenience, 24/7 contact with the government, and the simplification of many (but certainly not all) government interactions. Nevertheless, standardized and automated communication does not amount to improved communication with citizens, as many of these policies were primarily conceived to cut costs and operate in the government's interest rather than to protect citizens' needs. Citizen-centered design is a much more recent concern for governments that did not drive the original digitalization movements. Instead, digital government was originally designed assuming 'average skills,' self-reliance, thus overlooking that different individuals have different abilities. As digital public services are built on ableist structures, they exclude individuals who are incapable of navigating digital government independently. In essence, "ableism reflects the sentiment of certain social groups and social structures that value and promote certain abilities, such as productivity and competitiveness, over others, such as empathy, compassion, and

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<sup>12</sup> Ranchordás, 2020; Viana, 2021; Tomlinson, 2019

<sup>13</sup> Viana, 2021

<sup>14</sup> Ranchordás, 2021

<sup>15</sup> Ranchordás & Scarcella, 2022; Madsen, Lindgren, Melin, 2022; Schou & Pors, 2019

kindness".<sup>16</sup> Consequently, ableist systems in digital government hinder the equitable participation of individuals in society who fall outside normative standards.<sup>17</sup>

Not surprisingly, digital government has added, for many citizens, a new layer of complexity: digital bureaucracy. While digital forms can vary widely in their complexity and user-friendliness, many of them require considerable time and attention to fill out. Moreover, digital government is often accompanied by complex automated systems that operate like black boxes making it difficult, often impossible, to grasp how the algorithm reaches the decision.<sup>18</sup> Automation has given rise to new vulnerabilities and exacerbated existing ones. These vulnerabilities can worsen existing socio-economic inequalities and have the potential to strain government-citizen relations.<sup>19</sup> In an ongoing project, we qualify this phenomenon as administrative vulnerability.<sup>20</sup>

### *Administrative Vulnerability*

The notion of 'administrative vulnerability' refers to a set of circumstances in which citizens are unable to enforce their fundamental rights or where their rights are infringed, often exacerbating asymmetric power relationships between citizens and the government. There are many types of administrative vulnerabilities. While some are specific to digital government and are thus 'new', others result from complex bureaucracy or socioeconomic challenges. We categorize these vulnerabilities in two categories: first, access to digital services (forms, digital platforms); second, inability to exercise rights. In the first dimension, citizens may be unable to access welfare services or contest administrative decisions online due to accessibility problems.

In the second dimension, citizens cannot exercise their rights the way in which decision-making is automated and how digital technology is used for enforcement. Therefore, vulnerability in this dimension arises from citizens' increased susceptibility to rights infringement, which may result from biased and discriminatory data, opaque decision-making practices, and issues related to transparency and accountability. In the next section, we discuss a vulnerability framework that can help us better understand these dimensions of administrative vulnerability.

## **2. Vulnerability Framework**

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<sup>16</sup> Wolbring, 2008, p.253

<sup>17</sup> Champbell, 2013

<sup>18</sup> Busuoic, 2021

<sup>19</sup> Schou and Pors, 2019

<sup>20</sup> Project website: [Vulnerability in the Digital Administrative State | Tilburg University](#) (funded by the Dutch Research Council, NWO).

This section justifies the need to draw on vulnerability theories and how these theories can help us understand administrative vulnerability in relation to digital government.

## **2.1. Why this Framework?**

The concept of vulnerability offers a meaningful framework at three levels. Firstly, vulnerability enables an appreciation of the human perspective in government, especially at a time when citizens are increasingly reduced to digits and data points. Thus, the concept bears the potential to divert attention back to the individual, acknowledging the unique challenges and exposure to harm within digital government. This is particularly important in an era where citizens risk being dehumanized and reduced to statistical and homogenous entities, as it allows them to recognize their diverse circumstances and traits.

Secondly, vulnerability can serve as a tool to highlight social disparities and issues about social justice.<sup>21</sup> As vulnerability may manifest through limitations on citizens' rights, it holds significant potential to reveal how digital government obstructs individuals from asserting their rights, potentially causing harm.<sup>22</sup> Furthermore, unveiling social justice issues and understanding citizens as vulnerable implies a shared obligation and ethical and collective responsibility to protect those at risk from harm.<sup>23</sup> When the state directly and unintentionally inflicts vulnerabilities, its role in mitigating vulnerability becomes even more pronounced.<sup>24</sup>

Finally, vulnerability, as a conceptual framework, serves as a relevant instrument for delineating the individuals or groups susceptible to harm, shedding light on the institutional and systemic factors underpinning these vulnerabilities.<sup>25</sup> Thus, vulnerability facilitates a proactive stance, enabling the identification of precursory risk elements associated with potential harm arising from engagements with digital governance.

## **2.2. Meaningful theoretical foundations in the context of digital government**

This section delineates five theoretical approaches to vulnerability that provide meaningful frameworks to understand vulnerability in the context of digital government. Thus, vulnerability

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<sup>21</sup> Mackenzie et al., 2014; Heri, 2021; Fineman, 2018, 2021

<sup>22</sup> Hogan and Marandola, 2005, p.459

<sup>23</sup> Fineman, 2021

<sup>24</sup> Heri, 2021, p.22

<sup>25</sup> Schroeder and Gefenas, 2009

can be understood as a phenomenon that is universal and inherent (1), situational (2), multilayered and contextual (3), inflicted by power asymmetries and dependency (4), and inflicted externally through the state, society and its institutions (5).

1) *Vulnerability as a universal and inherently human phenomenon*

Firstly, vulnerabilities of citizens are universal due to the inherently vulnerable nature of all legal subjects.<sup>26</sup> Fineman's interpretation of vulnerability encompasses a constant exposure to risk of harm, representing a persistent threat that is often beyond human control that cannot be entirely eliminated.<sup>27</sup>

Fineman's legal feminist universal vulnerability paradigm contrast the particular approach to vulnerability, which limits vulnerability to specific population groups. This particular vulnerability paradigm used to depict a common understanding of vulnerability, also in its legal application. However, it has received increasing attention in recent years due to its risk to stereotype and stigmatize entire population groups. Furthermore, despite the label's blame related sentiments and associations with 'weakness' and 'victimhood', the particular vulnerability approach bears the risk of overlooking individuals who fall outside these common vulnerability categories but are yet vulnerable.

Fineman's idea of the inherently dependent and universally vulnerable legal subject not only contents that vulnerability is inherent to the human condition (ontological) but also argues that a strong and responsive state is required to mitigate vulnerabilities of its citizens to build resilience.<sup>28</sup> This is particularly interesting in the context of digital government the state itself involuntarily inflicts vulnerability on its citizens, making its role to combat them even more pronounced. Moreover, Fineman criticizes that today's neoliberal state excessively emphasizes the autonomy and independence of the liberal subject.<sup>29</sup> The digitalization and automation of digital government mirrors this: individuals are expected to be self-reliant and carry the burden of bureaucracy with little assistance. While Fineman's idea of the universal and dependent subject can be criticized based on its difficulty to be operationalized, risk for paternalistic policy structures and lack of the value of autonomy, it offers an important departure from particularized vulnerability notions to an understanding that everyone is at constant risk of harm.<sup>30</sup>

2) *Vulnerability as a situational phenomenon*

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<sup>26</sup> Fineman, 2008, p.1

<sup>27</sup> Fineman, 2008, p.9

<sup>28</sup> Fineman, 2010

<sup>29</sup> Fineman, 2010

<sup>30</sup> Kohn, 2014; Mackenzie, Rogers and Dodds, 2014; Brown et al., 2017

Secondly, despite the universal nature of vulnerability in the context of digital government, vulnerability is also a situational phenomenon. Mackenzie (2014) claims that situational forms of vulnerability are more context-specific and “caused or exacerbated by social, political, economic or environmental factors”.<sup>31</sup> Thus, understanding vulnerability as a situational phenomenon in digital government sheds light on specific circumstances, conditions, or contexts that contribute to the individual or a group. Notwithstanding, understanding vulnerability in digital government as temporary or contingent upon particular situations allows for a meaningful detachment of the individual’s characteristics to a focus on the circumstances in which institutional (legal) practices give rise to vulnerabilities for citizens. In the context of digital government, situational vulnerabilities can reach from algorithmic discrimination and inadequate redress mechanisms to challenge administrative automated decisions to limited digital literacy and technological barriers, such as a poor internet connection.

Furthermore, it is crucial to acknowledge that inherent and situational vulnerabilities can be interlinked and reinforce each other.<sup>32</sup>

### *3) Vulnerability as a multi-layered and contextual phenomenon*

Third, understanding vulnerability as a multi-layered and elusive phenomenon provides a meaningful account in the context of digital government. Florencia Luna advocates for the contextuality and complexity of vulnerability by promoting the notion that vulnerability is composed of many different layers.<sup>33</sup> Similar to Fineman, this approach disavows the particular approach to vulnerability, also not limiting it to specific population groups Luna stresses that investigation of how each layer can contribute to vulnerability is possible without enforcing a rigid hierarchy of these layers.<sup>34</sup> Simultaneously, Luna suggests that different social contexts result in various experiences of vulnerabilities for individuals, depending on the degree, context, accumulation and interplay of vulnerability layers.<sup>35</sup> This underscores the dynamic and fluid nature of vulnerability, making it a condition rather than a fixed status.<sup>36</sup>

This intersectional account of vulnerability also sheds light on vulnerable legal subjects that are not commonly associated with belonging to a vulnerable population group. For instance, a man from the upper middle class is not commonly considered vulnerable. However, layers that are not

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<sup>31</sup> Mackenzie, 2014, p. 39

<sup>32</sup> Mackenzie et al., 2014, p.39

<sup>33</sup> Luna, 2009, 2019

<sup>34</sup> Luna, 2009

<sup>35</sup> Luna, 2009

<sup>36</sup> Luna, 2009



visible at first sight, such as loneliness, mental health struggles or having gone through a bureaucratically burdensome divorce, could render him vulnerable when interacting with digital government. Conversely, a citizen with a documented learning disability might have other compensating layers such as a good socio-economic background or a supporting partner or family member, thus mitigating the possible vulnerability inflicted by the impairment.

In sum, Luna's layered approach to vulnerability provides a meaningful theoretical framework in the context of digital government as it favors the application of a universal and non-exclusive lens on vulnerability while allowing for an operationalization of the concept and acknowledging the elusive and accumulative effect of vulnerability layers within different contexts.

#### *4) Vulnerability as a phenomenon inflicted by power asymmetries and dependency*

Fourth, contemporary citizen-government relations in public administration inherently feature power asymmetries, wherein governments possess the unilateral authority to define individuals' positions and exercise public authority.<sup>37</sup> These asymmetric power dynamics elevate the risk of harm for citizens, ultimately giving rise to vulnerability.<sup>38</sup> While new communication channels have become available to citizens, facilitating their interactions with public authorities, the increasing reliance on self-service mechanisms reshapes the traditional power dynamics between citizens and the government. Consequently, the digitalization of governments paradoxically both connects and disconnects citizens from government.<sup>39</sup> The emerging dimension of power imbalances, particularly in the context of citizens' reduced ability to legally contest automated decisions made against them<sup>40</sup>, becomes increasingly evident. This inability to access legal remedies and challenge injustices significantly exposes citizens to vulnerability.

#### *5) Vulnerability as an externally inflicted phenomenon*

Finally, a prevalent pitfall of vulnerability lies in attributing blame or responsibility onto the citizen that is risk of instead of the state, society and its institutions.<sup>41</sup> Fineman advocates for a reorientation of responsibility for vulnerability and claims that the individual is never responsible for contesting their differences, as a disadvantage is always produced externally.<sup>42</sup>

Pathogenic vulnerability, categorized as a form of situational vulnerability, embodies an external perspective by highlighting detrimental factors originating from the environment or systemic

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<sup>37</sup> Ranchordás, 2020

<sup>38</sup> Zarowsky et al., 2013

<sup>39</sup> Lindgren et al., 2019, p. 430

<sup>40</sup> Tomlinson, 2019

<sup>41</sup> Brown, Ecclestone and Emmel, 2017

<sup>42</sup> Fineman, 2012, 638

issues that render citizens vulnerable.<sup>43</sup> Such pathogenic vulnerabilities arise from “prejudice or abuse in interpersonal relationships and from social domination, oppression, or political violence.”<sup>44</sup> To employ an example in the context of digital government, biased discriminatory data fed to an algorithm is grounded in discriminatory societal and institutional sentiments. Individuals who are flagged by a predictive algorithm based on such bias are thus subject to pathogenic vulnerabilities. Therefore, vulnerability does arise due to the individual’s attributes that might deviate from societal norms but to existing societal sentiments. Instead, the external entities are responsible for combatting and mitigating the vulnerabilities they produce.<sup>45</sup> However, it is vital to be careful not to concede the assumed needs of vulnerable population groups, as this can give rise to new pathogenic vulnerabilities and paternalistic policy structures.<sup>46</sup>

Vulnerability frameworks can be employed to better understand citizens-government interactions. Empathy conceived as a public value, discussed in the next section, can offer a possible response to this problem.

### 3. Empathy as a Public Value

In civil law traditions of administrative law, public authorities are presented as institutions that exist for the sole purpose of pursuing the public interest. In doing so, these institutions should consider public values, that is, certain fundamental ideals, principles or even ethical considerations that are at the core of a society and guide government. Examples are autonomy, fairness, transparency, privacy, and sustainability. Public values are ‘criteria for action’<sup>47</sup> which inform not only the attitudes of public servants but also the ends to which their public authorities should aspire.

However, as Bozeman explains, values are not based on the needs of society but on the individual needs of humans as such. Government—given its position of power and, in the case of local governments, its proximity to citizenry—is well-placed to address the needs of individuals and thus to further them through the pursuit of public values.<sup>48</sup> These values serve as guiding principles for the governance of public authorities. Jørgensen and Bozeman have argued that while

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<sup>43</sup> Mackenzie, 2014, p.39

<sup>44</sup> Mackenzie, 2014, p.39

<sup>45</sup> Mackenzie, 2014, p.40

<sup>46</sup> Mackenzie, 2014, p.40

<sup>47</sup> Molina, 2009; Denhardt and Denhardt, 2006

<sup>48</sup> Bozeman, 2007

public service values exist within a hierarchy and are causally related, we cannot elect one single value as being the leading and central public value of a government.<sup>49</sup> Other scholars in the field support this position.<sup>50</sup>

While the notion of public values varies depending on the society or community, key public values often include, for example, accountability, which, like empathy, can be seen as a moral virtue or a mechanism to render public officials answerable for their actions. Other common public values encompass autonomy, privacy, transparency, fairness, and efficiency. Public values are often closely related to human and fundamental rights since these also embody public and social values. However, when arguing that digital government should be designed for certain public values, we go beyond established legal frameworks as we seek to understand what values lie underneath. This allows us to make the claim in this section that also empathy should be considered as a public value in the context of public administration, as it is a valuable tool to promote good administration, balance power asymmetries, and innovate government.

### *3.1. Empathy as a Public Value*

Empathy has been studied by a large number of scientific fields (e.g., psychology, management studies, ethics) and is a term that encompasses multiple dimensions and applications. From an ethical perspective, empathy is often connected to other virtues that are part of ‘being a good citizen,’ ‘being sensitive,’ and a ‘good person’. However, the idea of having empathy as a public value (rather than as mere virtue) is less straightforward—if not, controversial.

Empathy is commonly used to refer to different realities and behaviours. Phrases such as ‘You are not empathetic’ can be perceived as insults. Empathy is often equated with being nice, kind, charitable, and understanding. Women are more likely to be described as ‘empathetic’, a stereotype which might not necessarily be backed by scientific support, depending on how you define empathy. This gendered view stems from the notion that ‘empathy and emotional sensitivity’ are female traits, which also perpetuates the assumption that women are less rational than men.<sup>51</sup> There are thus multiple definitions and types of empathy, many of which do not entail any inner feeling of sorrow for others or kindness.

Edlins & Dolamore’s define empathy in the public realm as ‘the ability to recognize, understand, and respond to the feelings of another [offering] a way to improve [public servant-

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<sup>49</sup> Jørgensen and Bozeman, 2007

<sup>50</sup> Box, 2015; Molina & McKeown, 2012

<sup>51</sup> Gilligan, 2014, p.96

citizen] interactions and bring them more in line with expected public service values.<sup>52</sup> Empathy includes four key elements: (1) the ability to see the world as others' see it, (2) to understand another's current feelings, (3) to remain non-judgmental, and (4) be able to communicate understanding of another's feelings.<sup>53</sup> While these elements are important to understand empathy in broad terms, Dolamore differentiates between 'stepping into another's shoes' and reacting to this emotional state.<sup>54</sup> For empathy to occur, the information obtained from the imaginative process must be utilized to communicate understanding back to the other individual and to generate a reaction in line with the information obtained.<sup>55</sup> In this way, empathy starts as an internal process and culminates with an active response. The combined layers of an internal process and an active response is also what makes empathy different from sympathy, and other one-dimensional activities which are comprised in 'pseudo empathy' or a 'self-oriented perspective taking'.<sup>56</sup>

Empathy can be thus rational (*recognizing the need to reason differently*), emotional (*feeling empathy*) or behavioral (*acting in an empathetic way*). As an emotional skill, empathy means that a person can truly understand or feel the situation of another.<sup>57</sup> Emotional empathy can also encompass 'the ability to recognize, perceive, feel, and act on the emotional state of another person'.<sup>58</sup> While the emotional and behavioral dimensions may overlap, they also differ greatly. The passive ability to observe and appreciate the other differs considerably from the requirement to feel or act upon someone else's emotional state. References to empathy in the public administration literature suggest it is a fuzzy and context-dependent concept. For many recipients of empathy, empathetic behavior may suffice to make them feel 'seen and heard,' even if the administrative decision remains unchanged. This is because empathy primarily focuses on the experience rather than the outcome. Thus, incorporating empathy as a public value is not necessarily about altering the outcomes of citizen-government interactions but about enhancing the experience to better meet citizens' needs and promote values such as fairness and equality.

In public service, the concept of empathy has emerged as a critical pillar for effectively navigating the complexities of discretion while upholding core public values.<sup>59</sup> Empathy transcends the boundaries of bureaucracy and resonates deeply with the principles of fairness, equity, and the responsibility of government agencies to serve all citizens. Empathy is also listed as one of the

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<sup>52</sup> Edlins & Dolamore's, 2018, p. 301)

<sup>53</sup> Edlins & Dolamore, 2018, p. 302

<sup>54</sup> Dolamore, 2021

<sup>55</sup> Wiseman, 1996

<sup>56</sup> Coplan, 2011, p. 40

<sup>57</sup> Guy et al., 2008

<sup>58</sup> Batson, 2009 cited in Zanetti & King, 2013

<sup>59</sup> Molina & McKeown, 2012

many public service values.<sup>60</sup> Guy, Newman, & Mastracci (2008) define empathy, in the context of public service, as ‘the ability to understand and appreciate the citizen’s situation and respond accordingly,’ but also suggest that it is usually paired with the active suppression of street-level bureaucrat’s ‘own emotions while simultaneously expressing an alternate emotion.’<sup>61</sup>

As a public value, empathy can serve as the bridge between the institutional machinery of government and the lived experiences of the people it serves. When public servants practice empathy in their interactions and decisions they can “make compensatory adjustments for known distinctions between self and others.”<sup>62</sup> In this context, empathy can simply consist of small changes to public action such as using empathetic communication that expresses appreciation for the citizen’s circumstances or voices sympathy for the negative outcome of the result. For example, for several years, Dutch researchers applying for grants offered by the Dutch Science Organization (NWO) would receive an email stating that ‘if their application number was not among the list of the awarded grants, they had not been selected for funding’. Applying for scientific funding is a stressful and time-consuming endeavor that can be career changing.<sup>63</sup> Although it is obvious that this public authority cannot award grants to all researchers and its human resources are limited, NWO could have adapted its communication to those individuals that had made serious efforts but were not funded. In the meantime, NWO has indeed done so. Communication with scientists has improved during and immediately after the pandemic, and researchers were, for instance, able to disclose if this extraordinary period had affected their careers. This measure, even though unlikely to change the course of the grant evaluation process, can be seen as a step towards more empathetic communication with citizens. Sentences such as ‘We appreciate the effort’ would probably be appreciated by the researchers whose proposals are rejected.

The call for greater empathy within the public service has echoed not only in academic circles but also in the highest echelons of government. In the United States, President Barack Obama and Justice Sonia Sotomayor have, for example, underlined the critical role of empathy in the case law of the Supreme Court.<sup>64</sup> Their discussions shed light on the notion that empathy is not merely a personal quality but a fundamental requirement for those entrusted with the responsibility of interpreting and upholding the law.

Furthermore, empathy is a public value that can be used to ‘tame politics,’ as exemplified by the 2013 government shutdown in the United States, where elected officials in Congress display a

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<sup>60</sup> Box, 2014; Lewis & Gilman, 2012

<sup>61</sup> Guy, Newman, & Mastracci, 2008, p.66

<sup>62</sup> Steinberg, 2014

<sup>63</sup> While the researchers authoring this paper and the book in which it will be published, are funded by the Dutch Science Organization, this example is entirely independent from the PI’s experience with NWO grant applications.

<sup>64</sup> Baker, 2010

strong lack of empathy toward their constituents.<sup>65</sup> Empathy, as a public value, can contribute to good administration, avoiding that the suffering of the public is forgotten due to political or technocratic pressures. Furthermore, empathy can contribute to a solution to these vulnerabilities created by the digitization of government, bridging the digital divide and ensuring that the human element remains at the core of governance.

### 3.2. Empathy as Good Governance

Empathy can be understood as a public value to further good governance and, in so doing, ensure that public authorities also promote the principles of good administration. We focus on a selected number of aspects of good governance: innovation, professionalism, effective communication and meaningful interaction with government.

#### *1) Innovative governance*

Empathy can be used to promote innovative governance and reshape design thinking within government. Design thinking is a framework that places empathy at its core within the innovation process.<sup>66</sup> This approach, defined as ‘an array of mindsets, methods, and practices to help people become more productive, creative, and innovative,’ is considered a powerful tool for addressing complex problems and meeting customer needs.<sup>67</sup>

Moreover, Chowdhury and Beresford have delved into the transformative power of empathy within the context of innovation in government in Bangladesh.<sup>68</sup> Their work showcases how the Access to Information (a2i) program utilizes empathy to fuel progress and creativity. Their exploration highlights the strategic deployment of empathy as a catalyst for fostering innovation and change, offering valuable insights into how empathetic approaches can drive positive societal transformations in diverse settings. In the context of Bangladesh's public administration, a remarkable transformation has been underway through the Empathy Training Programme (ETP), an initiative designed to instill empathy among street-level bureaucrats. This program has successfully reshaped the once-prevalent paternalistic and colonial mindset that characterized public service. At the heart of the ETP methodology lies a powerful approach: senior public servants assume the role of ‘mystery shoppers’, stepping outside their ministry or area of expertise

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<sup>65</sup> Congressional Record, 2013

<sup>66</sup> Clarke and Craft, 2019; McGann et al., 2018; Lewis et al., 2020

<sup>67</sup> Roper et al., 2016; Pfothenauer et al., 2019

<sup>68</sup> Chowdhury and Beresford, 2017

to engage with citizens' access points for services. This immersive experience places them squarely in "citizens' shoes," compelling them to navigate the intricate web of public systems without any official or intellectual privileges. Through this first-hand encounter, participants cultivate a discerning and empathetic perspective that they subsequently apply to scrutinize their own agency's delivery systems.

## *II) Empathy as Caring, Meaningful, and Effective Communication*

Citizen-friendly communication as well as the duties of care and diligence are essential elements of good administration or good governance. Empathic communication within public organizations is particularly important to build and sustain trust in government, particularly at times of crisis. This has also been explained from an organizational theory perspective. According to this theory, crisis management performance is intrinsically linked to governance capacity and governance legitimacy.<sup>69</sup> The current backdrop of crises, particularly those witnessed in 2020-2022, has accompanied a period of unprecedented uncertainty and transboundary challenges, significantly impacting the governance capacities of many public organizations. Thus, improved citizen-government relations through the implementation of empathy as a public value would also be meaningful to improve communication between government and citizens but also within public organizations.

During crises such as the COVID-19 pandemic and the ongoing uncertain moments resulting from the wars in Ukraine and Israel, the sense of care and responsiveness that individuals experience are equally important as the services themselves. This intrinsic human need underlines the significance of maintaining meaningful, people-to-government relationships, particularly during crises, as advocated by Christensen et al.<sup>70</sup> In the words of Guy, "for governing to be effective, citizens must feel good about those who govern and how governing happens."<sup>71</sup> Whether grappling with a public health crisis or navigating the complexities of a social-political crisis, people seek not only to witness a response but to feel that their concerns are being acknowledged. In this light, empathy emerges as a symbol in the quest for both effective governance and the preservation of the essential bonds that tie public organizations and the citizens they serve. The citizen-state interaction is central in public administration. Edlins and Dolamore have explained how showing

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<sup>69</sup> Christensen et al., 2016

<sup>70</sup> Christensen et al., 2016

<sup>71</sup> Guy, 2019, p.4

empathy can facilitate meaningful engagements between public officials and citizens.<sup>72</sup> Empathy enables these interactions to genuinely understand citizens' needs and aspirations. This perspective particularly resonates with adept administrators who have drawn from the organizational development literature, incorporating concepts like teambuilding, motivational programs, and leadership development. Thus, organizational development has long recognized the fundamental necessity for individuals to sense that they are genuinely understood in their interactions.<sup>73</sup>

Furthermore, Ponomariov and McCabe challenge the conventional dichotomy between professionalism and empathy in public service, arguing that empathic communication should be regarded as professional.<sup>74</sup>

### *III) Equal Treatment, Fairness, and Justice*

Empathy can also be interrelated to other public values and fundamental rights such as fairness and equal treatment. Contemporary discourse among scholars widely supports the view that treating all citizens equally can perpetuate rather than alleviate inequality.<sup>75</sup> Emphasizing on substantive equality, Fineman advocates for a departure from a formal (or legal) equality model, which mainly focuses on an anti-discrimination mandate, to an approach in which substantive equality is achieved by addressing underlying unjust power and opportunity structures that contribute to inequalities.<sup>76</sup> This means that sometimes unequal treatment is required to achieve equitable outcome and equal opportunity, as some individuals are subject to structural disadvantage and impaired opportunity structures.<sup>77</sup> Thus, the focus lies in the equality of outcomes and opportunity than solely on the equality of treatment.<sup>78</sup>

Aligned with these perspectives are conceptualizations of justice, such as Aristotle's theory distinguishing between compensatory and distributive justice.<sup>79</sup> While compensatory justice refers to the absolute equality between goods, distributive justice refers to the need for an equal outcome, which might require unequal treatment. Furthermore, administrative justice refers to just outcomes in administrative decision making and is comprised of procedural fairness and substantive justice.<sup>80</sup> Thus, the effect of the decision making, which determines whether ultimately a benefit or harm

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<sup>72</sup> Edlins and Dolamore, 2018

<sup>73</sup> Edlins and Dolamore, 2018, p.5

<sup>74</sup> Ponomariov and McCabe, 2017

<sup>75</sup> Braveman et al., 2018; Berry, 2016; Shakespeare, 2006; Fineman, 2014

<sup>76</sup> Fineman, 2012, p.638

<sup>77</sup> Fineman, 2008, p.16; Fineman, 2014, p.626

<sup>78</sup> Fineman, 2014, 619

<sup>79</sup> Radbruch, 1932

<sup>80</sup> Adler, 2003, 324



has occurred to the individual is vital in determining administrative justice.<sup>81</sup> Consequently, when the public administration lacks empathy and fail to comprehend underlying disadvantages, administrative justice is compromised.<sup>82</sup>

Lastly, empathy can also be required by the duty of care or diligence, an important principle of good administration, codified both at national and European level.<sup>83</sup> Empathy can help ensure that public authorities fulfill the duty of care in a better way, providing explanations that are adapted to the citizens standing in front of the public authority and the specific circumstances they are facing.

The automation of governments is often justified by the perceived advantages of algorithmic consistency, alleged objectivity, and rationality in automated systems. However, their inability to account for individual circumstances limits the empathetic assessments of citizens' unique positions. The seemingly fair allocation of resources falls short of achieving substantive equality because some individuals require human judgment, contextual evaluations, and consideration of their specific circumstances due to their vulnerable positions resulting from societal power and opportunity structures. In this context, empathy emerges as a crucial tool to secure equitable outcomes beyond the mere guarantee of equal treatment.

#### **4. Empathy: Potential shortcomings**

We have pointed out the potential of empathy as a public value, especially at a time when the digital government's human dimension is diminishing. However, as these notions can be subject to critique, this section draws attention to potential shortcomings of making empathy a key public value of digital government.

Edlins contends that within the domain of public administration, a notable disconnection exists concerning empathy.<sup>84</sup> Although it is often portrayed as a desirable quality, there is a lack of agreement regarding its precise definition and how to practically apply it within administrative settings. Moreover, despite empathy's inherent importance to the field, it has neither been explicitly recognized nor explored as a dedicated research focus on its own right. We offer here an overview of commonly outlined shortcomings of adopting empathy as a public value.

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<sup>81</sup> Adler, 2003, 324

<sup>82</sup> Adler, 2003, 344

<sup>83</sup> Hofmann, 2020, p.87

<sup>84</sup> Edlins, 2021, p.3

### *I) Inconsistencies and Discrepancies*

First, in the context of government transactions, empathy may be seen as a source of potential inequalities, inconsistencies, and discrepancies. When empathy is equated to forgiveness (*e.g.*, forgiving first-time mistakes to citizens who do not master the national language), it could open the door to new inequalities and abuses. While *ignorantia juris non excusat*<sup>85</sup> is perhaps an unempathetic principle, it guarantees legal certainty and formal equal treatment. At the same time, in low-trust societies, where citizens associate government with abuses of power and excessive discretionary powers, empathy may easily be associated with yet another instrument to disguise irregularities, nepotism and maladministration. Furthermore, empathetic decision-making can be quickly equated with emotional or opinion-based decision-making which is not evidence-based analysis and thus increases the risk of mistakes, inaccuracies, and it could undermine administrative legal systems in the long run. Moreover, inconsistencies could also arise when seeking to determine who is more deserving of empathetic treatment. This would entail an ethical assessment, which may be a difficult task for civil servants to take on, ultimately possibly resulting in new injustices. However, despite the risk of inconsistencies and discrepancies, our proposal for empathy as a public value rather depicts a broader idea of empathy that guides public decision making and policy choices instead of being applied in a narrow and single-case manner.

Furthermore, the emphasis on the individual can challenge the feasibility of digital government and its efficiency. Due to significant government cuts over recent decades, many public service areas are understaffed, leaving public servants without the capacity for empathy in their decision-making. Overwhelmed by heavy workloads and limited resources, public servants may seek to expedite decisions, resorting to simplifications and standard policies. While these methods streamline workflow, they can foster bias and 'othering,' ultimately undermining empathy.

### *II) Prioritizing individual cases, missing the systemic ones*

Second, by prioritizing individual cases, the risk of failing to address and reveal more significant systemic issues arises. This may boil down to the fact that the broader perspective is overlooked. Systems approaches in public administration have gained increasing popularity as they allow 'governments to confront problems that traverse administrative and territorial boundaries in a holistic manner.'<sup>86</sup> Thus, the application of a systemic lens to complex and wicked

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<sup>85</sup> Latin for 'ignorance of the law is no excuse', meaning that unawareness of the law does not justify its violation.

<sup>86</sup> OECD, 2017, p.9

problems helps successfully transform public systems.<sup>87</sup> However, focusing on individual levels can make it challenging to discover underlying systemic issues, and tackling those without a holistic, generalized approach can be problematic.

### *III) Empathy as patronizing*

Third, the excessive use of empathy in digital government can have patronizing effects on citizens. While we have clarified the benefits of empathy in this paper, its establishment as a public value bears the risk of disempowering individuals who are vulnerable before digital government. Interestingly, Samani et al. (2022) found a positive correlation between paternalism and empathetic concerns. Thus, they empathize that acting upon empathy can have effects that are opposite to what is intended, undermining individual autonomy.<sup>88</sup> Similarly, Reeves claims that when focusing empathy on specific population groups, such as racial minorities, there is a high risk of paternalism.<sup>89</sup> However, while empathy might limit individual autonomy in some circumstances,<sup>90</sup> it has great potential to overcome vulnerabilities in today's digital government by helping navigate differences within the citizenry.

### *IV) Empathy fatigue*

Finally, empathy as a public value can result in the emergence of 'empathy fatigue', which relates to challenges encountered by frontline workers and civil servants. Stebnicki defines the concept as follows: 'empathy fatigue results from a state of emotional, mental, physical, and occupational exhaustion that occurs as the counselors' own wounds are continually revisited by the client's life stories of chronic illness, disability, trauma, grief, and loss.'<sup>91</sup> Thus, it can be emotionally draining for decision-makers and public servants to apply an empathetic lens to citizens' situations and circumstances. Over time, this exhaustion might impair their ability to sustain compassionate decision-making and impact their mental health.

## **Conclusion**

How do we know how it feels to walk in someone else's shoes if we have never worn shoes that are too tight or too loose? By trying on shoes we have never considered, we embrace the diversity of experiences within our society and seek to understand who citizens truly are, beyond

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<sup>87</sup> OECD, 2017, p.11

<sup>88</sup> Samani et al., 2022

<sup>89</sup> Reeves, 2017

<sup>90</sup> Slote, 2004, p.308

<sup>91</sup> Stebnicki, 2007, p.317

mere data points. Empathy ensures that public bodies recognize when they are placing citizens in vulnerable circumstances and hopefully helps them remedy the situation. When vulnerability results from a set of complex circumstances, empathy, as a public value, enables government to adapt its discourse and actions to the humans it serves, leading to better acceptance of administrative decisions and policies.

Vulnerability theories promote a more meaningful appreciation of the human perspective in today's digital public administration and contribute to our understanding of citizens' unique challenges with government. Referring to the rich body of literature on vulnerability, we built a theoretical framework for understanding vulnerability in the context of digital government based on five approaches. First, we concede with Fineman's universal approach to vulnerability and the notion of the inherently vulnerable and dependent legal subject.<sup>92</sup> This allows us not to overlook the needs and struggles of citizens who do not fall into common vulnerability categories and simultaneously moves away from particularizing, victimizing and stereotyping vulnerability approaches. Second, we base our theoretical understanding of vulnerability on the notion that it can be situational, making it context-specific and dependent on various other factors. Third, we apply a layered and intersectional lens to vulnerability, underlining the concept's multi-dimensional and elusive nature. Thus, the interplay of non-hierarchical layers can exacerbate or mitigate the vulnerabilities of citizens in the context of digital government. Fourth, we concede with the notion that asymmetric power relations and dependencies inflict vulnerability. Thus, asymmetric citizen-government relations trigger administrative vulnerability. Notwithstanding, citizens who are highly dependent on government services have a higher risk of being harmed by digital public administration. Finally, we claim that administrative vulnerability is an externally inflicted phenomenon, theoretically founded on pathogenic vulnerability. In this context, unequal opportunity and power structures are critical vulnerability drivers.

While administrative vulnerability depicts a new problem of today's digitalized and automated public administration, establishing empathy as a public value provides a meaningful pathway to address this issue. This chapter argued that empathy within the public administration bears the potential to significantly enhance governance practices. Its integration can foster innovation and prompt a reevaluation of existing systems that perpetuate inequality. By embracing empathy as a core public value, administrations can create more compassionate, meaningful, and impactful communication channels, thereby improving citizen-government relationships. These positive interactions have the potential to restore trust in public institutions. Moreover, it would

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<sup>92</sup> Fineman, 2008

bring back a human dimension to a public administration that is characterized by increasing datafication and automation. In this context, this chapter contends that empathy can serve as a powerful instrument in advancing substantive equality and establishing equitable opportunity frameworks. Tailored approaches to address the unique circumstances of individuals can ensure fairness and inclusivity within governance structures. In a landscape dominated by efficiency and consistency, prioritizing empathy offers a pathway to rehumanize public administration and highlight its commitment to serving the diverse needs of society.

Despite potential shortcomings, empathy remains a valuable concept as it offers various meaningful opportunities to digital government to improve interactions with citizens, reduce vulnerability sources or compensate for existing inequalities and burdens. Moreover, many of those points of criticism come down to a micro-level application of empathy. In this chapter, we have argued that empathy should be a guiding value in today's digital public administration as a whole, informing policy choices and allowing for tailored assessment when required. Empathy allows a more humanized and positive, compassionate and considerate attitude from the government to the citizen, ultimately improving government-citizen dynamics and combatting administrative vulnerability.

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