

# ARTICLES

## Admin

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*This Article concerns a relatively unseen form of labor that affects us all, but that disproportionately burdens women: admin. Admin is the office type work—both managerial and secretarial—that it takes to run a life or a household. Examples include completing paperwork, making grocery lists, coordinating schedules, mailing packages, and handling medical and benefits matters.*

*Both equity and efficiency are at stake here. Admin raises distributional concerns about those people—often women—who do more than their share of this work on behalf of others. Even when different-sex partners who both work outside the home aspire to equal distribution of household labor, it appears that the family's admin is more often done by women. Appreciating the unequal distribution of this work helps us to see the costs of admin for everyone. These broader costs include wasted time, lost focus, and interpersonal tension. Though the types of admin demands that people face vary by gender, class, age, and culture, admin touches everyone.*

*The Article makes this form of labor more salient, both analytically, through an account of its features and costs, and practically, through proposals for public and private interventions. Admin is “sticky.” It frequently stays where it lands, whether with female partners of men, one member of a same-sex couple, an extended family member managing another's affairs, or parents of some adult children of the so-called millennial generation. By demanding time and attention, admin impinges on leisure, sleep, relationships, and work.*

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*Admin warrants a range of possible regulatory responses. Government should create less admin and possibly do more kinds of admin for people. Regulatory infrastructure should protect people’s time and spur technological innovations that reduce admin. Courts should allow parties in civil suits to claim damages for lost personal time. These and other initiatives should help to make admin more salient as a legal and cultural matter and to reduce its burdens overall. Reducing admin should benefit everyone and, in turn, disproportionately benefit those who bear its greatest burdens.*

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INTRODUCTION

The complexity of modern life generates a characteristic form of labor that this Article calls *admin*. The growth of the administrative state, on the public side, and the expanding technology of communication and consumerism, on the private side, spur individuals to spend substantial time and energy managing the administrative details of their lives. Admin includes the work we do to administer our own individual lives and also, for many people, the lives of others. This form of work raises important questions of efficiency—that is, how much time is spent on this labor and can that time be reduced for everyone? Admin also raises questions of distribution—namely, who is spending time on these tasks within the family and is that allocation transparent and fair?

By *admin*, I mean all of the office-type work that people do to manage their lives, work that is generally thought to be a means to an end, rather than an end in and of itself. Examples of admin include setting up utilities, scheduling doctors’ appointments, opening bank accounts and paying taxes, ordering new supplies and returning broken ones, arranging transportation, and applying for benefits or government-issued identification. Distinct from traditional chores, like cooking and cleaning, the category of admin comprises both the managerial and the secretarial side of household labor.

Though consisting mainly of small tasks, admin has big consequences. Consider home mortgage refinancing. One study estimates that approximately twenty percent of U.S. households that could benefit from refinancing fail to do so—in part for reasons as simple as neglecting to open a letter or make a phone call—resulting in a foregone savings of 5.4 billion dollars.<sup>1</sup> Admin not only

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1. Benjamin J. Keys et al., *Failure to Refinance* 19 (Nat’l Bureau of Econ. Research, Working Paper No. 20401, 2014), available at <http://www.nber.org/papers/w20401.pdf>. The authors found that, of eligible homeowners who failed to follow up on a letter inviting them to consider refinancing, more than half the participants reported that they were either “too busy” or did not get around to calling the loan officer, or that they never even opened the letter. See *id.* at 18.



takes time but also influences life outcomes, as studies of financial aid suggest. By one estimate, the Free Application for Federal Student Aid (FAFSA) will cost families one hundred million hours this year,<sup>2</sup> and a recent study shows that pro bono assistance with completing the FAFSA makes students more likely to apply to—and attend—college.<sup>3</sup>

Admin affects people differentially by age and especially at some junctures in life. Disability and illness typically come with substantial admin burdens (what we might call *disability admin*), and the admin work created by the death of a significant other, such as a spouse or parent, can practically overwhelm a person already weighed down with grief (*death admin*). Happier events can also involve substantial labor of this type (think *wedding admin* or *bat mitzvah admin*).

Admin burdens are heavily shaped by class and culture. A person's financial means will influence whether her admin burdens consist of calling references for a prospective housekeeper or negotiating excess charges on a cable bill, on the one hand, or filing paperwork for bankruptcy or applying for government benefits, on the other. Demographics and discriminatory laws also influence a person's admin profile. Prior to *Obergefell v. Hodges*, same-sex couples who lived in states that would not marry them needed to spend substantial time and resources with lawyers if they wanted to access the subset of marital rights and responsibilities available by contract;<sup>4</sup> transgender individuals must navigate a complex matrix of demands for documentation of their identities.<sup>5</sup>

Admin presents special challenges in relationships. Because admin is often not seen as labor, partners rarely divvy up this work in a transparent manner—even partners who explicitly allocate housework and, where applicable, child-care. Feminists have illuminated several kinds of labor that have been largely

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2. SUSAN M. DYNARSKI & JUDITH E. SCOTT-CLAYTON, BROOKINGS INST., COLLEGE GRANTS ON A POSTCARD: A PROPOSAL FOR SIMPLE AND PREDICTABLE FINANCIAL AID 8 (2007). Though the exact figures are disputed, see Jeffrey S. Solochek, *A Lot of Time, but the Math Is Off*, POLITIFACT (Nov. 20, 2007, 12:00 AM), <http://www.politifact.com/truth-o-meter/statements/2007/nov/20/hillary-clinton/a-lot-of-time-but-the-math-is-off>, the sheer number and relative complexity of questions included on the FAFSA suggest that completing the application is a time-consuming enterprise, see DYNARSKI & SCOTT-CLAYTON, *supra*, at 6 tbl.2 (noting that there were 127 questions on the 2006–07 FAFSA, 72 of which were required for the computation of aid); see also Susan Dynarski & Mark Wiederspan, *Student Aid Simplification: Looking Back and Looking Ahead*, 65 NAT'L TAX J. 211, 217 tbl.1 (2012) (noting that there were 116 questions on the 2011–12 FAFSA, 66 of which were required for the computation of aid).

3. Eric P. Bettinger et al., *The Role of Simplification and Information in College Decisions: Results from the H&R Block FAFSA Experiment 3–4* (Nat'l Bureau of Econ. Research, Working Paper No. 15361, 2009), available at <http://www.nber.org/papers/w15361.pdf> (“[I]ndividuals who received assistance with the FAFSA and information about aid were substantially more likely to submit the aid application. . . . [and] enroll in college.”).

4. *Obergefell v. Hodges*, No. 14-556 (U.S. June 26, 2015). This is not to say unmarried couples can effectively approximate marriage through contract, since many of marriage's legal rights and responsibilities are not available by contract. See, e.g., *Goodridge v. Dep't of Pub. Health*, 798 N.E.2d 941, 955–56 (Mass. 2003); Cass R. Sunstein, *The Right to Marry*, 26 CARDOZO L. REV. 2081, 2090–92 (2005).

5. See Dean Spade, *Documenting Gender*, 59 HASTINGS L.J. 731, 760–75 (2008).



invisible and that disproportionately burden women.<sup>6</sup> Some of these categories of labor overlap with admin but none of the existing categories captures admin in its entirety.

Admin's particular location in women's lives, and in all our lives, inspires new terminology. Working women's responsibility for the household has come to be known as the "second shift" because this work is completed after a long day's paid work in the marketplace.<sup>7</sup> Admin is best understood, more precisely then, as the "parallel shift." Admin so often takes place in the interstices of life—through multitasking or in stolen moments between other endeavors—that it is like another job that runs alongside our work, leisure, and sleep. The parallel shift operates in tandem with the rest of life and thus imposes costs across the range of our experiences.

The disproportionate effects of admin on women serve here as a kind of "miner's canary" for the broader social costs of admin for everyone.<sup>8</sup> That women do more admin raises distributional concerns because admin is, by definition, a means to an end. It is something that few people consider valuable in its own right. Women's heavier admin burden, particularly if it is unwanted or unacknowledged, warrants a response. Moreover, admin produces distributional inequities not only for women, but also for people of many stripes; because admin is "sticky," it tends to stay where it lands. Ultimately, the unequal allocation of admin highlights a broader concern: how much time everyone spends doing—or facing the consequences of avoiding—unappealing administrative labor just to manage our own lives. The feminist literature thus far has not linked the problem of the gendered distribution of admin work with the onerous life admin burdens that cut across gender lines, and therefore has not yet recognized the possibilities for regulatory and structural responses to these pervasive challenges of modern life.

Thus, different lives require different kinds of admin, arising from a varied mix of public and private sources. But admin demands of one kind or another

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6. One such form of previously invisible labor, for example, is "kin work." See, e.g., Micaela di Leonardo, *The Female World of Cards and Holidays: Women, Families, and the Work of Kinship*, 12 SIGNS 440, 442–43 (1987) (describing kin work as including "the creation and maintenance of kin and quasi-kin networks" and the process of "[m]aintaining . . . contacts, [a] sense of family"). The extant category with the most overlap with admin is "household management," though it represents only one subset of admin, as discussed later. For discussion of kin work, household management, and other relevant categories, see *infra* notes 38, 45, 83, 123 and accompanying text.

7. See ARLIE HOCHSCHILD & ANNE MACHUNG, *THE SECOND SHIFT: WORKING FAMILIES AND THE REVOLUTION AT HOME* 4 (1989) (recognizing that "[m]ost women work one shift at the office or factory and a 'second shift' at home"); see also *infra* note 78 and accompanying text (discussing the popularization of Hochschild's term). The second shift is also referred to, by some, as the "double burden." See, e.g., Michael Bittman & Judy Wajcman, *The Rush Hour: The Character of Leisure Time and Gender Equity*, 79 SOCIAL FORCES 165, 166 (2000) (observing that the phenomenon of "women . . . simply add[ing] a shift of paid employment to their existing responsibilities for housework and child care" has been described as both the "double burden" and the "second shift").

8. Cf. LANI GUINIER & GERALD TORRES, *THE MINER'S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* 116–19 (2002) (discussing race as a lens through which to identify broader societal problems).



affect virtually everyone above a certain age.<sup>9</sup> This labor can consume substantial amounts of our time and energy, often at otherwise challenging or joyful moments in life. Admin therefore warrants elaboration, analysis, and, in some contexts, regulatory attention.

Government creates a sizable portion of this admin: The federal government alone required 9.45 billion hours of paperwork in fiscal year 2013.<sup>10</sup> We know this because the federal government is also ahead of most sectors of society in attempting to track and contain the admin costs it imposes. The Paperwork Reduction Act (PRA) requires agencies to justify any information collection in terms of the need for the information and the means adopted.<sup>11</sup> Paperwork is only one type of admin labor, but the PRA is nonetheless remarkable for its attention to costs so rarely acknowledged: the costs of admin.

Private law has no equivalent to the PRA. On the contrary, civil suits typically exclude damages for lost personal time.<sup>12</sup> Despite the truism that time is money,<sup>13</sup> individuals generally have no recourse if companies or other individuals burden them with time-consuming admin. Far from evincing sympathy, the few courts to consider questions in this vein seem *not even to see* the harm involved.<sup>14</sup> This is, I suggest, an artifact of admin's relative invisibility as a form of labor.

The few laws that do permit individuals to recover against the state or against one another are a start.<sup>15</sup> Yet allowing recovery for lost personal time is just one example of the legal and structural responses needed here. Government should work systematically to police and incentivize private, as well as public, entities to reduce the admin burdens that they impose. What will help in the family? Direct legal intervention in the distribution of familial labor is neither appealing nor feasible. But the state can help to make admin more salient by recognizing its value, for instance, in marital property determinations and custody proceed-

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9. On the deferral of these demands for the so-called millennial generation, see *infra* note 139.

10. OFFICE OF MGMT. & BUDGET, INFORMATION COLLECTION BUDGET 2 (2014), *available at* [https://www.whitehouse.gov/sites/default/files/omb/infoereg/icb/icb\\_2014.pdf](https://www.whitehouse.gov/sites/default/files/omb/infoereg/icb/icb_2014.pdf). Note that OMB's estimate of 9.45 billion hours includes paperwork burdens on businesses, non-profits, and other organizations, in addition to individuals and households, see 44 U.S.C. § 3501(1) (2012), such that only a fraction affects personal admin. Empirical work conducted in connection with this Article suggests that approximately twenty-one percent of the information collection requests reviewed and concluded in calendar year 2013 by the Office of Information and Regulatory Affairs (OIRA) affected personal admin. For further discussion on personal admin burdens imposed by government agencies, as well as on the methodology used to conduct this empirical work, see *infra* notes 235 and 248, respectively.

11. See *infra* notes 236–53 (discussing the Act and recent implementation efforts).

12. See David Frisch, *It's About Time*, 75 TENN. L. REV. 757, 758–59 (2012). But see Leonard E. Gross, *Time and Tide Wait for No Man: Should Lost Personal Time be Compensable?*, 33 RUTGERS L.J. 683, 685 (2002) (noting exceptions to the general rule).

13. Time is, in fact, unlike money in multiple ways. See, e.g., TODD D. RAKOFF, A TIME FOR EVERY PURPOSE: LAW AND THE BALANCE OF LIFE 163–64 (2002) (noting that time “is not just like money” and discussing its “many facets,” especially allocation, coordination, rhythm, and texture).

14. See, e.g., *In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 613 F. Supp. 2d 108, 134 (D. Me. 2009); see *infra* text accompanying note 307.

15. See *infra* text accompanying note 301.



ings, as a few courts have done. More concretely, state and local governments have made limited inroads into doing admin *for* people, though such initiatives are not understood in these terms. More could be done in this direction. Structurally, though, the most promising path to addressing admin distribution will be to confront the admin problem for everyone. Reducing overall admin should have disproportionate benefits for those who do it most. Thus, the miner's canary operates as a chiasmus: A problem of gender distribution sets into relief a problem that affects everyone, and addressing the problem for everyone should particularly reduce the distributional inequities.

Recognizing that admin has costs does not tell us whether changing particular laws to reduce admin is a good idea.<sup>16</sup> Whether a particular form of admin should be reduced, by law or other means, depends on multiple inputs and considerations. The costs of admin are only one such input. Two aspects of the way forward are clear, however. First, we need to start asking the "Admin Question"—that is, we need to ask how admin may be influencing the effectiveness of any social policy or personal project. Second, in order to ask that question across contexts, we need to recognize and understand admin and its pathways.

This Article therefore aims to make admin more salient, both analytically, by developing an account of its features and costs, and practically, by identifying a range of possible public and private interventions. The Article comes in four parts. Part I defines admin and outlines its key features. Part II explores its significance and consequences, focusing first on distribution and then on efficiency. This Part identifies the features of admin that make it particularly sticky, and thus prone to distributional inequities across relationship types. Part III offers a framework for recognizing the role admin plays in social policy and for addressing admin through law. Part IV considers several obstacles to change in this area, including the ways that some entities and individuals profit from admin.

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A caveat before beginning: Admin may initially seem a trivial topic. This is part of its dangerous logic. By appearing to be small and unimportant, admin rarely commands our full attention or inspires sustained protest. But anyone who is considering enrolling in an insurance plan,<sup>17</sup> buying a consumer item,<sup>18</sup> planning a wedding or party,<sup>19</sup> moving to another state or country,<sup>20</sup> having a

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16. For a discussion of why admin may be difficult to reduce, see *infra* Part III.

17. See, e.g., Robert Pear et al., *From the Start, Signs of Trouble at Health Portal*, N.Y. TIMES (Oct. 12, 2013), <http://www.nytimes.com/2013/10/13/us/politics/from-the-start-signs-of-trouble-at-health-portal.html> (noting some of the early difficulties faced by individuals seeking to purchase insurance on HealthCare.gov).

18. See *infra* text accompanying notes 279–84.

19. See *infra* text accompanying notes 38–43 and note 64.

20. See *infra* text accompanying notes 64–67, 73.



child,<sup>21</sup> or applying for college or financial aid<sup>22</sup> is heading down a road lined with the admin demands that accompany that decision. Each path will involve choices, conscious or not, whether to do admin, avoid admin, or redistribute admin to someone else. These are decisions about how we spend our time and about what demands we place on others' time. Few things could be more important.

### I. DEFINING THE CATEGORY

Whether the labor of life actually takes less time than it used to, an increasing proportion of that time seems to be spent in admin tasks.<sup>23</sup> The complexity of modern life entails wide-ranging admin costs to individuals.<sup>24</sup> The growth of the administrative state and its accompanying demands for consistent documentation of citizens' needs and identities require regular acts of compiling and transferring personal information.<sup>25</sup> The growing market share of online shopping means, for many people, fewer trips to the store and more time spent online.<sup>26</sup> Expanding consumer choice means more decisions about what products to buy or hope for,<sup>27</sup> and a growing service industry invites those with

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21. See *infra* text accompanying note 72.

22. See *infra* note 60.

23. Cf. BARRY SCHWARTZ, QUEUING AND WAITING: STUDIES IN THE SOCIAL ORGANIZATION OF ACCESS AND DELAY 2 (1975) (“[G]rowing consumption of goods and services . . . have in turn diminished what they were supposed to enrich: there is less real leisure because we now allocate so much of our time to consuming and to maintaining (or working to maintain) what we consume.”).

24. Cf., e.g., Alan Siegel & Irene Etzkorn, *When Simplicity Is the Solution*, WALL ST. J. (Mar. 29, 2013, 8:22 PM), <http://online.wsj.com/news/articles/SB10001424127887324000704578386652879032748> (“In a typical day, we encounter dozens—if not dozens upon dozens—of moments when we are delayed, frustrated or confused by complexity. Our lives are filled with . . . forms we can’t decipher (tax returns, gym membership contracts, wireless phone bills).”); Cass R. Sunstein, *Ten Steps Toward a Simpler World*, WALL ST. J. (Apr. 1, 2013, 12:43 PM), <http://blogs.wsj.com/ideas-market/2013/04/01/ten-steps-toward-a-simpler-world> (“Who is responsible for the pointless complexity of modern life? Much of the fault lies with governments, but the private sector shares blame as well. For every baffling regulatory requirement and infuriating federal form, businesses have produced instruction manuals that no human being can possibly navigate, warnings that seem both senseless and terrifying, and application forms that take hours—even days—to complete.”).

25. See, e.g., Spade, *supra* note 5, at 760–75; Pear et. al., *supra* note 17.

26. Industry experts predict that by 2016 online shopping will total \$327 billion annually, and rise to 9% of retail sales (up from 7% in 2012). Thad Rueter, *E-retail Spending to Increase 62% by 2016*, INTERNET RETAILER (Feb. 27, 2012, 9:52 AM), <http://www.internetretailer.com/2012/02/27/e-retail-spending-increase-45-2016>; see also, e.g., Debashish Chatterjee, *FreshDirect: Expansion Strategy*, in INTERNET RETAIL OPERATIONS: INTEGRATING THEORY AND PRACTICE FOR MANAGERS 165, 166–68 (Timothy M. Laseter & Elliot Rabinovich eds., 2012) (describing the business model of FreshDirect, an online delivery grocery store); *Shopping and the Internet: Making it Click*, THE ECONOMIST (Feb. 25, 2012), <http://www.economist.com/node/21548236> (“Overall, retail sales in America are pretty flat, so the double-digit growth of online sellers is coming at the expense of physical shops.”); *id.* (quoting Chairman and CEO of Macy’s explaining, “It used to be catalogues killing physical stores, then it was TV shopping and now it is online retail”).

27. See, e.g., SCHWARTZ, *supra* note 23, at 1 (“In an age of consumerism we find ourselves spending more time than ever making decisions about what to buy . . . .”); Margaret Wentz, *Complexity Will Destroy Us All*, GLOBE & MAIL (Mar. 25, 2010, 4:58 AM), <http://www.theglobeandmail.com/commentary/>



means to spend time investigating, scheduling, and waiting for services—all of which require time and mental energy, even if the services themselves aim to save time.<sup>28</sup> Increased opportunities to accomplish life tasks remotely, or to outsource them altogether, also demand, for many people, technological and managerial work in place of physical labor.<sup>29</sup> Moreover, in office culture, the (partial) decline of the traditional secretary who handled personal as well as professional matters—in favor of the administrative assistant—means personal admin more often must be handled at home.<sup>30</sup> These changes variously affect only some sectors of society, but their cumulative impact is a growing burden of admin felt by many.

This Part will first define admin and provide examples. It will then set out several key dimensions and contexts for understanding admin, to lay the groundwork for an analysis of admin's challenges and possible legal responses.

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complexity-will-destroy-us-all/article1366072 (“Many of the goods and services designed to make our life easier and more convenient just make it harder and more stressful. . . . Complexity means that many of life’s central tasks and obligations are now beyond the ability of ordinary people to manage on their own.”).

28. See, e.g., SCHWARTZ, *supra* note 23, at 1–2 (“[A]s the product and wealth of a society increase, its population demands more services, most of which are obtained during the nonwork or so-called leisure hours. For these, too, time is expended. Decisions must be made concerning which server or service to use . . . . Accordingly, . . . we make more appointments and waste more time waiting for them to come about.”).

29. See, e.g., Patricia Marx, *Outsource Yourself: The Online Way to Delegate Your Chores*, NEW YORKER, Jan. 14, 2013 (exploring the “possib[ility of] farm[ing] out the activities that never rise to the top of the to-do list”), available at <http://www.newyorker.com/magazine/2013/01/14/outsource-yourself>.

30. As Laura Rosenbury evocatively describes, women held a “tenuous position in the white-collar workplace from the 1890s to the 1960s,” and employers “generally did not view secretaries as workers before the 1970s; instead, they were temporary guests and helpmates from the domestic realm” who took care of men’s personal and professional needs. Laura A. Rosenbury, *Work Wives*, 36 HARV. J.L. & GENDER 345, 352–54 (2013) (recounting this history, building on a variety of sources, in the context of an argument that today’s more egalitarian workplace setting makes room for the cultural phenomenon of the “work wife,” which both partakes of traditional notes of wife and also breaks free of tradition in some respects). “In the early 1970s . . . workplaces started to rename the job ‘administrative assistant’ or ‘office professional,’ to reflect the shifting perception of secretaries.” Annalyn Kurtz, *Why Secretary Is Still the Top Job for Women*, CNNMONEY (Jan. 31, 2013, 8:37 AM), <http://money.cnn.com/2013/01/31/news/economy/secretary-women-jobs>. Anecdotal reports reflect the fact that, in many office settings today, asking administrative assistants to do personal work—or calling them “secretaries” for that matter—are taboo or at least uncomfortable. See, e.g., CONSUMER DUMMIES, THRIVING IN THE WORKPLACE ALL-IN-ONE FOR DUMMIES 396 (2010) (“Sexist terms are strictly taboo . . . . An administrative assistant is not a secretary.”). It is important to note, however, that the shift from “secretary” to “administrative assistant” is partial and varies by office setting; the U.S. Bureau of Labor Statistics does not (yet) recognize them as distinct categories of job, see *Occupational Outlook Handbook: Secretaries and Administrative Assistants*, U.S. BUREAU OF LAB. STATS. (Jan. 8, 2014), <http://www.bls.gov/ooh/office-and-administrative-support/secretaries-and-administrative-assistants.htm>, and one study of legal secretaries reports that 54.5% say they no longer do “personal tasks for their attorneys”—which means that the other 45.5% still do, see Felice Batlan, “If You Become His Second Wife, You Are a Fool”: Shifting Paradigms of the Roles, Perceptions, and Working Conditions of Legal Secretaries in Large Law Firms, in 52 STUD. L. POL. & SOC’Y, 169, 187 (Austin Sarat ed., 2010).



## A. DEFINING ADMIN

Explaining a relatively unseen and diffuse category is not easy. In legal circles, admin has concrete and well-known meanings. In U.S. law schools, “admin” is a familiar term for the course in Administrative Law, which covers the “establishment, duties, and powers of and available remedies against authorized agencies in the executive branch of the government.”<sup>31</sup> Relatedly, the current President’s appointments and staff are often referred to simply as “the Administration.”<sup>32</sup> In everyday usage, the word “administration” means “[t]he action of carrying out or overseeing the tasks necessary to run an organization [or] bring about a state of affairs.”<sup>33</sup> An “admin” is also a popular shorthand term for an administrative assistant—that is, the person who does the typically lower-status portion of the admin work required to run an office.<sup>34</sup>

This Article aims to elaborate a meaning of admin that is less well-known and less often discussed: the office-type work involved in running a life. This section begins by proposing an analytic definition of the term admin, and then illustrates the category through an exemplary list of admin types.

## 1. A Two-Pronged Definition

Admin is best defined by two features. First, admin involves activities typically considered the means to an end, rather than a valuable end in themselves. Second, the means are generally those we associate with office work, rather than the more physical work of traditional chores. This section elaborates these points. No definition of admin perfectly captures the category. The aim here is to identify a social phenomenon, and then to supply a set of parameters that help to illuminate the core of that category. Core cases of admin are things like

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31. *Administrative Law*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/administrative%20law> (last visited Mar. 2, 2014); see also BLACK’S LAW DICTIONARY (10th ed. 2014), available at Westlaw BLACKS (“The law governing the organization and operation of administrative agencies (including executive and independent agencies) and the relations of administrative agencies with the legislature, the executive, the judiciary, and the public.”). On the shorthand for the course, see, for example, David Lat, *Administrative Law for All at Yale!*, ABOVE THE LAW (Jan. 26, 2012, 10:09 AM), <http://abovethelaw.com/2012/01/administrative-law-for-all-at-yale/> (“Some 3Ls who were denied admission into the class were quite upset, since this represented their last chance to take Admin Law.”).

32. See, e.g., *Senator Casey Calls on Administration to Delay SNAP Cuts*, YOURERIE (Feb. 28, 2014, 12:55 PM), <http://www.yourerie.com/news/news-article/d/story/senator-casey-calls-on-administration-to-delay-sna/66414/6EW7AS3hQk2QV8f5qu0DEg> (“U.S. Senator Bob Casey . . . announced that he has sent a letter to the Administration urging the delay of Supplemental Nutrition Assistance Program (SNAP) cuts until the fall.”).

33. *Administration*, OXFORD ENGLISH DICTIONARY, <http://www.oed.com/view/Entry/2541> (last visited Mar. 11, 2015).

34. See, e.g., *What Is the Next Logical Step After Admin?*, INDEED, <http://www.indeed.com/forum/job/Administrative-Assistant/is-next-logical-step-after-admin/t37356> (last visited Apr. 4, 2015) (“I am a great admin, no doubt about it.”). This point about status aims to distinguish the administrative assistant’s work from the manager’s work, which is also part of my definition of life admin. To recognize the typically low status of the administrative assistant is not to deny the importance of that work, but rather to note that that work is often not highly valued as a social or institutional matter, despite its importance to the effective functioning of an office.



paperwork and scheduling appointments or disputing billing problems online or by phone. On the margins, determining whether something is admin involves reasoning by analogy, much as one does in the common-law method of case analysis.<sup>35</sup>

*a. Means to an End.* The term admin is generally applied to activities that must be done in order to achieve some other end. That is, admin consists of those activities for which people value the result, but not the time spent doing the activity. In this way, admin could be understood as a special type of *transaction cost*.<sup>36</sup>

A list of examples will follow shortly, some of which will inspire disagreement. Generally speaking, though, admin involves household activities that *most* people (though not everyone) would be glad to spend less time doing (or even no time at all), if they could get the same outcome. For example, if someone invented a machine that could complete paperwork at the doctor's office or search for childcare just as effectively in one-tenth the time, few would object. By contrast, if you told people that the time they spend with their own children could be done as well in one-tenth of the time, most people would probably be puzzled by the proposal, because we tend to think that the time spent with children itself has a value that is not wholly separable from the quality of what is produced by the labor.

*b. The Kind of Means.* In a sense, most forms of labor are means to an end. Planting vegetables is a means to growing vegetables to eat. So the parameter of means-to-an-end does little to distinguish admin from other kinds of work.<sup>37</sup> This brings us to a second aspect of admin, which is the kind of means involved.

Admin is more akin to office work, whether *managerial* or *secretarial*, than to other kinds of labor. Office work typically involves more organizational than physical labor, as compared to traditional forms of labor like growing food (in the fields), or cooking food (in the kitchen), or building things (in a factory), or caring for people (in a home or school or hospital). In the household, we might distinguish admin from what we typically call "chores."

For this reason, "ordering diapers and other household supplies" online is a kind of admin, but not "grocery shopping" or "shopping for diapers." Moreover,

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35. I thank Todd Rakoff for the conversation that led to this point.

36. Transaction costs are "cost[s] connected with a process transaction, such as a broker's commission, the time and effort expended to arrange a deal, or the cost involved in litigating a dispute." BLACK'S LAW DICTIONARY (10th ed. 2014), available at Westlaw BLACKS; see also R. H. Coase, *The Problem of Social Cost*, 3 J.L. & ECON. 1, 15 (1960) ("In order to carry out a market transaction it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal and on what terms, to conduct negotiations leading up to a bargain, to draw up the contract, to undertake the inspection needed to make sure that the terms of the contract are being observed, and so on. These operations are often extremely costly, sufficiently costly at any rate to prevent many transactions that would be carried out in a world in which the pricing system worked without cost.").

37. I use the terms "work" and "labor" interchangeably in this Article, while recognizing that distinctions between the two have importance to some arguments. See, e.g., HANNAH ARENDT, *THE HUMAN CONDITION* 176–77 (2d ed. 1998).



making the grocery list or figuring out the meal plan for the week—the mental work of obtaining and preparing food—is the managerial side of these activities, and thus falls within the category of admin. Admin, thus defined, consists of household activities of a managerial or secretarial sort that are generally considered means to an end.

## 2. Illustrating the Category

Admin encompasses a wide range of activities, which could be categorized in a variety of ways. What follows is a nonexhaustive list that should illustrate what household admin entails:

- *Completing institutional paperwork*—for example, completing applications for identity documents or public benefits, filling in school enrollment or financial aid forms, and signing liability releases for one's home, kids, or activities.
- *Managing medical matters*—for example, finding doctors, making appointments, completing new patient forms, locating past records, managing insurance claims and appeals, and submitting documentation for income-capped health benefits.
- *Completing and following up on small commercial transactions remotely*—for example, shopping for necessities and communicating with retailers, online or by phone, to replace or obtain compensation for broken or inadequate products.
- *Managing inflow and outflow of paper, goods, and communications*—for example, collecting and sorting mail, opening mail and packages, mailing letters and packages, scanning and sending household documents, answering the phone, and listening to messages and communicating them to others.
- *Keeping track of the quantity and location of supplies in the home*—for example, food, clothing, and staples.
- *Creating shopping lists and, where applicable, ordering supplies remotely*—for example, food, clothing, and staples.
- *Handling finances*—for example, opening bank accounts and credit cards, creating budgets or otherwise managing income and expenses, paying bills, managing a financial aid application process, preparing tax returns directly or through an accountant, choosing and managing a retirement plan, managing any investments, responding to queries about any of these, interacting with bill collectors, and filing for bankruptcy.
- *Managing utilities*—for example, setting up utilities in a new home, paying and disputing bills, coordinating and supervising any service calls, and managing reconnection of disconnected utilities.
- *Keeping track of important documents*—for example, saving, organizing, and finding legal documents—such as contracts, leases, and wills—and official forms of identification—such as birth certificates, social



security cards, passports, and immigration status documentation—as well as other household records.

- *Managing the selection, purchase, upkeep, and sale of any property*—for example, leasing or buying a car or bike, renting or buying a home, obtaining insurance to cover property where necessary, investigating these endeavors, obtaining financing, and doing the associated paperwork.
- *Managing personnel*—for example, identifying, hiring, scheduling, and paying people for housework, childcare, household maintenance and repairs; managing terminations and subsequent obligations like references; and, where applicable, filing any employee paperwork, keeping track of hours, and paying taxes.
- *Maintaining correspondence and gift exchanges*—for example, buying and preparing gifts, keeping track of birthdays and special events, deciding what relationships to maintain and how, helping to connect other people with resources like doctors or babysitters, and writing thank-you notes.
- *Planning special events*—for example, planning birthday parties, holiday celebrations, and special outings.
- *Managing and coordinating schedules*—for example, planning dates and playdates; coordinating work schedules to cover care for children, pets, or other dependents; and generating, researching, and arranging plans for solo or shared leisure time.
- *Arranging transportation*—for example, figuring out best routes, schedules, and fares for public or private transportation, booking travel and lodging, and preparing gear for journeys.
- *Planning for and picking up after emergencies*—for example, deciding whether to create disaster plans, creating such plans, and handling the aftermath of home intrusions (whether by people or pests), such as making police reports or contacting exterminators.

These categories could be grouped very differently. For instance, they could be organized by the type of activity, like filling out forms, rather than by the sphere of life, like medical or taxes or employee management. Alternatively, they could be grouped under broad relational rubrics, such as legal, financial, goods and services, scheduling, and social admin. But the above list, though incomplete, should help to give a picture of the category.

Some of the items on the list—especially giving gifts, planning parties, or writing thank-you notes<sup>38</sup>—are harder to categorize as simply means to an end,

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38. These items, which might be thought of as “social admin,” overlap with Micaela di Leonardo’s kin work concept, *see supra* note 6, although I would extend it to friends and other valued acquaintances. Di Leonardo’s examples of kin work include the following:

[T]he conception, maintenance, and ritual celebration of cross-household kin ties, including visits, letters, telephone calls, presents, and cards to kin; the organization of holiday gather-



since more people probably find value in the process of doing social admin than in filling out forms or finding a suitable doctor. But I tend to think most people would be glad to have these social tasks take less time if they could be done just as well.<sup>39</sup> Moreover, as work in anthropology has importantly shown, gift exchanges are sometimes more obligatory than we like to think.<sup>40</sup> Thus, even for people who very much enjoy giving *some* gifts, few people probably take great pleasure in every gift they give, in light of the reciprocity triggers that can make some gifts feel mandatory and uninspired.<sup>41</sup> Regardless, however, even if pleasure in gift exchanges, party planning, and thank-you notes, the implication would be that the person who values the doing of these activities would not describe the activities as admin.<sup>42</sup> In other words, the person who loves planning parties is likely to disagree with my application of the term admin to party planning, rather than disagreeing with my definition of admin. The same is true for the person who loves planning trips, in general, or any given trip, in particular.<sup>43</sup> For that person or that trip, travel arrangements are an end in themselves, rather than mere admin.

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ings; the creation and maintenance of quasi-kin relations; decisions to neglect or to intensify particular ties; the mental work of reflection about all these activities; and the creation and communication of altering images of family and kin vis-à-vis the images of others, both folk and mass media.

Di Leonardo, *supra* note 6, at 442–43.

39. Cf., e.g., Karen Alpert, *10 Ways Birthday Parties Suck*, SCARY MOMMY, <http://www.scarymommy.com/birthday-parties-suck> (last visited Mar. 25, 2015).

40. See, e.g., MARCEL MAUSS, *THE GIFT: THE FORM AND REASON FOR EXCHANGE IN ARCHAIC SOCIETIES* 73–74 (W.D. Halls trans., W.W. Norton 1990) (1954). (“All in all, just as these gifts are not freely given, they are also not really disinterested. . . . Even in these societies, the individual and the group, or rather the subgroup, have always felt they had a sovereign right to refuse a contract. It is this that gives the stamp of generosity to this circulation of goods. On the other hand they normally had neither the right to, nor any interest in refusing. It is this that makes these distant societies nevertheless related to our own.”).

41. See, e.g., ROBERT B. CIALDINI, *Reciprocity*, in *INFLUENCE: THE PSYCHOLOGY OF PERSUASION* 17–18 (rev. ed. 1993) (“By virtue of the reciprocity rule, . . . we are *obligated* to the future repayment of favors, gifts, invitations, and the like. So typical is it for indebtedness to accompany the receipt of such things that a term like ‘much obliged’ has become a synonym for ‘thank you,’ not only in the English language but in others as well.”); *Thank-You Notes: To Send or Not to Send*, EMILY POST ETIPEDIA, <http://www.emilypost.com/communication-and-technology/notes-and-letters/99-thank-you-notes-to-send-or-not-to-send> (last visited Mar. 25, 2015) (“The rule of thumb is that you should send a written note any time you receive a gift (even a ‘thank you’ gift) and the giver wasn’t there to be thanked in person.”).

42. It is interesting to note that one of the difficult logics of admin is that, to the extent that admin burdens grow great enough that one has to do more tasks in a faster and less inspired or less meaningful way, more of one’s activities—for instance, gift giving, which can fall on either side of the admin line—fall squarely into the admin camp.

43. Some recent work suggests that many people enjoy anticipating trips more than they enjoy going on them. See ELIZABETH DUNN & MICHAEL NORTON, *HAPPY MONEY: THE SCIENCE OF SMARTER SPENDING* 80–83 (2013). This may mean that travel planning, at least when done for oneself and for a vacation, may be admin for only some people or for only some types of trips; alternatively, it may suggest that for some people, vacations are not nearly as enjoyable as they had expected.



## B. DIMENSIONS

Certain distinctions among types of admin are particularly charged or meaningful. As this section explains, understanding these dimensions helps to further define the contours of admin.

## 1. Prestige

Types of admin differ in status. As noted above, admin consists of work generally associated with both secretaries and managers. Thus, some is lower in status, and some higher. Scanning or copying documents and mailing them seems generally lower status than interviewing and hiring household help or managing finances.

This general point about the status of certain activities goes only so far, however, because *who* does an activity can also alter the *status* ascribed to that activity.<sup>44</sup> For example, various feminists have observed that managers in the workplace may be well paid or highly valued for the kinds of complex thinking involved in organizing projects and supervising personnel that (typically) women do to manage their households, yet this kind of work for the household is often cast as trivial or low status.<sup>45</sup> Apart from this broad trend, prestige may also operate in more context-specific ways: Particular communities and particular families may have idiosyncratic valuations attached to particular types of admin. For one family, for instance, the task of planning a family reunion might be low status, whereas for another family, this task might be coveted or even fought over.<sup>46</sup>

## 2. Publicity

Some admin is relatively private (such as filling out forms, stocking supplies, submitting insurance claims, or balancing checkbooks) and some is more public (such as arranging playdates, planning parties, giving gifts, meeting with teachers, visiting doctors, or managing household employees). Public admin activities involve representing oneself or one's family to the community in ways that shape and are shaped by the community's expectations. These interactions may

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44. Cf. *supra* note 34 (noting that these observations about the status of certain activities, for instance the work of administrative assistants as opposed to managers, are not judgments about the actual importance of those activities to a well-functioning office).

45. See, e.g., Joan Williams, *From Difference to Dominance to Domesticity: Care as Work, Gender as Tradition*, 76 CHI.-KENT L. REV. 1441, 1463 (2001) [hereinafter Williams, *Difference to Dominance*] ("Managers get paid good money for management work, yet we tend to erase it when it is done within the household."); Joan Williams, *Erasmus B. Dragon: Inequality Is a Joke* to the New York Times, HUFFINGTON POST (Jan. 9, 2012, 5:12 AM), [http://www.huffingtonpost.com/joan-williams/erasmus-b-dragon-inequali\\_b\\_1080744.html](http://www.huffingtonpost.com/joan-williams/erasmus-b-dragon-inequali_b_1080744.html) [hereinafter Williams, *Erasmus*] ("This kind of management is integral to managing a modern family. . . . [and] household managing is anxious work: after all, managers get paid good money for a reason."); see also *infra* notes 115–17 (citing sources making this argument about the gendering of institutional admin).

46. Cf. *Mister Spiffy Gets Organized*, MISTER SPIFFY'S REUNION PLANNER, <http://family-reunion.com/organize.htm> (last visited Mar. 11, 2015).



in turn affect how the admin is distributed,<sup>47</sup> though awareness of those expectations can also affect more private forms of admin, albeit indirectly.

### 3. Flexibility

Finally, some admin can be done at any time, day or night, in most any place, according to the doer's schedule or preferences.<sup>48</sup> For example, online bill paying, shopping, or scheduling is entirely flexible, so long as the admin doer is wired. Other admin, such as mailing packages or making doctors' appointments by phone, can be done only at particular times or in particular places, following the timelines and demands set by the outside world. This difference may be important to shaping who ends up doing the work or who is better situated to do it, and it may intersect with the prestige element. Flexibility also intersects with waiting time in important ways. "Active waiting," such as queuing, takes up a person's time, preventing her from pursuing other activities; "passive waiting," such as waiting for the arrival of a check, leaves her time relatively unencumbered.<sup>49</sup>

These three dimensions feature in the discussions that follow, with the distinction between *flexible* and *inflexible* admin playing a particularly important role in understanding the problem of admin distribution.<sup>50</sup>

## C. CONTEXTS

How much admin people have to do, and how they feel about it, is shaped by various demographic features. While the next Part will discuss gender in more detail, this section briefly considers other demographic and contextual features that influence the nature and quantity of admin a person will face: namely, age, class, geography and culture, and discrimination.

### 1. Age and Phase of Life

Admin increases at certain junctures in life, and to some extent over time from childhood to adulthood. Challenging life events inspire their own categories of admin: think *disability admin*, *divorce admin*, and *death admin*. Disabled people and their loved ones lament disability admin, though not in those terms.<sup>51</sup> Disability admin can be greatly increased by the architectural and

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47. See *infra* Part II.A.

48. I thank Ariela Dubler for this point.

49. Cf. Gregory M. Rose et al., *On-line Waiting: The Role of Download Time and Other Important Predictors on Attitude Toward E-Retailers*, 22 PSYCHOL. & MARKETING 127, 145 (2005) (finding that active waiting—that is, waiting on a telephone hold—negatively impacts customers' attitudes towards online retailers, whereas more passive waiting—that is, waiting for a download—had no such effect).

50. See *infra* section II.B.4.

51. The closest corollaries include "disability management," which refers to an employer-side "workplace prevention and remediation strategy that seeks to prevent disability from occurring or, lacking that, to intervene early following the onset of a disability, using coordinated, cost-conscious, quality case management and rehabilitation services that reflect an organizational commitment to continued employment of those experiencing functional work limitations." BRUCE G. FLYNN, CORNELL



social environment, so its burdens can help to illuminate the social model of disability—that is, the idea that disability inheres in the interaction between impairment and the surrounding social environment, rather than being an individual medical problem.<sup>52</sup> The admin of divorce, particularly when contested, can completely consume people’s lives for months or years.<sup>53</sup> Registering for benefits available only to seniors is precisely age-related, often centering on age sixty-five. Finally, everyone makes choices about how much death admin to do in preparation for her own death, and those choices affect how much admin survivors will face while mourning a loss.

Happier events are often admin intensive as well. Consider *home buying admin* or *new pet admin* or *birthday party admin* or *wedding admin*. Indeed, nearly all relationships and events could be understood to involve some amount of admin that someone might or must do. Where possible, individuals and families might be wise to ask the Admin Question—to consider how much admin, how onerous the admin, and who will do the admin—for these new endeavors before initiating them.

The range of these examples highlights the extent to which admin could be understood on a life-cycle model. Various forms of admin arise (and sometimes fade away) around life events that are significant in many people’s lives: applying for a driver’s license, applying to college or graduate school, getting

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UNIV., THE ROLE OF DISABILITY MANAGEMENT PROGRAMS IN ADA COMPLIANCE 1 (Susanne M. Bruyère ed., 2001), *available at* <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1030&context=edicollect> (quoting SHEILA H. AKABAS ET AL., DISABILITY MANAGEMENT: A COMPLETE SYSTEM TO REDUCE COSTS, INCREASE PRODUCTIVITY, MEET EMPLOYEE NEEDS, AND ENSURE LEGAL COMPLIANCE 2 (1992)); *see also* Katherine D. Lippa & Valerie L. Shalin, *Sensemaking in Disability Management*, 1 INT’L CONF. ON TECH.-BASED LEARNING WITH DISABILITY 206, 207 (2007). Another corollary to disability admin is “care coordination,” which encompasses “the activities performed to ensure that multiple parties to delivery of health and disability care—including physicians, nurses, therapists, equipment providers, payers, attendants, and others—work[ing] together to deliver needed services, drugs, and equipment.” Karen Hwang et al., *Access and Coordination of Health Care Service for People with Disabilities*, 20 J. DISABILITY POL’Y STUD. 28, 30 (2009). Marjorie DeVault includes a subset of what I am calling disability admin in her writing on “emotion work” in families, under the rubric of “advocacy.” Majorie L. DeVault, *Comfort and Struggle: Emotion Work in Family Life*, 561 ANNALS AM. ACAD. POL. & SOC. SCI. 52, 56–57 (1999) (“In many situations, parents mobilize to support their children’s encounters with outside institutions—work that often requires forceful assertion, patience, and tact. . . . When children have disabilities, child care expands to include not only specialized caregiving but also the work of monitoring the child’s needs and organizing resources to meet those needs. . . . Rannveig Traustadottir . . . found that middle-class mothers, especially, coordinate numerous professionals . . . .” (citing Rannveig Traustadottir, *Disability Reform and the Role of Women: Community Inclusion and Caring Work* (Dec. 1992) (unpublished Ph.D. dissertation, Syracuse University))). Rachel Adams also includes some vivid descriptions of this work in her excellent recent memoir. *See generally* RACHEL ADAMS, *RAISING HENRY: A MEMOIR OF MOTHERHOOD, DISABILITY, & DISCOVERY* (2013).

52. *See* MICHAEL OLIVER, *THE POLITICS OF DISABLEMENT: A SOCIOLOGICAL APPROACH* 11 (1990). The particular impact of the environment will, of course, vary by impairment as well as context. For discussion of the social model of disability, *see*, for example, Elizabeth F. Emens, *Disabling Attitudes: U.S. Disability Law and the ADA Amendments Act*, 60 AM. J. COMP. L. 205, 214 (2012).

53. *Cf.*, e.g., Cathy Meyer, *Don’t Let Divorce Consume Your Life*, FIRST WIVES WORLD (Feb. 22, 2013, 11:53 AM) <https://www.firstwivesworld.com/index.php/experts/item/4207-dont-let-divorce-consume-your-life>.



married, giving birth, managing children's education, caring for aging parents, getting divorced, getting sick, preparing for death. The next section offers a brief look at who faces what kind of admin burdens, as well as some key dimensions of admin.

## 2. Class

Admin is a problem for everyone, but socioeconomic status is particularly important in defining a person's unique admin load. It might seem that admin is really a rich person's problem; in some ways, the demands of admin on a person's time increase as the person's resources increase. The wealthier person likely has more trips to plan, investments or retirement accounts to manage, health insurance and out-of-network care options to submit to. The wealthier person may spend time hiring and managing people to help carry out tasks such as housework and may enroll his children in extracurricular activities that require scheduling.<sup>54</sup>

In other ways, though, admin demands on a person may be inversely related to wealth, for at least three reasons. First and most obviously, poverty or financial hard times can themselves create specific forms of admin, such as dealing with debt collectors, calling to reinstate cancelled utilities, refinancing credit cards, or completing paperwork or documentation for benefits or for bankruptcy. Second, public and private entities often treat wealthier people's time as more valuable, providing them with more service locations and customer representatives.<sup>55</sup> To see this directly, one need only go to branches of the same bank or drug store in low- and high-income neighborhoods and observe the wait times.<sup>56</sup> Finally, the person with fewer resources cannot pay others to do her admin, for instance by employing individuals to take over specific tasks (such as hiring an accountant to manage finances or employee paperwork, or finding an experienced nanny who arranges playdates or other details of a child's routine, or outsourcing particular tasks on an ad hoc basis through

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54. See ANNETTE LAREAU, *UNEQUAL CHILDHOODS: CLASS, RACE, AND FAMILY LIFE* 1–3 (2011) (contrasting middle-class parents' activity-heavy "concerted cultivation" approach to childrearing with "working-class and poor" parents' "facilitat[ing] the accomplishment of natural growth" approach (emphasis omitted)); cf. Meredith Johnson Harbach, *Outsourcing Childcare*, 24 *YALE J.L. & FEMINISM* 254, 270–71, 278–82 (2012) (discussing how many families outsource their childcare and using the metaphor of outsourcing to gain insights into how law should frame childcare decisionmaking).

55. See, e.g., SCHWARTZ, *supra* note 23, at 7 (suggesting that "servers' valuation of a client's time varies in accordance with his social rank" and that "results show how the deference which servers exhibit toward these clients directly mirrors their interpretation of the value and meaning of clients' time"). This principle is quantified in first-class air or train travel, which may come with a substantial price tag.

56. See, e.g., Frank Bass & Dakin Campbell, *Bank Branches Disappear from Poor Neighborhoods Like Longwood, Bronx*, *BLOOMBERG BUSINESSWEEK* (May 9, 2013), <http://www.businessweek.com/articles/2013-05-09/bank-branches-disappear-from-poor-neighborhoods-like-longwood-bronx> ("A dozen people stand in line waiting to use one of Chase's four ATMs as a No. 2 train screeches above on its elevated track. . . . About eight miles south of the Bronx, the Manhattan neighborhood that includes Union Square has 34 banks, up from 26 in mid-2008.").



resources such as Task Rabbit<sup>57</sup>) or hiring one person to take on the burden of juggling various admin responsibilities (such as a personal assistant or household manager<sup>58</sup>).<sup>59</sup> Assistance with admin matters, as the research on federal financial aid applications, discussed earlier, demonstrates.<sup>60</sup> Yet wealthier people are more likely to have access to this kind of assistance in financial, educational, and other matters. As the poverty expert Esther Duflo puts it,

[W]e tend to be patronizing about the poor in a very specific sense, which is that we tend to think, “Why don’t they take more responsibility for their lives?” And what we are forgetting is that the richer you are the less responsibility you need to take for your own life because everything is taken care [of] for you. And the poorer you are the more you have to be responsible for everything about your life . . . .<sup>61</sup>

In the words of one person I interviewed, “the definition of a CEO is someone who doesn’t use email.”<sup>62</sup>

Admin is in fact defined by a class-specific type of work: office work. But far from making admin only a rich person’s problem, the class-specific nature of this work serves to increase the burden that admin demands place on people with few resources. When those who work in offices or on computers have to fill out forms or manage life electronically, they can draw on skills and resources from their day jobs. By contrast, for those who do not regularly use computers or do not have easy access to photocopiers, mailrooms, or high-speed internet and state-of-the-art computers,<sup>63</sup> admin is more time-consuming and mentally demanding. Rather than admin being a rich person’s problem, or a poor person’s problem, admin is everyone’s problem, and any individual’s particular admin portfolio is a revealing tell of her socioeconomic and community status.

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57. See Marx, *supra* note 29.

58. Household manager positions are advertised under titles like “chief of staff,” “major-domo,” or “estate manager,” and are typically so well paid as to be employed only by the super rich. See, e.g., Penelope Green, *The New Domestic*, N.Y. TIMES (Feb. 12, 2014), <http://www.nytimes.com/2014/02/13/garden/the-new-domestics.html>. Whereas housekeeping is outsourced by those in a broader financial bracket, though still by people of means, household managers are more the province of the super rich.

59. Of course, hiring someone to help with admin, if successful, can be a one-time admin burden, which can reap long-term admin-reduction benefits. If, however, turnover is high, then this is a repeated admin burden.

60. See Bettinger et al., *supra* note 3, at 3–4.

61. Cass R. Sunstein, *Choosing Not to Choose*, 64 DUKE L.J. 1, 39 (2014) (quoting Susan Parker, *Esther Duflo Explains Why She Believes Randomized Controlled Trials Are So Vital*, CTR. FOR EFFECTIVE PHILANTHROPY (June 23, 2011), <http://www.effectivephilanthropy.org/esther-duflo-explains-why-she-believes-randomized-controlled-trials-are-so-vital>).

62. See Interview with Interviewee #3 (Oct. 20, 2014).

63. Moreover, technology that breaks down can create significant admin headaches, though this can afflict both the adopter of the newest iPhone, where the technology is not yet adequately debugged, and the user of an old computer, where the technology is outmoded.



### 3. Geography and Culture

In addition, geography and culture can affect which activities people do for themselves, and which they outsource and to whom—including siblings or other relatives, friends, or professional helpers or delivery people.<sup>64</sup> A person's family background and friendship network will also provide them with examples (and sometimes resources) for outsourcing or for doing it all oneself. Other aspects of one's status—such as immigration status—contribute directly to the amount of admin she must do.<sup>65</sup> Something as simple as being required to stand in the longer line to enter the country at an airport is a form of active waiting<sup>66</sup> that results from citizenship status.<sup>67</sup> Opening a bank account is generally more challenging in a foreign country, as “expat” students (and, often, their parents) know too well.<sup>68</sup> These are just a few of the ways that demography dictates a person's relationship to admin.

### 4. Discrimination

Finally, discrimination can affect the work of admin.<sup>69</sup> For example, in a society that requests a person's gender on every form of identification and that enforces the strictures of the Real ID Act, transgender individuals face a complex set of demands for documentation of their identity.<sup>70</sup> Until very recently, some same-sex couples could not marry in the state where they lived and therefore had to engage in a time-consuming (and costly) interaction with lawyers if they wanted to bind themselves to as many of the rights and responsibilities of marriage as they could obtain through contract.<sup>71</sup> Same-sex couples with children have undergone adoption proceedings to support emo-

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64. For example, in some cultures or families, a particular sibling is charged with wedding planning. See, e.g., Email from Akbar Rasulov, Lecturer, Univ. of Glasgow Sch. of Law, to Elizabeth Emens (Apr. 10, 2015, 03:40 EDT) (on file with author) (noting the tradition in some Uzbek families to organize and pay for the weddings of younger siblings).

65. See, e.g., Ilona Bray, *Top Tips for Filling in Immigration Forms*, NOLO, <http://www.nolo.com/legal-encyclopedia/free-books/fiance-marriage-visa-book/chapter4-11.html> (last visited Mar. 11, 2015).

66. On active and passive waiting, see *supra* text accompanying note 49.

67. Moreover, expending eighty-five dollars and some up-front admin time can lead to fast-tracked security throughout the United States. See *Participation in TSA Pre✓*, TRANSP. SEC. ADMIN., <http://www.tsa.gov/tsa-precheck/participation-tsa-precheck> (last visited Apr. 4, 2015).

68. See, e.g., *Opening a Foreign Bank Account*, INTERNATIONS, <http://www.internations.org/magazine/opening-a-foreign-bank-account-16199> (last visited Apr. 13, 2015).

69. Discrimination here refers to a person's membership in a group that is subjected to systemic subordination or exclusion. See, e.g., Cass R. Sunstein, *The Anticaste Principle*, 92 MICH. L. REV. 2410, 2411–12 (1994).

70. See Spade, *supra* note 5, at 760–75.

71. See, e.g., *Goodridge v. Dep't of Pub. Health*, 798 N.E.2d 941, 955–56 (Mass. 2003) (listing legal ramifications of marriage). But many of these rights and obligations cannot be obtained through contract law. See *id.* at 955 (noting the “benefits accessible only by way of a marriage license”). It is worth noting, in the wake of the Supreme Court's decision in *Obergefell v. Hodges*, No. 14-556 (U.S. June 26, 2015), that same-sex couples were not the only relationships excluded from marriage. See, e.g., Courtney Megan Cahill, *Same-Sex Marriage, Slippery Slope Rhetoric, and the Politics of Disgust: A Critical Perspective on Contemporary Family Discourse and the Incest Taboo*, 99 NW. U. L. REV. 1543, 1562–65 (2005) (discussing prohibitions on incest); Elizabeth F. Emens, *Monogamy's Law:*



tional bonds with legal ones—also a time-consuming as well as costly venture.<sup>72</sup> The lack of federal marriage recognition also made same-sex partner immigration very complicated, where it was even possible.<sup>73</sup>

This last point about immigration also paves the way to a link between discrimination and admin that cuts the other way. In certain instances, discrimination can *decrease* some admin burdens by making them legally or socially inaccessible, even while it increases others: If Valerie lived in a state where she could neither legally marry her same-sex partner Susan nor adopt children legally considered Susan's, then Valerie may have had less admin to do than if she had lived in a state with more progressive laws; she would not have been able to apply for a marriage license or file for a second-parent adoption in her state. (Then again, Valerie might have tried to secure these relationships to the extent possible through contract, in which case the cost and admin might have been as great or greater.<sup>74</sup> Then again, if they had moved to a state with peculiarly draconian laws, even that might have seemed a fool's errand.<sup>75</sup>) On the social front, if Valerie's family refuses to recognize their relationship, then Susan may face less pressure to write thank you notes—since she may not get any gifts from Valerie's family. These examples show not only how discrimination bears a non-obvious relationship to admin, but also how the moment of finally doing particular admin can have a *positive* social meaning for the doer who associates that admin with rights or recognition previously beyond reach.<sup>76</sup>

*Compulsory Monogamy and Polyamorous Existence*, 29 N.Y.U. REV. L. & SOC. CHANGE 277, 289–90 n.51, 361–62 (2004) (discussing prohibitions on polygamy).

72. See, e.g., Steve Deace, Column, *The Red Tape Around Adoption*, USA TODAY (May 6, 2013, 4:57 PM), <http://www.usatoday.com/story/opinion/2013/05/03/adoption-stuck-bureaucracy-column/2124199/> (describing the bureaucratic and financial hurdles to adoption).

73. See, e.g., Paloma Esquivel, *Same-Sex Couples Find Rough Road to Immigration*, L.A. TIMES (June 6, 2011), <http://articles.latimes.com/2011/jun/06/local/la-me-gay-immigration-20110606> (discussing the implications of the Obama administration's decision not to enforce the Defense of Marriage Act on the immigration of same-sex partners).

74. Cf., e.g., Carol Sanger, *A Case for Civil Marriage*, 27 CARDOZO L. REV. 1311, 1313–16 (2006) (noting a few of the many complications of contract as an alternative to marriage).

75. Cf. Elizabeth F. Emens, *Regulatory Fictions: On Marriage and Counter-marriage*, 99 CAL. L. REV. 235, 257–63 (2011) (discussing a Virginia law that plausibly banned enforcement of contracts that attempted to replicate aspects of marital rights and responsibilities for same-sex partners). Researching the laws that determine one's personal options, or finding and hiring a lawyer to do so, can also be admin intensive.

76. See, e.g., Diane Herbst, *Montclair Same-Sex Couples Arrive Early Today for Marriage Licenses*, NORTHJERSEY.COM (Oct. 21, 2013, 2:35 PM), <http://www.northjersey.com/news/montclair-same-sex-couples-arrive-early-today-for-marriage-licenses-1.687088#sthash.g9P7o7A9.dpuf> (“At 9:06 this morning, tears rolled down the cheeks of Anya Lindahl and Jenette Hendrickson. They had just finished filling out their application for a marriage license in Montclair's Municipal Building, the first same-sex couple in the township to complete the form today. Even Arlene Karp, the deputy registrar of vital statistics, was teary-eyed when she took the couple's \$28 fee as Lindahl's father, John, also wiped away tears. ‘We're getting married in Montclair, come hell or high water,’ said Lindahl as she held Hendrickson's hand. ‘We're making history.’”); Joshua Jongsma, *Verona Couple Applies for First Same-Sex Marriage License*, NORTHJERSEY.COM (Oct 25, 2013, 3:12 PM), <http://www.northjersey.com/community-news/verona-couple-applies-for-first-same-sex-marriage-license-1.627626> (“After much waiting, one Verona couple wasted little more applying for a marriage license in the township. . . . Some of



## II. THE NATURE OF THE PROBLEM: THE PARALLEL SHIFT

[Z]ing wide awake at 3:30 a.m. with thoughts like those of Anne Kimball, 46, a mother in Oxford, Pa., as she runs “down the menu, from kid to kid”: “Did I send in the permission slip by deadline? Should I chaperone the field trip? Am I green enough?” Or those of Susan Stoga, a mother of two in Barrington, Ill.: “Did I send that email to my client? Is the permission slip for pictures due today? Do Carrie’s dance shoes still fit? Is Girl Scouts on this week?” “Stupid stuff, when it comes down to it,” said Ms. Stoga, 46.

— Pamela Paul, *Sleep Medication: Mother’s New Little Helper*<sup>77</sup>

Admin often happens in the interstices of life—through multitasking at work or at home, or in competition with our sleep at night—as this epigraph dramatizes. Admin has no right time or place; as a cultural matter, there is no part of the day or week designated for filling out forms or researching doctors or planning schedules. Admin therefore threatens to occupy people’s minds and draw their energy away from whatever they are meant to be doing in a given moment.

The “second shift” has become a popular term for all the household labor that burdens women after a hard day’s work in the paid labor force.<sup>78</sup> In her book by that name, Arlie Hochschild shows how women married to men continue to do the lion’s share of the household labor, even when they work outside the home.<sup>79</sup> If the work done *after* a woman gets home from her job is the “second shift,” admin is best understood as what I call the “parallel shift.” Admin work

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the little things that married people take for granted, like filing taxes together or insurance coverage, become new and exciting for families like the Fords. Carrie said just the fact that her children, Theodore and Cate, will have married parents ‘means a lot’ to her family. . . . Cunningham said ‘everyone now has the same options’ in regards to marriage licenses, which have a 72-hour waiting period and are good for 30 days. Carrie Ford said filling out her application was an ‘interesting experience,’ though Cunningham was ‘wonderful’ in assisting her.”).

77. Pamela Paul, *Sleep Medication: Mother’s New Little Helper*, N.Y. TIMES (Nov. 4, 2011), <http://www.nytimes.com/2011/11/06/fashion/mothers-and-sleep-medication.html>. See also BRIGID SCHULTE, OVERWHELMED: WORK, LOVE, AND PLAY WHEN NO ONE HAS THE TIME 3–6 (2014); Williams, *Erasmus*, *supra* note 45 (responding to Paul’s article).

78. See, e.g., Ellen L. Rosen, *Back to the Second Shift*, N.Y. TIMES (Apr. 13, 2003), <http://www.nytimes.com/2003/04/13/nyregion/back-to-the-second-shift.html>; Rebecca Traister, *The Second Shift Still Sucks*, SALON (Aug. 1, 2006, 8:00 AM), [http://www.salon.com/2006/08/01/glass\\_ceiling\\_at\\_hom](http://www.salon.com/2006/08/01/glass_ceiling_at_hom); see also, e.g., Randi Ingram, *Second Shift*, YOUTUBE (Dec. 3, 2012), <http://www.youtube.com/watch?v=7ZUQ2HUC00o>.

79. See HOCHSCHILD & MACHUNG, *supra* note 7, at 8 (reporting that only “18 percent of men shared the second shift in the sense of doing half of the tasks in all three categories” of the second shift, which she defines to include housework, parenting, and the “management of domestic life”). She defines her management category as “remembering, planning, and scheduling domestic chores and events” and includes tasks such as “making up the grocery list, paying bills, sending birthday and holiday cards, arranging baby-sitting, and preparing birthday parties for the child.” *Id.* As discussed below, household management has a great deal of overlap with the category of admin, though admin is broader. See *infra* note 83.



is largely completed in the margins of an already busy life, on a parallel track with the paid work, play, sleep, and relationships we value.

The second shift raises both distributional and efficiency concerns. By distributional concerns, I mean that many people—especially, but not only, women—may do more than their share of admin work. Partners, I suggest here, often distribute admin activities in a relatively thoughtless way, which ends up burdening one partner more than the other. By efficiency concerns, I mean that many individuals—female or male, partnered or not—may be spending substantial time and energy on admin, which, by definition, they do not value in its own right.<sup>80</sup>

This Part first discusses distribution then efficiency. The distributional discussion focuses initially on the paradigmatic case of male–female couples with children,<sup>81</sup> but then turns to other relationships such as same-sex couples and singles. Across relationship types, admin is sticky—in other words, it tends to stay where it lands—making it prone to distributional inequities. This Part identifies several features of admin that contribute to this stickiness. The rest of the Part then adumbrates the efficiency costs of admin for everyone, laying the groundwork for subsequent discussion of legal interventions.

#### A. DISTRIBUTION: THE DOERS OF ADMIN

Most of all, she keeps the literal and mental lists. . . . The keeping of those lists, [both partners] agree, makes her the de facto C.E.O. of the . . . family.  
—Lisa Belkin, *When Mom and Dad Share It All*<sup>82</sup>

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80. Note that there are various technical meanings of the term “efficiency.” See, e.g., RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* 10 (2d ed. 1977) (“Efficiency means exploiting economic resources in such a way that value—human satisfaction as measured by aggregate willingness to pay for goods and services—is maximized.” (emphasis omitted)); Ronald M. Dworkin, *Is Wealth a Value?*, 9 J. LEGAL STUD. 191, 193 (1980) (“A distribution of resources is Pareto efficient if no change in that distribution can be made that leaves no one worse off and at least one person better off.”). For present purposes, I define efficiency colloquially rather than technically, with a focus on the individual. In turning to questions of policy in Part IV, I therefore discuss possible changes tentatively, recognizing the relevance of overall welfare to such determinations. Note also that my definition of “distribution” incorporates a concern with fairness not present in some other definitions of the term. See, e.g., PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, *ECONOMICS* 743 (16th ed. 1998) (defining distribution as “the manner in which total output and income is distributed among individuals or factors (e.g., the distribution of income between labor and capital”). Distributional and efficiency concerns can also influence each other. For instance, if one partner is charged with doing all the family admin, this may be inefficient if each partner has distinct advantages with regard to some types of admin. Alternatively, dividing it equally can also add time, if one partner really is better at most types or if the divvying itself takes time. See *infra* note 148 (discussing admin-distribution admin and Emily Oster’s application of the ideas of comparative advantage and absolute advantage).

81. Although I also discuss some of the differences between same-sex and different-sex couples in terms of division of labor, see, e.g., *infra* text accompanying notes 106–11, the different-sex couple is my primary example because most of the data in this area focuses on this relationship form and because the inequities in this context help to shed light on other contexts of admin.

82. Lisa Belkin, *When Mom and Dad Share it All*, N.Y. TIMES MAG., June 15, 2008, at 49.



This section addresses admin distribution, first assessing the empirical and theoretical literature, and then examining particular features of the problem, namely, the lack of transparency and the rhetoric surrounding it.

## 1. Who Does What

The empirical research on who does admin is still at an early stage. The subset that has received the most research attention is “household management,” described in one study as the “[e]ssential planning, coordinating, and budgeting . . . above and beyond the physical demands of household work.”<sup>83</sup> But even the extant category of household management, which typically leaves out several aspects of admin, has been characterized as “the least researched aspect in the allocation of household labor” and “the last barrier to gender-egalitarian marriages.”<sup>84</sup> The research thus far is nonetheless revealing.

*a. Male–Female Couples.* Research supports the anecdotal observation that women are doing more household admin than their male partners. Several studies find that women spend significantly more time on “household manage-

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83. Judith Treas & Tsui-o Tai, *How Couples Manage the Household: Work and Power in Cross-National Perspective*, 33 J. FAM. ISSUES 1088, 1089 (2012). What household management encompasses varies by study and author, but a common theme is the mental work of running the household. *See, e.g.*, Helen J. Mederer, *Division of Labor in Two-Earner Homes: Task Accomplishment Versus Household Management as Critical Variables in Perceptions About Family Work*, 55 J. MARRIAGE & FAM. 133, 135 (1993); Jo A. Meier et al., *The Management of Household and Childcare Tasks and Relationship Satisfaction in Dual-Earner Families*, 40 MARRIAGE & FAM. REV. 61, 62 (2006). Joan Williams includes household management within the broader category of “care work” and describes it as such:

Who coordinates schedules so that someone is always there to pick up the children? Who remembers to make and keep doctor’s appointments? Who has the default responsibility for all tasks that cannot be successfully delegated away? Who consults with teachers, in the case of children, or with doctors and social workers, in the case of elders, and takes responsibility for long-term planning? Who finds the lessons that play such a large role in the lives of middle-class kids, and takes the children to and from lessons, or sets up carpools? Who applies for Children’s Health Insurance Program (“CHIP”) and makes sure the kids get school and other vouchers?

Williams, *Difference to Dominance*, *supra* note 45, at 1463 (footnote omitted). Note that my category of admin includes not only her “household management,” but much of the work of what she calls “social capital development,” which includes “maintaining kinship ties” and “initiating and maintaining friendship networks” and performing “status development work,” *id.* at 1463; some of her category of “emotion work,” which includes not only noticing people’s emotions but, in some circumstances, “strategizing” about how to handle their slights, *id.* at 1464; as well as any outsourcing in the categories of “housework and yardwork,” *id.* at 1463, “daycare,” *id.* at 1465, and “care for the sick,” *id.* at 1464–65. Moreover, because it is defined around “management,” this category may overlook some of the “secretarial” aspects of admin: bringing in the mail and opening it, scanning, filing, and faxing, for example.

84. Treas & Tai, *supra* note 83, at 1089. *See also* Anne E. Winkler & Thomas R. Ireland, *Time Spent in Household Management: Evidence and Implications*, 30 J. FAM. ECON. ISSUES 293, 293 (2009) (noting that “time spent in household management [is] an important ‘missing ingredient’ in time use studies”). For examples of what aspects of admin exceed the bounds of household management, see *supra* note 83.



ment” and “childcare management” than their male partners.<sup>85</sup> These studies typically distinguish management activities (such as making grocery lists, planning meals, or scheduling medical appointments) from the accomplishment of specific “tasks” (such as shopping for groceries, cooking meals, or taking children to the doctor).<sup>86</sup> Some of the “tasks” in these studies would also typically fall under my category of admin, though—for instance, interacting with childcare providers, corresponding with extended family, or preserving family memories—and in general women do more of the task labor as well as the management labor than their male partners.<sup>87</sup> Interestingly, the Bureau of Labor Statistics American Time Use Survey (ATUS or “the Survey”) reports less gender inequality in time spent on “household management,” compared with other kinds of household labor.<sup>88</sup> The 2013 ATUS notes that, of the respondents who engaged in household management, men spent an average of 43.8 minutes per day; women, 46.2 minutes.<sup>89</sup> When averaged over the general population, including those who did not engage in any household management work, those numbers fell to 6 minutes and 9.6 minutes, respectively.<sup>90</sup> The Survey suffers from several limitations, however—most notably, that it does not count activities done simultaneously, which is a particular problem for work that is so often done through multitasking.<sup>91</sup> This makes it likely that the Survey systematically underestimates the time individuals spend on household management, which in turn makes the Survey of limited use in evaluating the amount and distribution of admin.<sup>92</sup> Even if we take its results at face value, however,

85. *E.g.*, Mederer, *supra* note 83, at 139 tbl.1; Meier et al., *supra* note 83, at 75 tbl.3.

86. *See, e.g.*, Mederer, *supra* note 83, at 139 tbl.1; Meier et al., *supra* note 83, at 70–71 tbl.1, 72–73 tbl. 2.

87. *See* sources cited *supra* note 86. On kin work, see di Leonardo, *supra* note 6, at 442–43.

88. *See* Winkler & Ireland, *supra* note 84, at 295, 302 (observing, from their analysis of the ATUS data, that “[t]he results also indicate[d] that time spent in management is more equally distributed between husbands and wives than are core household tasks,” which is consistent with other research suggesting that “‘bill paying’ [is] much less sex-typed than household cleaning and laundry”).

89. *See* U.S. BUREAU OF LABOR STATISTICS, AMERICAN TIME USE SURVEY—2013 RESULTS tbl.1 (2014), available at <http://www.bls.gov/news.release/pdf/atus.pdf>.

90. *See id.*

91. *See* HOCHSCHILD & MACHUNG, *supra* note 7, at 8 (“Another reason women may feel more strained than men is that women more often do two things at once—for example, write checks and return phone calls, vacuum and keep an eye on a three-year-old, fold laundry and think out the shopping list.”); *see also infra* text accompanying notes 132–36. Lyn Craig notes a similar concern with the Australian Time Use Survey, arguing that:

[M]ost previous time use analyses are implicitly gender biased, because they use an incomplete workload measure in that they count main (primary) activity only, and therefore significantly underestimate childcare time, which is most often done as a simultaneous (secondary) activity. Primary activity workload is an androcentric measure, because multitasking is more often done by women than by men.

Lyn Craig, *Is There Really a Second Shift, and if So, Who Does It? A Time-Diary Investigation*, 86 FEMINIST REV. 149, 165 (2007).

92. First, as noted in the text, these data do not account for multitasking—that is, participants can record only one activity in a particular time slot—so that “[the Survey] will miss secondary management time. For instance, an individual who is scheduling appointments on the phone while loading the



the Survey supports the argument that women are doing more of this work than men.<sup>93</sup>

Some forms of admin are obviously gendered as a cultural matter, such as kin work<sup>94</sup> or planning birthday parties.<sup>95</sup> Other areas seem less so. For instance, handling finances might sound like a traditionally masculine domain. Generally speaking, however, as part of feeding and clothing the family,<sup>96</sup> these days women more often pay the bills;<sup>97</sup> as to who makes financial decisions, there is no clear trend toward men or women.<sup>98</sup> More specifically, though, there is reason to think that men more often handle money when there is money to burn (or invest), but women take over when there is a need to make ends meet, for instance, at the point of bankruptcy.<sup>99</sup>

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dishwasher may report, ‘loading the dishwasher’ as the primary activity.” Winkler & Ireland, *supra* note 84, at 297. Second, and relatedly, these data have no way to account for the household management work that is done while at paid work (for example, making phone calls or sending emails to arrange household matters, finding or managing childcare, making doctors’ appointments, etc.) by those who work outside the home. *See id.* Third, household management activities are often brief and irregularly timed, so “[l]ike any activity of short duration, [household management tasks] may not be counted or may be forgotten.” *Id.* Finally, the ATUS data measure men and women in general, not in relation to one another in particular couples, which limits the comparative claims that might be made as to who is doing this work in the home. *See id.*

93. *Id.* at 299 tbl.1; *see also* U.S. BUREAU OF LABOR STATISTICS, AMERICAN TIME USE SURVEY: HOUSEHOLD ACTIVITIES (2013), available at <http://data.bls.gov/cgi-bin/print.pl/tus/current/household.htm> (last modified June 18, 2014).

94. *See di Leonardo, supra* note 6, at 443 (“Kin work, then, is like housework and child care: men in the aggregate do not do it.”).

95. *Cf. Alpert, supra* note 39.

96. On “feeding the family,” *see* MARJORIE L. DEVULT, FEEDING THE FAMILY: THE SOCIAL ORGANIZATION OF CARING AS GENDERED WORK 1–2, 242–43 (1991) (describing “feeding the family” as a form of “caring work” combining the “maintenance” of household members and the day-to-day “produc[tion of] connection and sociability”).

97. *See* Meier et al., *supra* note 83, at 70 tbl.1, 72 tbl.2 (finding that 53% of the mothers in her study, and 52% of the fathers, report that the wife pays the bills either “usually” or “always”).

98. *See id.* (finding that “[m]ak[ing] money decisions” is most often described as “equally” shared—per 56% of the wives and 60% of the husbands—and finding for the rest of the sample that husbands were more likely to think they made the money decisions “usually” (18%) or “always” (7%), and that wives were also more likely to think they made the decisions “usually” (22%) or “always” (7%)).

99. I thank Jill Hasday for this point. *See* ELIZABETH WARREN & AMELIA WARREN TYAGI, THE TWO-INCOME TRAP: WHY MIDDLE-CLASS PARENTS ARE GOING BROKE 11 (2003) (“As a couple sinks into financial turmoil, this responsibility tends to shift. As families fall behind on their bills, it is wives who roll up their sleeves and do what must be done. Wives who deal with foreclosure notices, wives who plead with creditors for more time to pay, and wives who insist seeking on credit counseling or legal help. . . . Among couples who seek credit counseling or file for bankruptcy, the split over who was responsible for dealing with the bills was exactly reversed from that of secure families: three-quarters of the wives were exclusively responsible for trying to extract their families from their financial quagmire.”); Deborah Thorne, *Extreme Financial Strain: Emergent Chores, Gender Inequality and Emotional Distress*, 31 J. FAM. ECON. ISSUES 185, 189–93 (2010). Not everyone even agrees that men manage the money when there is more of it. *See, e.g.,* Sarah Beth Estes et al., *Is Work-Family Policy Use Related to the Gendered Division of Housework?*, 28 J. FAM. ECON. ISSUES 527, 533 (2007) (noting that “handling finances” has “been previously identified as gender-neutral” (emphasis omitted)).



The only significant outliers from this trend toward women doing more admin involve responsibility for outsourcing stereotypically masculine activities such as home repairs or car repairs.<sup>100</sup> If men are not doing these activities themselves, then they are more likely than women to be the ones arranging for others to do them.<sup>101</sup> Notably, though, once masculine labor turns into the admin of outsourcing, that labor also becomes somewhat less gendered than the underlying tasks; that is, more couples share equally the task of arranging for home or car repairs than share equally the task of actually repairing home or car.<sup>102</sup>

To some extent, partners disagree about how much household admin they do. The general trend is towards men reporting that they do more admin than their female partners say the men do.<sup>103</sup> This is consistent with the broader finding that men report doing more household labor and childcare than their partners say.<sup>104</sup> One study found that men and women reported doing similar amounts of household management, but on closer examination of several metrics, found that women reported spending approximately twice as many hours on management tasks as their male partners did.<sup>105</sup>

*b. Same-Sex Couples and Others.* Same-sex couples appear to split the work of managing their households somewhat more equally, though the empirical work in this area is even more limited. Greater equity around admin would be unsurprising, given the general observation that same-sex couples split all forms

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100. See Meier et al., *supra* note 83, at 70 tbl.1, 72 tbl.2.

101. See *id.*

102. See *id.* There is no reason, from their data, to think the same is true for stereotypically female tasks. That is, the Meier study does not include data on who finds or manages childcare or other household help, but measures of childcare management as opposed to direct childcare labor in their study suggest that the gender gap is even greater on the management front than on the task front with regard to stereotypically female tasks. For example, these are the numbers for several management-versus-care tasks (with “always” and “usually” summed for each gender), according to the mothers: on making grocery lists (women 66%; shared equally 22%; men 6%) vs. grocery shopping (women 51%; shared equally 40%; men 9%); or planning children’s meals (women 62%; shared equally 29%; men 4%) vs. feeding children (women 53%; shared equally 42%; men 4%). *Id.* at 70–71 tbl.1. On the fathers’ accounts, these are the figures: on making grocery lists (women 54%; shared equally 33%; men 9%) vs. grocery shopping (women 35%; shared equally 51%; men 13%); or planning children’s meals (women 54%; shared equally 33%; men 6%) vs. feeding children (women 54%; shared equally 36%; men 9%). *Id.* at 72–73 tbl.2.

103. See, e.g., *id.* at 70–71 tbl.1, 72–73 tbl.2. The figures are closer as reported by fathers, though they still push in the same direction—and at least do not show a reversal of gender patterns around management. I have found no work that attempts to measure whether these are significant differences.

104. See, e.g., Michelle L. Frisco & Kristi Williams, *Perceived Housework Equity, Marital Happiness, and Divorce in Dual-Earner Households*, 24 J. FAM. ISSUES 51, 68 (2003) (“[M]ost men who perceive the household distribution [of housework] as unfair are actually completing half or less than half of the household chores . . .”).

105. See Meier et al., *supra* note 83, at 81. The authors realized that their management categories were fairly equally split between those gendered male and those gendered female, so it looked like the work balanced out overall; however, more open-ended questions about time spent on management work revealed women spending far more time than men did. See *id.*



of household labor more equally.<sup>106</sup> One distributional trend is that the same-sex partner with the higher income tends to have more responsibility for the finances.<sup>107</sup> In addition, where one partner is the “bio mom,”<sup>108</sup> she tends to do more childcare and perhaps also more childcare management as well.<sup>109</sup> Despite the greater equity in same-sex couples, trends undoubtedly develop for particular couples.<sup>110</sup> In terms of interactions with the outside world, it appears that gender if not sex plays a role in how admin is distributed: Multiple anecdotal sources report that, at schools that do not ask parents to name a primary contact parent, other parents try to figure out who in a same-sex parenting couple is the “mom” for these purposes, in order to decide whom to contact about playdates, parties, and parent participation in school activities.<sup>111</sup>

A woman need not be coupled with a man—or coupled at all—to be doing more admin than the men around her. Single women are more likely to be taking care of children or ailing parents than are single men,<sup>112</sup> and thus to be

106. See, e.g., PHILIP BLUMSTEIN & PEPPER SCHWARTZ, *AMERICAN COUPLES: MONEY, WORK, SEX* 127 (1983); Liza Mundy, *The Gay Guide to Wedded Bliss*, *THE ATLANTIC* (June 2013), <http://www.theatlantic.com/magazine/archive/2013/06/the-gay-guide-to-wedded-bliss/309317> (citing evidence that “gay and lesbian couples were fairer in their dealings with one another than straight couples” and describing them as “almost painfully egalitarian”); Charlotte J. Patterson & Rachel H. Farr, *Coparenting Among Lesbian and Gay Couples*, in *COPARENTING* 127, 131, 133 (James P. McHale & Kristin M. Lindahl eds., 2011) (observing that, in non-stepparent, “primary parenting couple” families, “lesbian couples reported dividing child care—tasks such as feeding, bathing, and dressing—more evenly than did heterosexual couples”).

107. See, e.g., Suzanne Taylor Sutphin, *Social Exchange Theory and the Division of Household Labor in Same-Sex Couples*, 46 *MARRIAGE & FAM. REV.* 191, 200 (2010).

108. This shorthand for “biological mother” refers to the one of two mothers in a lesbian couple who carries the child; the term is slightly outdated, since it implies there is only one biological mom, although some couples now split genetic contribution and gestation using in vitro fertilization.

109. See Scott Coltrane & Kristy Y. Shih, *Gender and the Division of Labor*, in 2 *HANDBOOK OF GENDER RESEARCH IN PSYCHOLOGY* 401, 411–12 (Joan C. Chrisler & Donald R. McCreary eds., 2010) (observing that “[a]mong lesbian couples, both biological and non-biological mothers tend to share housework and family decision making relatively evenly . . . except in the area of childcare”); cf. Mignon R. Moore, *Gendered Power Relations Among Women: A Study of Household Decision Making in Black, Lesbian Stepfamilies*, 73 *AM. SOC. REV.* 335, 346 (2008) (“Biological mothers express frustration about the unequal amounts of time that their partners allot to household chores.”).

110. See, e.g., CHRISTOPHER CARRINGTON, *NO PLACE LIKE HOME* 158 (1999) (reporting on one partner’s “expresse[d] dissatisfaction . . . concerning her perceived responsibility for organizing and maintaining these kinds of records: ‘I don’t really know how it happened, but I have responsibility for these things. If I don’t remember, and write it down, she certainly won’t’”).

111. Cf., e.g., Cathy Cockrell, *What’s in a Name? Plenty, if You’re a Lesbian or Gay Parent*, *Says Grad-Student Sociologist*, U. CAL. BERKELEY NEWS CENTER (June 29, 2011), <http://newscenter.berkeley.edu/2011/06/29/lesbian-and-gay-parents> (“Visiting a park with their kids, it’s not uncommon for lesbian mothers to be asked by a stranger: ‘Which one of you is the real mom?’”); Colleen Logan, *In Adoption and Same-Sex Parenting, Who Is the “Primary” Mother?*, *HUFFINGTON POST* (Jan. 23, 2014, 6:58 PM), [http://.l-logan-phd/adoptive-parents\\_b\\_4058253.html](http://.l-logan-phd/adoptive-parents_b_4058253.html) (“The ‘primary’ mother—as seen by society—is an important designation. Believe me: Whether inadvertently, as we sort out our roles, or as a purposeful weapon, the role of primary mother is a powerful tool.”).

112. See, e.g., *Family Structure and Children’s Living Arrangements*, *FORUM ON CHILD AND FAMILY STATISTICS*, <http://www.childstats.gov/americaschildren13/famsoc1.asp> (“In 2012, 24 percent of children lived with only their mothers, 4 percent lived with only their fathers, and 4 percent lived with neither of their parents.”); Bella DePaulo, *Single with Ailing Parents: Who Cares?*, *PSYCHOLOGY TODAY* (Aug. 8,



handling the admin that such caretaking entails. In families involving more than two co-parents, it would be interesting to know how the admin is divided up, and what role sex or gender plays in that division.<sup>113</sup> Research suggests that, even after divorce, women tend to do more of the mental work of managing their children's lives.<sup>114</sup>

Though beyond the scope of this Article, it is also worth noting that the gendering of admin work at the level of the family has a corollary at the institutional level: Whole labor sectors devoted to admin, most obviously secretarial work, are populated disproportionately by women.<sup>115</sup> But even among people who have the same jobs, women may end up doing more (and often unrewarded) admin. Various scholars have studied and written about the ways that female faculty at some institutions end up shouldering a disproportionate share of the administrative burden.<sup>116</sup> Some scholars argue that formerly prestigious tasks and roles suffer a drop in prestige when women begin doing them.<sup>117</sup> The family dynamics surrounding admin seem to repeat themselves at the institutional level in some contexts.

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2011), <https://www.psychologytoday.com/blog/living-single/201108/single-ailing-parents-who-cares> (reporting on a study that found that singles take care of elders more frequently than do those who are married, and that “the expectation that caring for dependent family members is the duty particularly of spinsters, regardless of other commitments, is enduring and pervasive” (internal quotation marks omitted)).

113. See generally Laura T. Kessler, *Transgressive Caregiving*, 33 FLA. ST. U. L. REV. 1 (2005); Melissa Murray, *The Networked Family: Reframing the Legal Understanding of Caregiving and Caregivers*, 94 VA. L. REV. 385 (2008); cf. Emens, *supra* note 71, at 313 (quoting an interviewee as saying that “‘the media loves sex,’ [but] one of the biggest issues for polys is scheduling”).

114. See, e.g., Debra A. Madden-Derdich & Stacie A. Leonard, *Parental Role Identity and Fathers' Involvement in Coparental Interaction After Divorce: Fathers' Perspectives*, 49 FAM. REL. 311, 311 (2000) (noting that after divorce, “[t]he majority of mothers must adjust to the role of sole physical custodian, taking on primary responsibility for household management and the day-to-day parenting needs of their children” (citations omitted)).

115. In 2008, women represented 96.3% of “[s]ecretaries and administrative assistants” and 88.2% of “[b]ookkeeping, accounting, and auditing clerks.” JENNIFER CHEESEMAN DAY & JEFFREY ROSENTHAL, U.S. CENSUS BUREAU, DETAILED OCCUPATIONS AND MEDIAN EARNINGS: 2008 2 tbl.A (2008), available at [http://www.census.gov/people/io/files/acs08\\_detailedoccupations.pdf](http://www.census.gov/people/io/files/acs08_detailedoccupations.pdf).

116. On this issue in law schools in particular, see, for example, Nancy Levit, *Keeping Feminism in Its Place: Sex Segregation and the Domestication of Female Academics*, 49 U. KAN. L. REV. 775, 783, 785 (2001) (observing that “female law professors are performing a disproportionate share of domestic chores within the law school relative to their numbers on faculties” and reporting on her (informal) survey of female academics who “were unanimous in their perceptions that women at their respective schools do more of the ‘housework’ chores (serving on committees, advising students, supporting student organizations) than their male counterparts”). See also Ann C. McGinley, *Reproducing Gender on Law School Faculties*, 2009 B.Y.U. L. REV. 99, 151 (2009) (“[W]omen tend to do the housework—the committee work and other internal work at the law school—[while] men tend to do the outside work—more scholarship, more travel, more self-promotion, more blog entries and other ‘scholarly’ career work.”).

117. See, e.g., Kristen Monroe et al., *Gender Equality in Academia: Bad News from the Trenches, and Some Possible Solutions*, 6 PERSP. ON POL’Y 215, 230 (2008) (discussing “gender devaluation”).



## 2. Lack of Transparency

This thought of independent living kind of scares me—simple things, like I’m not really sure how toothpaste shows up. Do you have to get a prescription? Is this an over-the-counter product? It just shows up in my drawer. I don’t know anything about this.

—Ken Herman, an Austin journalist preparing to cover national politics<sup>118</sup>

We might be concerned not (just) about *who does this work*—the distribution of the labor of admin between partners—but also about *how they end up doing it*. It seems that couples often divvy up this admin work less explicitly than they do other (more tangible) forms of household labor, such as time spent minding children or cooking or cleaning. That is, even when couples are explicit about how they (aspire to) divide up the childcare or cooking or cleaning—whether equally or on a role-based model or on some other basis—they are typically less explicit about how the admin work gets allocated. I have found no empirical work to support this account, but it is a view shared by several scholars in the field, as well as many anecdotal reports.<sup>119</sup>

There are at least two aspects to this lack of transparency. First, much admin work is, as discussed earlier, more mental and therefore less visible to outsiders than other forms of labor.<sup>120</sup> Recall here the distinction between admin and what we typically call “chores.”<sup>121</sup> Second, the relative invisibility of admin within couples reflects the lack of salience of the issue as a societal matter in this country. Feminists have effectively raised awareness about the inequities in who cares for children,<sup>122</sup> but there has been less discussion of who handles all

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118. Mary Anne Case, *How High the Apple Pie? A Few Troubling Questions about Where, Why, and How the Burden of Care for Children Should Be Shifted*, 76 CHL.-KENT L. REV. 1753, 1764 n.30 (2001) (quoting Renee Montagne, *Three Texans Who Find Themselves in Washington After the George W. Bush Victory in the Presidential Election* (NPR radio broadcast Jan. 19, 2001)).

119. See, e.g., DeVault, *supra* note 51, at 54 (describing the life of one woman who, upon a “slight revolt . . . about who’s doing what,” ends up having to “plan[] for family recreation”); HOCHSCHILD & MACHUNG, *supra* note 7, at 146 (noting that even in the case of a couple that actively tried to share household duties, the woman still performed the bulk of household management).

120. See *supra* Part I.B.

121. See *supra* Part I.A.1.b. Patricia Misciagno notes that:

[T]he proliferation of time-saving devices for the home, generally thought to free women from household chores, has actually increased the amount of labor while only changing the type of labor—from brute physical work to more demanding and stressful ‘household management,’ and the need to manage and arrange serve for these goods increasing with their complexity.

PATRICIA S. MISCIAGNO, *RETHINKING FEMINIST IDENTIFICATION: THE CASE FOR DE FACTO FEMINISM* 34 (1997).

122. See, e.g., Shelley Coverman, *Gender, Domestic Labor Time, and Wage Inequality*, 48 AM. SOC. REV. 623, 624 (1983) (“[T]here has been almost no redistribution of tasks in the domestic division of labor with women’s entrance into the labor force. Instead, there has been a ‘normalization of the double day’ of work; i.e., it is assumed and often obligatory that women perform both paid and unpaid work.” (citation omitted)); Shelley Coverman & Joseph F. Sheley, *Change in Men’s Housework and Child-Care Time, 1965–1975*, 48 J. MARRIAGE & FAM. 413, 413–14 (1986) (“[In the 1960s and 70s,] men spent, on the average, 11 hours per week on domestic work. In contrast, women have continued to perform most of the domestic work. Studies show that wives spend from 28 to 47 hours a week on



the detail and mental work of running the household.<sup>123</sup>

### 3. Distributional Concerns Rooted in the Invisibility of Admin: Fairness, Autonomy, and Discontent

One might be concerned about women doing more admin than their male partners on grounds of fairness, autonomy, or relationship consequences. These concerns animated the above discussion of distribution and invisibility. First, the fairness point is perhaps obvious: That admin is invisible renders the burden even more onerous, because invisible burdens are less likely to be acknowledged and addressed. Those who aspire to equity between the sexes should be troubled if women are more burdened by work that is generally considered onerous and unsatisfying (even though preferences vary and some satisfaction may come from completing or succeeding at it, as discussed below).<sup>124</sup>

Second, the invisibility of admin may lead to a lack of transparency within couples, thereby raising autonomy concerns. Admin is relatively invisible in two senses: It is harder to see than more traditional forms of labor (is the other parent texting babysitters or friends?), and it is also not socially salient as labor (how often do people talk about admin distribution?).<sup>125</sup> If admin is not seen or understood as labor, then couples may be less explicit about how they divvy it up. In this case, we may worry that women (or other admin doers) are not so clearly consenting to their disproportionate burden in this regard.

Finally, the invisibility of admin also raises a related concern about interpersonal consequences. Admin may lead to misunderstanding or resentment because, whatever the explicit or implicit distribution of household labor, admin often goes relatively unseen and therefore unacknowledged.<sup>126</sup> Let us say a couple, Sue and Seth, explicitly agrees to a certain division of labor in their household, in terms of cooking, cleaning, and childcare. It might be 50/50; it might be 75/25; it might be 90/10. If they have no conversation about admin

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household chores.” (citations omitted)); Emily W. Kane & Laura Sanchez, *Family Status and Criticism of Gender Inequality at Home and at Work*, 72 SOC. FORCES 1079, 1080 (1994) (“Women’s prescribed roles leave them with the burden of extensive domestic and nurturance responsibilities as well as limited power within the family. These patterns constitute gender inequality within the home and are reflected in the ideology legitimating a gender-segregated labor force in which women’s earnings and opportunities are not equal to men’s.”).

123. On the management side, there are important exceptions, as noted earlier, though the conclusion in the empirical research is that even household management is poorly researched thus far. *See supra* notes 83–84. One author who has specifically emphasized invisibility is Marjorie DeVault, who writes about the “invisible work” behind “feeding the family”: namely, “the planning and coordination involved in household work, as well as the constant juggling and strategizing behind the physical tasks.” DEVAULT, *supra* note 96, at 55–56.

124. *See infra* Part III.A. For an argument for family “fairness” as preferable to a vision of family “equality” per Susan Okin, see Edna Ullmann-Margalit, *Family Fairness*, 73 SOC. RES. 575 (2006).

125. Note that admin is generally invisible in the first sense (of being literally difficult or impossible to see) only to an outside observer, such as the non-doing partner, whereas admin may be invisible in the second sense (of lacking salience as labor)—to the doer as well as the non-doer.

126. *Cf.* HOCHSCHILD & MACHUNG, *supra* note 7, at 18 (discussing the economy of gratitude).



distribution, but it mostly ends up on one partner's shoulders—let us say it falls to Sue—then they may have a problem. Sue spends additional hours every week on admin for the family, and she may feel angry or resentful, but because the work is relatively invisible, Seth does not realize that she is doing so much additional work. Seth holds up his end of the bargain—he does his 50% or 25% or 10% as agreed—so he does not understand why Sue still treats him like someone who is not carrying his weight.<sup>127</sup> It is easy to see why, if the bulk of household admin inadvertently lands on one partner's shoulders, the doer may feel resentful.<sup>128</sup> Note, however, that even if the work falls equally on both, admin's invisibility may mean that neither recognizes how much the other is doing and, thus, both may feel unappreciated.<sup>129</sup>

#### 4. How We Talk About This When We Do

There are at least two common frames for the unequal, gendered distribution of these activities, each with an informal and a formal version. These frames seem to operate rhetorically to justify the conventional distribution of admin along gender lines.

The first is what we might call the “female superiority” frame. Informally, this comprises claims that “women are better at this stuff,”<sup>130</sup> on the one hand, or of a partner's claims of incompetence in these domains (whether feigned or real<sup>131</sup>), on the other. Formally, this ties in with the “women as multitaskers”

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127. Cf. Frisco & Williams, *supra* note 104, at 68.

128. Note that resentment and misunderstanding can arise—whether the couple aspires to 50/50, 75/25, or 90/10 distribution—if the couple failed to decide who would manage household admin and so no one felt they signed up for that work. Social context will also likely influence their points of comparison, which will in turn influence these assessments. See, e.g., Mary Anne Case, *Enforcing Bargains in an Ongoing Marriage*, 35 J.L. & POL'Y 225, 254 (2011).

129. I thank Serena Mayeri for this point.

130. For instance, the quotation about the wife as list-maker and therefore the family CEO that appears as the epigraph to this Section, see *supra* text accompanying note 82, is followed by this line from the husband: “‘Ideally that should be 50-50,’ Bill says, ‘but Alex is just better at that.’” Belkin, *supra* note 82, at 49.

131. On strategic incompetence, see, for example, SCOTT COLTRANE, *FAMILY MAN: FATHERHOOD, HOUSEWORK, AND GENDER EQUITY* 230 (1996) (observing that “when husbands take on some of the household duties that have traditionally been performed by wives, arguments over standards usually arise . . . often accompanied by increased tension and conflict. Many women want to avoid this tension and so choose not to bargain for more contributions from their husbands. Men also tend to feel incompetent (or feign it), further limiting their responsibility for certain tasks. Often, men remain in a helper role, having to be reminded to do chores, or to maintain the wife's standards of cleanliness.”); Oliver Burkeman, *Strategic Incompetence*, THE GUARDIAN (Jan. 19, 2008, 6:46 PM), <http://www.theguardian.com/lifeandstyle/2008/jan/19/healthandwellbeing.features1> (“Strategic incompetence is the art of avoiding undesirable tasks by pretending to be unable to do them,” and “though the phrase was apparently only recently coined in a *Wall Street Journal* article, the concept is surely as old as humanity.”); Jared Sandberg, *The Art of Showing Pure Incompetence at an Unwanted Task*, WALL ST. J. (Apr. 17, 2007, 12:01 AM), <http://www.wsj.com/articles/SB117675628452071687> (“Strategic incompetence isn't about having a strategy that fails, but a failure that succeeds. . . . And in marriage it works—but not as well—by raising the specter of disaster from a task mishandled: ‘If I do the wash I might shrink your sweater’ and ‘How do you change diapers so they don't leak?’”). For a comic version, bringing together several of these points, see NORA EPHRON, *HEARTBURN* 20 (Doubleday 2011).



thesis. The latest incarnation of the opt-out revolution news story—Lisa Miller’s “The Retro Wife” in *New York* magazine in the spring of 2013—presents the formal version this way: “A number of those I spoke to for this Article reminded me of a 2010 British study showing that men lack the same mental bandwidth for multitasking as women.”<sup>132</sup> Miller perhaps chose her words carefully here, assigning responsibility for this reference to others; that study apparently has not been published<sup>133</sup> and the upshot of the research on multitasking seems to be that women are not any better at multitasking than men.<sup>134</sup> Women do appear to *do* much more multitasking<sup>135</sup> and also typically to suffer through it.<sup>136</sup>

The second is what we might call the “female dominance” (or “maternal identity”) frame. Informally, this takes the form: “She just won’t let me do any of this stuff.” Formally, this is termed “maternal gatekeeping,” the psychological term for “a reluctance to relinquish family responsibility by setting rigid standards, . . . a desire to validate a maternal identity, and . . . differentiated conceptions of family roles.”<sup>137</sup> As one writer puts it, “Many women will also

(1983) (presenting a comic episode of feigned incompetence beginning, “You know what a Jewish prince is, don’t you? . . . If you don’t, there’s an easy way to recognize one. A simple sentence. ‘Where’s the butter?’”).

132. Lisa Miller, *The Retro Wife*, *NEW YORK*, Mar. 25, 2013, at 20, 79; *see also* Gijsbert Stoet et al., *Are Women Better than Men at Multi-Tasking?*, *BMC PSYCHOL.* (Oct. 24, 2013), <http://www.biomedcentral.com/content/pdf/2050-7283-1-18.pdf>.

133. *See, e.g.*, Genelle Weule, *Are Women Better Multi-taskers than Men?*, *ABC SCIENCE* (Aug. 11, 2011), <http://www.abc.net.au/science/articles/2011/08/11/3291311.htm#.UZwZ-Csac3I>; *Women Are Better Multi-Taskers Than Men*, *U. HERTFORDSHIRE* (June 5, 2013), <http://www.herts.ac.uk/about-us/news/2010/july/women-are-better-multitaskers-than-men>; <http://affarsdrivenhr.wordpress.com/2011/10/11/man-har-inte-samre-simultanformaga-an-kvinnor>.

134. David Z. Hambrick et al., *Predictors of Multitasking Performance in a Synthetic Work Paradigm*, 24 *APPLIED COGNITIVE PSYCHOL.* 1149, 1164 (2010) (“A frequent claim in the popular press is that women are better at multitasking than are men. Searching the Internet for ‘gender and multitasking’ results in many blogs and articles suggesting that women are better multitaskers than men. However, despite an extensive literature search, we could not find a single scientific report to support this view . . . .”); *see also, e.g.*, Timo Mäntylä, *Gender Differences in Multitasking Reflect Spatial Ability*, 24 *PSYCHOL. SCI.* 514, 519 (2013); Thomas Buser & Noemi Peter, *Multitasking: Productivity Effects and Gender Differences* 9 (June 10, 2011) (unpublished manuscript), *available at* <http://econ.core.hu/file/download/korosi/2011/peter.pdf>.

135. *See, e.g.*, Shira Offer & Barbara Schneider, *Revisiting the Gender Gap in Time-Use Patterns: Multitasking and Well-Being Among Mothers and Fathers in Dual-Earner Families*, 76 *AM. SOC. REV.* 809, 813, 828 (2011).

136. *Id.* at 828 (finding that “multitasking . . . is predominantly a negative experience for mothers, but not for fathers”); *see also infra* note 168 (quoting and discussing this finding).

137. Brent A. McBride et al., *Paternal Identity, Maternal Gatekeeping, and Father Involvement*, 54 *FAM. REL.* 360, 362 (2005) (internal quotation marks omitted). One study observes that “[s]ome mothers found it difficult to share authority for household management” because of “difference in domestic perceptiveness”; some “reported that relinquishing control over the management of home and children made them uncomfortable because it entailed accepting their husbands’ ‘looser’ standards.” *See COLTRANE, supra* note 131, at 74–76 (noting also that “mothers were more likely than fathers to report that they would be embarrassed if unexpected company came over and the house was a mess,” akin to when a husband “dressed the kids funny” (internal quotation marks omitted)); *cf.* Gisela Bock & Barbara Duden, *Labor of Love—Love as Labor: On the Genesis of Housework in Capitalism*, in *FROM*



admit to the frisson of superiority, of a particular form of gratification, when they are the more competent parent.”<sup>138</sup>

#### B. EXTRAPOLATING: THE STICKINESS OF ADMIN

The discussion of admin distribution thus far has largely emphasized a stereotypical male–female scenario. But admin is distributed, fairly or unfairly, across many relationships. For example, as noted above, same-sex couples may end up with admin distribution that does not reflect the principles of distribution to which they otherwise subscribe. More broadly, though, in extended families, some family members end up carrying the admin burden for the whole clan without any wish to do so. Parents generally do the admin for their children, but for how long? If there is any truth to reports that the so-called millennial generation is extending childhood and parental dependency longer than ever before, then in a digital era that means some parents also keep doing their adult children’s admin: for example, preparing and paying taxes, paying the cellphone bill, or filing health insurance paperwork.<sup>139</sup>

These varied scenarios all point to the insight that admin is “sticky.”<sup>140</sup> Several features of admin contribute to its stickiness across more and less stereotypical scenarios. This section identifies four such features: invisibility, unwantedness, actor specificity, and flexibility.

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FEMINISM TO LIBERATION 181 (Edith Hoshino Altbach ed., 2009) (finding that where a woman “refus[es] to do housework, in a situation of powerlessness and dependency, [she] runs the risk of being charged with rejecting her own womanly nature (with all the guilt resulting from that); this may mean the loss of the only reward granted to this work, love and recognition by the family”).

138. Belkin, *supra* note 82, at 48.

139. This generally gets talked about in terms of financial costs, but this arrangement means parents are bearing the time and energy costs of admin as well. *Cf., e.g.,* Sue Shellenbarger, “*What’s the Netflix Password Again, Mom?*,” WALL ST. J. (Mar. 13, 2013, 5:32 PM), <http://online.wsj.com/news/articles/SB10001424127887324128504578348613932711322> (“For increasing numbers of parents, the question of how much support to provide an adult child is no longer just about rent subsidies or car payments. The calculation is now complicated by the new maze of subscriptions that allow even far-flung family members (with the right password) to piggyback on a parental account well into their working lives. . . . Now that federal health-care legislation lets adult kids stay on their parents’ insurance plans longer, it seems 26 is the new 18.”); Larissa Faw, *Why Millennials Are Spending More Than They Earn, and Parents Are Footing the Bill*, FORBES (May 18, 2012, 4:43 PM), <http://www.forbes.com/sites/larissafaw/2012/05/18/why-millennials-are-spending-more-than-they-earn>; Susan Johnston, *Is It OK for Mom and Dad to Pay for Your Cell Phone?*, MAINSTREET (Apr. 2, 2013, 4:10 PM), <http://www.mainstreet.com/article/family/it-ok-mom-and-dad-pay-your-cell-phone>; Amy Langfield, *You’re Not the Boss of Me, Mom, but I’m Staying on Your Phone Plan*, TODAY (Mar. 20, 2013, 8:49 AM), <http://www.today.com/money/youre-not-boss-me-mom-im-staying-your-phone-plan-1C8967406>; Wileene Grace Olimpo, *Survey: More Parents Pay Cell Phone Bills Than Tuition*, HFUG.NET (Aug. 14, 2013), <http://hfug.net/dot-edu/survey-more-parents-pay-cell-phone-bills-than-tuition>.

140. On the burgeoning literature on “sticky defaults,” see, for example, Ian Ayres, *Menus Matter*, 73 U. CHI. L. REV. 3 (2006); Elizabeth F. Emens, *Changing Name Changing: Framing Rules and the Future of Marital Names*, 74 U. CHI. L. REV. 761 (2007); Yair Listokin, *What Do Corporate Default Rules and Menus Do? An Empirical Examination*, 6 J. EMPIRICAL LEGAL STUD. 279 (2009); Cass R. Sunstein & Richard H. Thaler, *Libertarian Paternalism Is Not an Oxymoron*, 70 U. CHI. L. REV. 1159 (2003).



### 1. Invisibility: Under the Radar

As noted earlier, much admin is literally harder to see and less socially salient than more traditional household chores.<sup>141</sup> Invisibility makes it easier for inequities to arise and go unnoticed and unaddressed. And so admin tends to stay—that is, to “stick”—where it lands, even among couples who strive to divide their shared responsibilities evenly.

### 2. Unwantedness: Where’s the Fun?

Admin duties are a means to an end, and, for many, tiresome ones at that.<sup>142</sup> The unwantedness of admin can make it hard to redistribute, particularly against the grain of social expectations or inertia. In the stereotypical male–female parenting scenario, one can frame equal time with the children as a win-win for everyone—since the dad and the kids arguably get a better relationship out of it<sup>143</sup>—but it is harder to sell dads on the idea that they somehow benefit from doing more admin. Indeed, one study finds that fathers are modestly happier with their marriage if they are doing more direct childcare, but less happy if they do more household management.<sup>144</sup> (Women, the authors also found, are happier with their marriage if their partners do more household management.<sup>145</sup>) Thus, the allocation of admin work within the family is a more barebones equity issue because redistribution has no obvious upside for the party who is giving up the advantage.<sup>146</sup> The unwantedness of admin makes redistribution challenging in any relationship. Without a societal script for discussing admin inequities, and without an upside to highlight for the non-doer, it may be difficult to talk about redistributing admin without seeming insensitive to the other person’s (un)happiness.

### 3. Actor Specificity: The Accumulation of Knowledge

In addition, the role of accumulated knowledge is significant. One partner may come with greater *skills* at the more traditional forms of household labor—cooking, cleaning, changing diapers—or at admin tasks—filing, organizing, planning, scheduling. But skills, although necessary for many forms of

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141. See *supra* Part II.A.2.

142. For a discussion of varied preferences about admin—including “admin lovers”—see *infra* Part III.A.

143. See, e.g., Belkin, *supra* note 82, at 49; Marc Vachon & Amy Vachon, *Equal Sharing of Childraising: Benefits and Challenges*, EQUALLYSHARED.PARENTING.COM, <http://equallysharedparenting.com/articles/article2.htm> (last visited Apr. 5, 2015).

144. See Meier et al., *supra* note 83, at 76.

145. *Id.*

146. One other study did find, however, that young couples reported greater closeness with their children when fathers were more involved in family management. Marion F. Ehrenberg et al., *Childcare Task Division and Shared Parenting Attitudes in Dual-Earner Families with Young Children*, 50 FAM. REL. 143, 150 (2001).



admin,<sup>147</sup> are less of a problem for transferring or swapping admin duties than is *knowledge*. Skills can be developed and used when needed, even (typically) after a person is out of practice (with some inefficiency at first perhaps). Many admin tasks require accumulated knowledge, however, which must be up to date to be useful—making these tasks difficult to delegate or trade off.

For this reason, it is harder to switch off specific admin jobs than it is to switch off cooking or cleaning or childcare.<sup>148</sup> For example, someone who is a competent cleaner can clean in weeks 2 and 4, while someone else cleans in weeks 1 and 3. By contrast, on the admin side, someone who is competent at arranging playdates, in principle, cannot jump in to arrange the playdates in weeks 2 and 4, without obtaining substantial information about what happened the other weeks, whom to contact about next steps, and how to reach that person.<sup>149</sup> Grocery shopping with a list in hand, though more efficient if you know the grocery store well, is likely to go fine without that intimate knowledge. Making a grocery list—the admin portion of obtaining groceries—is hard, though, without knowing what everyone eats and needs, and what the kitchen already contains.

#### 4. Flexibility: Spatial and Temporal

As noted earlier, much admin work can be done remotely.<sup>150</sup> There is a reason that telecommuting is a policy typically associated with office

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147. The particular skill involved in doing this well can be seen in the class of people—household chiefs of staffs, estate managers, and personal assistants—who make their living doing admin for wealthy people. *See, e.g.,* Green, *supra* note 58.

148. For an illuminating discussion of household chore distribution, highly relevant to admin distribution, see Emily Oster, *You're Dividing the Chores Wrong*, SLATE (Nov. 21, 2012, 8:00 AM), [http://www.slate.com/articles/double\\_x/doublex/2012/11/dividing\\_the\\_chores\\_who\\_should\\_cook\\_and\\_who\\_should\\_clean.html](http://www.slate.com/articles/double_x/doublex/2012/11/dividing_the_chores_who_should_cook_and_who_should_clean.html). Oster critiques a distributional scheme based simply on relative skill—who is better at what?—as conflating two distinct economic concepts: absolute advantage and relative advantage. She frames the point with this question: If one partner is “[b]etter at the laundry, the grocery shopping, the cleaning, the cooking”—that is, if one partner is “better at everything”—then “does that mean she should have to do everything?” *Id.* Oster points out that the person who is better at everything (who has the *absolute advantage*) should not do everything, but should instead only do those things at which she is much better (where she has the *comparative advantage*). I thank Scott Hemphill for directing me to this piece and for related conversation.

149. The availability of cleaning services—that ask few or no questions about individual preferences and bring their own cleaning products—is revealing on this point. *See, e.g.,* HOMEJOY, <https://www.homejoy.com> (last visited Apr. 5, 2015) (noting that “[c]leaners bring all supplies and equipment” and that customers need only “[t]ell [the company] when and where [they] want [their] home cleaning”). Of course, gaining information about how an individual likes his home cleaned can lead to a more satisfying performance, which is one reason people who outsource their home cleaning often prefer repeat players. However, site-specific knowledge is not the threshold matter that it is for arranging a playdate, which cannot be begun without relevant names, contact details, and scheduling information about participant availability.

150. Such flexibility is likely to be more characteristic of the admin done by people of financial means; the admin burdens faced by people with few resources are more likely to involve public entities (or even private entities) that place less value on their clients’ or customers’ convenience. When admin needs to be done at particular times, as noted earlier, this can affect the distribution of who has to do it—often to the detriment of whoever, in reality or perception, is less valuable in market or status terms.



work;<sup>151</sup> office work is more amenable than many other forms of labor to being accomplished from afar, so long as one has a computer, telephone, fax, Internet connection, or similar. In principle, this flexibility could be used to redistribute or share admin in creative ways—for instance, to the partner whose job is deemed more inflexible, but who can do admin late at night or from the office. In reality, though, this feature of admin is often another reason that admin stays where it lands.

In our paradigmatic male–female couple where the woman manages the household admin, the flexibility of admin means she can continue doing much of that work when she leaves home or even when she leaves town. When the person who does dishes goes away for the day or the night, either someone else does them or they pile up in an unseemly display. But when the person who pays the bills, submits insurance paperwork, orders household supplies, or keeps the family calendar is away, he or she can keep doing those tasks from afar. Thus, even temporary separations do not force experiments in redistribution. And as fewer and fewer places in the world are “off the grid,”<sup>152</sup> soon there may be no admin-free zones.

#### C. EFFICIENCY: THE COSTS OF ADMIN

It is not enough to be industrious; so are the ants. What are you industrious about?

—Henry David Thoreau<sup>153</sup>

The four features of admin discussed in the previous section contribute to its staying with the partner, parent, relative, or friend who started doing it months or years or decades ago. In the terminology of the Article, these features contribute to the stickiness of admin distribution. More broadly, these features of admin contribute to its unique spatial and temporal position in all our lives: the parallel shift.<sup>154</sup> Women’s role as household manager makes the parallel shift most obvious in that relational context, but this form of labor implicates us all. This section discusses the costs of the parallel shift for everyone: wasted time, mental distraction, and consequences of delay.

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151. See, e.g., *Langon v. Dep’t of Health & Human Servs.*, 959 F.2d 1053, 1061–62 (D.C. Cir. 1992) (acknowledging that not allowing an employee to work from home may constitute a failure to reasonably accommodate).

152. See, e.g., Ville Heiskanen, *New York Subway Stations to Get Wireless Internet Service*, BLOOMBERG BUS. (May 3, 2012, 12:06 PM), <http://www.bloomberg.com/news/2012-05-03/new-york-subway-stations-to-get-wireless-internet-service.html>.

153. Henry David Thoreau, *Letters to H. G. O. Blake*, in *GREAT SHORT WORKS OF HENRY DAVID THOREAU* 100 (Wendell Glick ed., Harper & Row 1982).

154. See *supra* paragraph accompanying note 77 (explaining the idea of the “parallel shift” for admin in particular, in relation to the familiar feminist idea of the “second shift” of household labor).



## 1. Wasting Time

Admin seems to many people like wasting time, even killing it. The admin may need to get done, but the time it takes often seems an unfortunate loss of precious hours and minutes. If someone says, “I spent half the day at the DMV,”<sup>155</sup> or “I spent two hours on the phone with the insurance company,” any reasonably attuned interlocutor will groan empathetically. The listener will know that the person feels he has passed his day doing something unfulfilling. Active waiting—waiting on hold, for instance, or waiting for an appointment to start—is a paradigmatic cultural example of wasted time.<sup>156</sup>

Related to this, we might note that admin is often something we do when we are putting off something we consider more important. Although the end result of our admin work may be vitally important, the process often seems like procrastination with regard to our main priorities. Sometimes admin has a tight deadline, but when the timing is up to us, then it can feel like a distraction—something to do when our brain is fried, when we are not capable of doing something more stimulating or engaging.<sup>157</sup> Although this may be a constructive way to accomplish necessary admin, admin procrastination reflects the extent to which we often *feel* that doing admin is wasting time. In addition, the impulse to procrastinate by doing admin can lead to doing arguably needless admin, such as completing consumer satisfaction surveys or researching products that could be successfully “picked” rather than “chosen.”<sup>158</sup>

More generally, admin consumes time that could be spent on other activities. Sleep and leisure are often the first to be sacrificed. The epigraph at the start of this Part—which begins “zing wide awake at 3:30 a.m. with thoughts”—narrates admin’s imposition on sleep.<sup>159</sup> Admin also cuts into leisure time. Various research finds that working women with children have significantly less leisure time than their male partners.<sup>160</sup> This literature does not make specific

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155. See, e.g., Bertha, *An Afternoon at the DMV*, BERTHABLOG (Feb. 22, 2012, 9:42 PM), <http://bertha.yetta.net/2012/02/22/an-afternoon-at-the-dmv/>.

156. See also DR. SEUSS, OH, THE PLACES YOU’LL GO! (1960).

157. This perspective may be particularly true for writers. While working on this project, I have more than once said that it was time for me to switch from doing admin to writing *Admin*.

158. On the distinction between picking and choosing, see, for example, Sunstein, *supra* note 61, at 12 n.31.

159. Paul, *supra* note 77; see *supra* text accompanying note 77.

160. See, e.g., Lyn Craig & Killian Mullan, *Parental Leisure Time: A Gender Comparison in Five Countries*, 20 SOC. POL. 329, 343 fig.3 (2013) (finding, across samples drawn from five countries, that mothers have less child-free leisure time than fathers); Liana C. Sayer et al., *How Long Is the Second (Plus First) Shift? Gender Differences in Paid, Unpaid, and Total Work Time in Australia and the United States*, 40 J. COMP. FAM. STUD. 523, 541 (2009) (finding that “[m]others appear to preserve child care time by cutting back on employment (as in male-breadwinner families) or on their sleep and leisure (when they are employed)”). But see Melissa A. Milkie et al., *Taking on the Second Shift: Time Allocations and Time Pressures on U.S. Parents with Preschoolers*, 88 SOC. FORCES 487, 500 (2009) (finding that mothers got more personal care time and sleep than fathers, though relying in part on the ATUS, which measures only one activity at a time).



findings about admin, but we can speculate from the research cited earlier that admin, as well as more traditional chores, fills some of those lost leisure hours.

Admin also cuts into the time we have for paid work and educational pursuits. One reason illness and disability can be debilitating is that investigating conditions and treatments, scheduling appointments with doctors and specialists, paying bills, and managing insurance matters take time away from work endeavors.<sup>161</sup> In the extreme case, lost work hours can hinder a person's ability to complete the tasks necessary to keep her job; in the more routine circumstance, a person fails to pursue enriching professional or educational endeavors that have intangible but no less real consequences for success and fulfillment at work or at school.<sup>162</sup>

## 2. Stealing Focus

To do two things at once is to do neither.  
—Publius Syrus<sup>163</sup>

In addition to time, admin takes mental energy. It drains our mental resources not only when we focus squarely on it, but at other times as well. The literal invisibility and the flexibility of much admin—combined with its lack of cultural salience—work together to make admin something that often happens in the interstices of life. Thus, it threatens to occupy our mind when we are trying to do other valuable things, like read for work or pleasure or connect with loved ones.

Anecdotally, everyone knows the feeling when another person is checking her email or texts during a conversation. This is what sociologist Erving Goffman called an “away”<sup>164</sup>—presciently capturing that familiar moment of the technological age when our interlocutor engages with something else, creating distance in place of connection. Moreover, empirical work shows that being primed to think about money when money is tight imposes a “bandwidth

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161. See, e.g., RACHEL ADAMS, RAISING HENRY 82, 87 (2013) (“Just days after Henry’s services were approved, the therapists started to arrive. . . . Suddenly, I was in charge of finding, scheduling, and interacting with an entire staff of caregivers. . . . Even as I went about these tasks [admin and otherwise], there were many days when I wanted to scream with frustration as I thought of my colleagues teaching seminars, reading and writing, or jetting around the world to give talks and go to conferences.”).

162. See, e.g., *id.* at 87.

163. THE MORAL SAYINGS OF PUBLIUS SYRUS, A ROMAN SLAVE: FROM THE LATIN 13 (D. Lyman trans., L.E. Barnard & Co. 1856).

164. See Erving Goffman, *Alienation from Interaction*, in INTERACTION RITUAL: ESSAYS IN FACE-TO-FACE BEHAVIOR 113, 133 (AldineTransaction 2005) (1967) (“Just as we can have preoccupied persons in conversational interaction, so in unfocused interaction we can have ‘absent-minded’ participants, who by their posture, facial expression, and physical movements suggest that they are momentarily ‘away,’ that they have momentarily let fall the expressive costume that individuals are expected to wear whenever they are in the immediate presence of others.”); see also DANIEL GOLEMAN, FOCUS: THE HIDDEN DRIVER OF EXCELLENCE 8 (2013).



tax” on other mental activities.<sup>165</sup> That is, scarcity makes us less smart in important ways.<sup>166</sup> In this light, it may be that the negative mental effects of admin are most pronounced when admin relates to scarce resources: for instance, when we are dealing with overdue mortgage payments or collection agencies, or contesting the denial of health insurance claims we cannot afford to pay out of pocket.

Moreover, we know that any kind of multitasking diminishes a person’s concentration: according to numerous studies, for example, driving while talking on a cellphone, even one that is hands-free, is more dangerous than driving after drinking.<sup>167</sup> The multitasking that admin so often involves—to fit into the margins of otherwise demanding lives that rarely make any allowance for this time-consuming form of hidden labor—threatens to compromise our performance in other areas. Research suggests that women in particular experience distress when multitasking at home.<sup>168</sup> Everyone, though, can relate to the burdens of mental distraction while trying to work, play, sleep, or relate to others.

### 3. Punishing Avoidance

This section has focused on the costs of doing admin. But *not doing* admin can also create a variety of costs, tangible and intangible. Where particular admin duties are assigned to recognizable subsets of society, then the costs of avoidance weigh more heavily on that group. For instance, one might ask, who is criticized if thank-you notes go unwritten? Who is called if permission slips are forgotten?<sup>169</sup> Who feels responsible if bills go unpaid or investments neglected?

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165. See SENDHIL MULLAINATHAN & ELДАР SHAFIR, SCARCITY: WHY HAVING TOO LITTLE MEANS SO MUCH 13 (2013) (arguing that scarcity imposes a mental “bandwidth tax”: “Because we are preoccupied by scarcity, because our minds constantly return to it, we have less mind to give to the rest of life. . . . [in terms of] fluid intelligence . . . [and] executive control . . . [W]e find that scarcity reduces all these components of bandwidth—it makes us less insightful, less forward-thinking, less controlled”).

166. *Id.*

167. *Id.* at 36 (citing David L. Strayer et al., *A Comparison of the Cell Phone Driver and the Drunk Driver*, 48 HUM. FACTORS 381 (2006); Donald A. Redelmeier & Robert J. Tibshirani, *Association Between Cellular-Telephone Calls and Motor Vehicle Collisions*, 336 NEW ENG. J. MED. 453 (1997)). Mullainathan and Shafir also note a recent naturalistic study that found little impact of cell phones on car accidents—Saurabh Bhargava & Vikram S. Pathania, *Driving Under the (Cellular) Influence*, 5 AM. ECON. J.: ECON. POL’Y 92 (2013)—and note that further investigation is needed because this flies in the face of an established body of empirical work.

168. See Offer & Schneider, *supra* note 135, at 828 (“Whereas both fathers and mothers report feeling more productive when they multitask at home compared to when they monotask, multitasking at home is also associated with increased negative affect, stress, and psychological distress for mothers.”).

169. For anecdotal accounts on this front, I particularly thank the participants in the New York Area Family Law Scholars Workshop. Cf. COLTRANE, *supra* note 131, at 23, 75–76 (reporting, in a study of couples who “attempt to share parenting,” that “mothers were more likely than fathers to report that they would be embarrassed if unexpected company came over and the house was a mess” and explaining that “since other people continued to assume that the home was the woman’s responsibility, these women feared negative judgments”).



Only some of the costs of avoiding admin are internalized by the person whose admin it is. An analogy from health care makes the point. For some health conditions, failing to find a doctor or to make appointments for preventative treatment or for early intervention can lead to costly consequences later.<sup>170</sup> For those with employer-provided health insurance, the eventual financial costs are likely to be shared by the individual and the employer—and perhaps, indirectly and eventually, by coworkers or customers to whom the employer passes along increased costs.<sup>171</sup> For those on public assistance, the costs of a person's avoiding preventative care are largely borne by the taxpayers, in the form of emergency and late-stage medical interventions.<sup>172</sup> The example of preventative health care may serve as a metaphor for the subset of admin duties that, when neglected, lead to costs not only for the individual but for others near or far.

Delaying admin now sometimes leads to greater admin later. Failing to meet a deadline can trigger additional demands, whether formally, to apply for extensions, or informally, to deliver apologies. In some jurisdictions, waiting too long to do certain government admin—like paying parking tickets or providing ongoing evidence of income levels for Medicaid coverage or educational financial aid—means having to do in person what could be done remotely at an earlier stage. Sometimes delaying admin means losing benefits, opportunities, or money—or even just the hedonic costs of worrying about such losses.

On the other hand, some admin, if left undone, will go away or be done by someone else. The prospect of it being done by someone else brings us back to where we began this Part—with questions of distribution.

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In sum, the parallel shift imposes costs on us all. Admin consumes time that could otherwise be spent on leisure, sleep, relationships, and professional activities. It also diminishes our focus when we do pursue these endeavors. It particularly afflicts a subset of people who do more than their share—often women, but also others on whom admin “sticks.” Beyond these distributional inequities, admin takes its toll on everyone above a certain age.

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170. See, e.g., Joshua T. Cohen et al., *Does Preventive Care Save Money?: Health Economics and the Presidential Candidates*, NEW ENG. J. MED. (Feb. 14, 2008), <http://www.nejm.org/doi/full/10.1056/NEJMp0708558> (reporting, based on a meta-analysis of 599 articles over a five-year period, that “[s]ome preventive measures save money, while others do not, although they may still be worthwhile because they confer substantial health benefits relative to their cost. In contrast, some preventive measures are expensive given the health benefits they confer. In general, whether a particular preventive measure represents good value or poor value depends on factors such as the population targeted, with measures targeting higher-risk populations typically being the most efficient”).

171. On employers' passing along costs to workers and customers, see, for example, Christine Jolls, *Accommodation Mandates*, 53 STAN. L. REV. 223, 226–27 (2000).

172. See, e.g., LINA CHOUDHRY ET AL., THE IMPACT OF COMMUNITY HEALTH CENTERS & COMMUNITY-AFFILIATED HEALTH PLANS ON EMERGENCY DEPARTMENT USE 2 (2007) (noting that “Medicaid beneficiaries and the uninsured . . . account for more *avoidable* [emergency] visits” and that “over \$18 billion . . . are wasted annually for [emergency] visits that are non-urgent or primary care treatable”), available at [http://www.nachc.com/client/documents/research/ED\\_Report\\_4.07.pdf](http://www.nachc.com/client/documents/research/ED_Report_4.07.pdf).



So what can be done? Does the law have a role to play? This is the subject of Part IV. Before turning to solutions, Part III considers an array of obstacles to change.

### III. OBSTACLES

The hardest thing is to do something which is close to nothing.  
—Marina Abramović<sup>173</sup>

The path to reducing admin costs and inequities contains various obstacles. Some entities profit from others' admin, directly or indirectly, and individuals may find it difficult to break free from admin's grip. Admin distributions may also be hard to dislodge. This section anticipates a range of obstacles to reducing admin, some more justified than others. Section A focuses on challenges to improving efficiency and section B on challenges to redistributing admin.

#### A. PROFITING FROM ADMIN

##### 1. Admin's Financial Beneficiaries

*a. Imposing Admin to Make or Save Money.* Reducing admin would eliminate profits or create costs for a variety of entities. What is admin to an individual can be a cost-saving device for a public or private entity with which she interacts. For example, insurance companies can save money if their claim procedures are so complicated, or their appeals processes so onerous, that claimants give up trying to get reimbursed. The insurance industry has a name for this strategy: "rationing by hassle."<sup>174</sup> A similar principle motivates the promotional rebate, as an alternative to the front-end discount: Some portion of customers will not get around to the work of submitting the required documentation to cash in on the rebate's value.<sup>175</sup> Gift certificates that can be claimed only in store but not online—or vice versa—likely operate on a similar principle.<sup>176</sup> On the public side, admin costs can be a component of "structured rationing";

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173. MARINA ABRAMOVIĆ: *THE ARTIST IS PRESENT* (HBO Documentary Films 2012).

174. See Amy J. Schmitz, *Access to Consumer Remedies in the Squeaky Wheel System*, 39 PEPP. L. REV. 279, 280 (2012) ("[I]ndividuals must be persistent to obtain compensation on insurance claims due to insurers' 'rationing by hassle' through delay-and-ignore tactics.").

175. Stephanie Moore, *Rebate Madness—How to Avoid the Rebate Trap*, CONSUMERAFFAIRS, [http://www.consumeraffairs.com/consumerism/rebate\\_madness01.html](http://www.consumeraffairs.com/consumerism/rebate_madness01.html) (last visited Apr. 4, 2015) ("[R]ebates are actually intended to be a hassle to discourage customers from redeeming them. After all, the more customers who forget or give up on rebates, the more dollars the manufacturer retains."); see also John T. Gourville & Dilip Soman, *The Consumer Psychology of Mail-in Rebates*, 20 J. PRODUCT & BRAND MGMT. 147, 148 (2011).

176. Many gift certificates go unclaimed in any case. See, e.g., Brad Tuttle, *Billions Wasted: Do Gift Cards Make Sense When So Many Go Unused?*, TIME (Jan. 9, 2012), <http://business.time.com/2012/01/09/billions-wasted-do-gift-cards-make-sense-when-so-many-go-unused/>.



the costs of public benefits can be reduced by making those benefits hard to claim through, for instance, extensive queuing.<sup>177</sup>

Customer time may be wasted simply because companies do not hire enough representatives to handle cancellations or process reimbursements. But, as with queues for public benefits, long wait times for customers are sometimes more strategic than incidental.<sup>178</sup> Some companies even choose to incur additional personnel costs in order to create admin for customers: for instance, by requiring lengthy phone interactions to cancel a service that is otherwise purchased and utilized online, or to claim a rebate. Certain cell phone and internet companies have exemplified this strategy in recent years.<sup>179</sup> Aggressive versions of this practice have occasionally led to lawsuits—for instance, from 2005 to 2007, AOL had to pay out \$4.25 million in settlement fees for their “customer retention” tactics at the point of cancellation.<sup>180</sup> But many companies continue to retain customers or withhold customer money via admin obstacles. Moreover, although most research suggests that customers resent long wait times,<sup>181</sup> at least one study suggests that companies do well to create longer wait times in certain circumstances—for instance, where there are few repeat customers and the quality is unknown to the passersby—in order to create a sense of demand or the allure of a desirable product.<sup>182</sup>

*b. Making Money by Doing Admin.* Doing other people’s admin can be a money maker, as any accountant knows. For those who can afford to outsource, these services may usefully lighten the burden of admin. Entities that profit

177. See, e.g., Else Øyen, *Structural Rationing of Social Service Benefits in a Welfare State, in WELFARE OR BUREAUCRACY? PROBLEMS OF MATCHING SOCIAL SERVICE TO CLIENTS’ NEEDS* 45, 53–54 (Dieter Grunow & Friedhart Hegner, eds. 1980), available at <https://bora.uib.no/bitstream/handle/1956/3049/Structural%20rationing.pdf?sequence=1>.

178. A related example, strategic or inadvertent, is the money made by companies that charge multifarious hidden fees or make “mistakes in their favor” and then reverse them only for the customer who “is persistent and has the time to stay on the telephone,” that is, for the customer willing and able to do the admin time. See MARGARET JANE RADIN, *BOILERPLATE: THE FINE PRINT, VANISHING RIGHTS, AND THE RULE OF LAW* 92 (2012) (discussing these scenarios).

179. See, e.g., Chris Morran, *Why Won’t Anyone at AT&T Answer the DSL Cancellation Line?*, CONSUMERIST (Feb. 24, 2012), <http://consumerist.com/2012/02/24/why-wont-anyone-at-att-answer-the-dsl-cancellation-line>.

180. See *AOL Settles Case over Tactics to Keep Customers*, N.Y. TIMES (July 12, 2007), <http://www.nytimes.com/2007/07/12/technology/12aol.html?fta=y&r=0>. AOL was subsequently required to establish an online option for service cancellation, supplementing previously limited methods. *States Reach Settlement with AOL on Cancellations*, TELECOMM. REPS., Aug. 1, 2007, at 7; see, e.g., Press Release, Office of the Att’y Gen., Cal. Dep’t of Justice, *Brown Resolves Confusing AOL Cancellation Policy* (July 11, 2007), available at <http://oag.ca.gov/news/press-releases/brown-resolves-confusing-aol-cancellation-policy>.

181. For a review, see Agnes Durrande-Moreau, *Waiting for Service: Ten Years of Empirical Research*, 10 INT’L J. SERVICE INDUSTRY MGMT. 171, 171 (1999) (noting “increasing value of time for customers”); see also, for example, Michaelle Ann Cameron et al., *The Effects of Music, Wait-Length Evaluation, and Mood on a Low-Cost Wait Experience*, 56 J. BUS. RES. 421 (2003); Kelly A. McGuire et al., *A Framework for Evaluating the Customer Wait Experience*, 21 J. SERVICE MGMT. 269 (2010).

182. See Michael D. Giebelhausen et al., *Worth Waiting For: Increasing Satisfaction by Making Consumers Wait*, 39 J. ACAD. MARKETING SCI. 889 (2011).



from doing admin, however, have an interest in perpetuating its existence. For instance, on the tax front, tax-return software companies have fought back a proposal for the federal government to fill out tax forms, modeled on California's CalFile (formerly known as ReadyReturn) program.<sup>183</sup> Intuit, the maker of TurboTax, has invested roughly \$11.5 million over the past five years in lobbying efforts—"more than Apple or Amazon"—largely to counter two bills "that would have allowed many taxpayers to file pre-filled returns for free."<sup>184</sup> Both of those bills have died, and efforts to revive them have a poor prognosis.<sup>185</sup>

Entities in the business of doing or reducing admin come in many shapes and sizes. Recent years have seen the emergence of services to help customers avoid long wait times for customer service representatives. Some of these—with apt names like "GetHuman" and "FastCustomer"—offer free help with getting around company phone trees to reach a live voice.<sup>186</sup> Others, unsurprisingly, charge a fee, or they offer limited free services followed by more substantial services with a price tag; for instance, "CancelWizard" posts on its open-access site detailed guides to cancelling various services, and then offers a \$34.95 "paid service [as] an option for those individuals who no longer want to deal with the hassles of canceling their account."<sup>187</sup> More generally, if various transactions were simpler—writing a will, effecting an adoption, doing your taxes—then a whole swath of lawyers and accountants would be out of business. This is a cost to some, but given that many people cannot afford to hire

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183. See *CalFile*, ST. OF CAL. FRANCHISE TAX BD., <https://origin-www.ftb.ca.gov/online/calfile/index.asp> (last visited Mar. 25, 2015).

184. Liz Day, *How the Maker of TurboTax Fought Free, Simple Tax Filing*, PROPUBLICA (Mar. 26, 2013, 5:00 am), <http://www.propublica.org/article/how-the-maker-of-turbotax-fought-free-simple-tax-filing>. Intuit has also lobbied in favor of legislation that "would bar the IRS from offering taxpayers software that would compete with programs like TurboTax." Liz Day & Justin Elliott, *Republicans and Dems Come Together—to Keep IRS from Competing with TurboTax*, PROPUBLICA (Apr. 15, 2013, 1:34 pm), <http://www.propublica.org/article/republicans-and-dems-come-together-to-keep-irs-from-competing-turbotax>.

185. See Day, *supra* note 184. Although efforts in 2007 and 2011 failed, two Illinois Democrats reintroduced similar legislation in 2013: the "Autofill Act of 2013." See Michael Cohn, *Congress Introduces Bill to Have IRS Automatically Fill Out Tax Forms*, ACCOUNTING TODAY (Apr. 16, 2013), <http://www.accountingtoday.com/news/Congress-Introduces-Bill-IRS-Automatically-Fill-Tax-Forms-66374-1.html>. This bill was never enacted. Autofill Act of 2013, H.R. 1532, 113th Cong. (2013), available at <http://www.govtrack.us/congress/bills/113/hr1532>. As a different kind of example, the paper industry has formed an organization to oppose the federal government's turn to electronic communications. See Lisa Rein, *Group Tries to Slow Federal Government's Move Away from Paper to the Web*, WASH. POST (Feb. 16, 2014), [http://www.washingtonpost.com/politics/group-tries-to-slow-federal-governments-move-away-from-paper-to-the-web/2014/02/16/42fd9aa6-8de8-11e3-833c-33098f9e5267\\_story.html](http://www.washingtonpost.com/politics/group-tries-to-slow-federal-governments-move-away-from-paper-to-the-web/2014/02/16/42fd9aa6-8de8-11e3-833c-33098f9e5267_story.html).

186. E.g., FASTCUSTOMER, <http://www.fastcustomer.com> (last visited Apr. 3, 2015); GETHUMAN, <http://gethuman.com> (last visited Apr. 4, 2015); see also LUCYPHONE, <http://www.lucyphone.com> (last visited Apr. 4, 2015) (supplies direct numbers and offers a service that "waits" on hold for the customer, placing a call to the customer when a customer service representative answers); Kevin Purdy, *LucyPhone Waits on Hold for Customer Service for You*, LIFEHACKER (May 12, 2010, 5:00 am), <http://lifehacker.com/5536977/lucyphone-waits-on-hold-for-customer-service-for-you> (describing Lucyphone's procedures for navigating phone trees).

187. *Frequently Asked Questions*, CancelWizard, <http://cancelwizard.com/faq/index.html> (last visited Apr. 4, 2015).



professionals to do this work for them, this is hardly a justification for allowing admin to persist where it could be reduced or eliminated. It is, however, a reason why unregulated markets are unlikely to eliminate certain kinds of admin on their own.

## 2. Non-Monetary Gains from Admin

Financial interests are far from the only obstacle to reducing admin. Broadly speaking, much of the admin we do is serving some purpose—by definition, that is the *end* to which admin is a *means*. Adoption procedures take time, for instance, but much of the adoption admin involves gathering information and documents that help the court make an informed decision whether to approve the adoption.<sup>188</sup> Serving that basic purpose through some admin may be inescapable. More interestingly, though, the admin work itself serves another purpose: signaling. This section briefly discusses this and other nonmonetary functions admin can serve.

*a. Admin's Signals.* Doing admin can signal intentions or facts that are hard to signal in other ways.<sup>189</sup> Because admin takes time and effort, a person's willingness to complete the admin required for some purpose can convey an interest or intention with regard to that purpose. For instance, schools (at whatever level) can draw inferences about applicants' interest level from their willingness to complete a distinct, time-consuming application. Electronic streamlining, or common-form applications, eliminate that signal in many cases. For this reason, institutions that rely on these signals to narrow their pools may oppose reductions in applicant admin.<sup>190</sup>

*b. Forms of Pleasure and the Pleasure of Forms.* Some people find the activities generally considered admin to be pleasurable. For a select few, the epitome of admin—filling out forms—is a desirable activity. On the website the “Experience Project,” one user created a page called “I Love Filling Out Forms.”<sup>191</sup> Another user replied, “I want to work at a bank just so I can fill out forms. For the longest time I wanted to count money, fill out forms & stamp things. Is that strange?”<sup>192</sup> Though the love of forms is intriguing, it is highly

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188. See *supra* text accompanying note 72 (discussing adoption processes).

189. Cf. Michael Spence, *Job Market Signaling*, 87 Q.J. ECON. 355, 358 (1973).

190. See, e.g., Vivian Yee, *Kindergarten Applications Going Digital*, N.Y. TIMES (Sept. 12, 2013), [http://www.nytimes.com/2013/09/13/nyregion/kindergarten-applications-going-digital.html?\\_r=0](http://www.nytimes.com/2013/09/13/nyregion/kindergarten-applications-going-digital.html?_r=0). (reporting, with regard to the new online kindergarten application process, of one principal that “[h]er only concern, she said, was that the ease of submitting applications to multiple schools from home would encourage parents to apply to more schools just because they were well-regarded, without having done their research. In-person applications encourage parents to visit, she said”).

191. *I Love Filling Out Forms*, EXPERIENCE PROJECT, <http://www.experienceproject.com/groups/Love-Filling-Out-Forms/139365> (last visited Apr. 4, 2015).

192. Carynb, Post to *I Love Filling Out Forms*, EXPERIENCE PROJECT (March 9, 2013), <http://www.experienceproject.com/groups/Love-Filling-Out-Forms/139365>.



unusual. The form-lovers group currently contains just seven members,<sup>193</sup> and negative replies on similar websites are bold and frequent.<sup>194</sup>

Although a love of completing forms is idiosyncratic,<sup>195</sup> many of the activities we call admin involve varying degrees of satisfaction for many people. One person's waste of time may be another person's pleasure or livelihood. (Recall that to many people, lawyers are transaction costs.<sup>196</sup>) More generally, most people know the pleasure of having completed an onerous task. Thus, for many of us admin sometimes entails either of the following two forms of pleasure: the relief at removing something painful, or the satisfaction of succeeding at something difficult. For instance, on the first, a feeling of aesthetic contentment can accompany cleaning out one's inbox or organizing many messy items into tidy folders, whether digital or tangible. On the second, a triumphant glow or satisfied sigh may come with winning a battle with an insurance company or the recalcitrant manufacturer of a defective product.<sup>197</sup>

Nonetheless, these forms of pleasure largely stem from producing the desired outcome, rather than from the process, consistent with our understanding of admin as valued principally if not exclusively for its results. Some would say, on religious or philosophical grounds, that what should matter is not *what* we

193. *Id.*

194. It is fair to say that the form lovers are far outnumbered by the form haters. This reply to a form lover's post is typical: "AAAAAAHHHHH filling out forms is in [sic] my 'hate' list. If I never fill out another form again I will be very happy. But that's not going to happen. The older I get, the more forms I have to fill out." Janissy, Reply to *Does Anyone Else Really Enjoy Filling Out Forms?*, WRONGPLANET.NET FORUMS (Feb. 8, 2010, 4:02 pm), <http://www.wrongplanet.net/postt118915.html>; see also Willard, Reply to *Does Anyone Else Really Enjoy Filling Out Forms?*, WRONGPLANET.NET FORUMS (Feb. 8, 2010, 6:05 pm), <http://www.wrongplanet.net/postt118915.html> ("Forms are a form of psychological torture! The very sight of a stack of government paperwork sends me straight into meltdown territory. I'm always terrified I'll enter something wrong and get fined some huge amount I can't pay, or lose my disability, or be sent an even bigger stack of forms to fill out to explain why I didn't give the correct responses on the first ones . . . I can never do paperwork when its [sic] first handed to me. I have to set it aside and ignore it for a week or two, then gradually circle it for awhile [sic] as it sits there on the counter smirking at me with it's [sic] evil blanks and columns and check boxes.")

195. The form lovers are nonetheless interesting in their own right. For starters, they may be overrepresented on a popular asperger's/autism forum. See, e.g., Hermier, *Anyone Else Really Enjoy Filling Out Forms?*, WRONGPLANET.NET FORUMS (Feb. 8, 2010, 2:56 pm), <http://www.wrongplanet.net/postt118915.html>. Elsewhere, posters ask if enjoying filling out forms is itself a disorder. See, e.g., Contagious Insanity, *I Love Filling Out Profiles & Forms. Why? Is This Some Sort of Disorder?*, YAHOO! ANSWERS, <http://answers.yahoo.com/question/index?qid=20111113091007AAzn6Mp> (last visited Apr. 4, 2015).

196. Cf. *supra* note 36 (discussing the relevance of the concept of transaction costs). Recognizing that the costs of hiring a lawyer are prohibitive for many people, the access to justice movement aims to provide lawyers to people who need them and to streamline legal processes to empower more people, especially people of fewer resources, to navigate the legal system without lawyers and to obtain similar remedies to similar problems. See, e.g., Lawrence M. Friedman, *Access to Justice: Some Historical Comments*, 37 FORDHAM URB. L.J. 3, 8 (2010); Rebecca L. Sandefur, *The Fulcrum Point of Equal Access to Justice: Legal and Nonlegal Institutions of Remedy*, 42 LOY. L.A. L. REV. 949, 950 (2009).

197. Organizing can also involve aesthetic pleasure for many people, though admittedly countervailing aesthetics and other forces push up against that pleasure for some. Cf. MARILYN PAUL, *IT'S HARD TO MAKE A DIFFERENCE IF YOU CAN'T FIND YOUR KEYS: THE SEVEN-STEP PATH TO BECOMING TRULY ORGANIZED* (2003).



do, but *how* we do it.<sup>198</sup> Given the choice, however, few would turn such a principle into an exhortation to spend as long as possible on admin tasks, to the exclusion of other activities or in the absence of reaching the end goals. Embedded in the idea of admin is the sense that these tasks would ideally not consume the better part of a lifetime. If this work can instead be reduced, in quantity or time, then most would agree that something has been gained and little lost.

*c. Everyone's Avoiding Something.* Even if admin is unappealing, it still might be *less* unappealing than the alternatives. First, this is true in the narrow sense that a day might have specific challenges in it—such as breaking bad news to someone or cleaning the toilets—and admin might be an attractive way to avoid the impending difficulty. Second, admin may also help us avoid larger difficulties. Scholars in both Eastern and Western psychological traditions have written about humans' complex mechanisms to avoid thinking about death—their own or other people's—and to avoid thinking about the dangers and judgments that surround us.<sup>199</sup> Keeping busy is one quotidian way to avoid larger concerns or problems or, in the words of Betty Friedan, “the emptiness of [one's] days.”<sup>200</sup>

Even if obstacles to reducing admin were overcome, inequities in the distribution of the reduced admin burden would likely persist. This is the subject of the next section.

#### B. RESISTING REDISTRIBUTION

A variety of obstacles stand in the way of admin redistribution, as this section adumbrates. One obstacle to redistribution is resistance to altering the status quo. Inertia is a strong force, compounded by the rigors of a busy schedule that leave little time and mental energy for trying to make changes to that schedule.

198. See *infra* notes 217–18 (citing sources in this tradition).

199. See, e.g., SIGMUND FREUD, REFLECTIONS ON WAR AND DEATH 41–42 (1918) (“We cannot, indeed, imagine our own death; whenever we try to do so we find that we survive ourselves as spectators. The school of psychoanalysis could thus assert that at bottom no one believes in his own death, which amounts to saying: in the unconscious every one of us is convinced of his immortality. As far as the death of another person is concerned every man of culture will studiously avoid mentioning this possibility in the presence of the person in question.”); MARTIN E.P. SELIGMAN, LEARNED OPTIMISM (2006); Peter M. Lewinsohn et al., *Social Competence and Depression: The Role of Illusory Self-Perceptions*, 89 J. ABNORMAL PSYCHOL. 203, 210–11 (1980) (concluding that “[n]ondepressed people may thus be characterized with a halo or glow that involves an illusory self-enhancement in which one sees oneself more positively than others see one”); see also BARRY MAGID, ENDING THE PURSUIT OF HAPPINESS 9–11 (2008) (“[W]e’re here precisely to face all the things we want to avoid. . . . Over and over, we [are] trying to avoid or fix, fix or avoid; to either not look at it or change it. Leaving [something] just as it is [is] the hardest thing to do.”); Myles Tougau, *Are We Too BusyBusyBusy?*, I WISH I WERE FAR FROM THE MADDING CROWD (Apr. 4, 2010, 7:55 PM) <http://amidthemaddingcrowd.wordpress.com/2010/04/04/busybusybusy> (noting a connection between the song “Busy, Busy, Busy” and Jon Kabat-Zinn’s *Coming to Our Senses*).

200. Cf. BETTY FRIEDAN, THE FEMININE MYSTIQUE 253–54 (1963) (arguing that “housewifery can, must, expand to fill the time available when there is no other purpose in life” and that otherwise “the bright energetic housewife would find the emptiness of her days unbearable”).



For some, a commitment to traditional gender roles may shape beliefs about who manages the household. In many cases, though, subtler barriers obtain, such as difficulties in delegation or an unwillingness to see things as they are. This section discusses these challenges.

### 1. Investments in Traditional Gender Roles

Both men and women may have reasons to hold fast to traditional gender roles surrounding admin. They may be invested in doing (women) or not doing (men) this work for what it means about their gender per se. In the simplest practical sense, men who decline this work may enjoy more time for leisure, sleep, or work outside the home, or even more time for the parts of home life they enjoy, such as playtime with kids.<sup>201</sup> In terms of identity, some writers suggest that women derive personal satisfaction from doing this work to manage the household.<sup>202</sup> Men may also have identity-based reasons, in addition to practical ones, to resist this work.

In male–female couples, it is interesting to note that redistributing admin will mean more cross-gender labor for men, but not necessarily more cross-gender labor for women.<sup>203</sup> That is, if admin is gendered feminine and more often done by women, redistribution will mean men doing more of what is considered women’s work. Anecdotal reports suggest that outsiders certainly notice when a man does this work for the family—whether praising him extensively or subtly mocking him, with the variation in reactions presumably depending on the community’s values, his status, and other factors.<sup>204</sup> As noted earlier, although much of admin is invisible within the relationship, some of it is highly visible to the outside community,<sup>205</sup> and as Mary Anne Case has observed in other contexts, contemporary U.S. culture is generally more comfortable with women assuming masculine roles than with men giving up privilege by assuming feminine roles.<sup>206</sup>

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201. Cf. Case, *supra* note 118, at 1761–62 (discussing sources on the greater tendency of men to do the fun or play time with kids, rather than the physical labor of feeding, clothing, bathing).

202. Cf. COLTRANE, *supra* note 131, at 230 (concluding, in his study of couples who attempt “shared parenting,” that “the cult of true womanhood that legitimated the separate spheres ideal also celebrated mothers’ unique sensitivity, subservience, and purity. . . . Since the home came to be defined as the wife’s domain, she gained a certain measure of power . . . . [Even today women], more than men, find the tasks of tending houses, caring for children, and serving spouses to be uniquely fulfilling. Wives and mothers often report that feeding or comforting family members gives them intense pleasure and a sense of purpose in life. Given the lack of respect accruing to women outside the home, families remain one of the few domains where women’s knowledge and authority are accepted and women’s activities celebrated”).

203. Of course, as discussed earlier, in same-sex couples, sex cannot determine roles; however, gender still can. See *supra* text accompanying notes 107–11.

204. Cf. e.g., Ariela Dubler, *The Parental Difficulty* (Nov. 1, 2012) (unpublished manuscript) (on file with author).

205. See *supra* Part II.A.4.

206. See Mary Anne C. Case, *Disaggregating Gender from Sex and Sexual Orientation: The Effeminate Man in the Law and Feminist Jurisprudence*, 105 YALE L.J. 1, 22–30 (1995).



## 2. Non-Delegation Dogma

Scholarly and popular work on management observes that some managers are better at delegation than others. One truism, with some limited empirics to back it up, is that women are less likely than men to delegate tasks. Whereas male business owners and managers delegate more as their businesses grow, one study finds that their female counterparts “are not prepared to delegate responsibility even to a specialist even when they are managing large businesses.”<sup>207</sup> The study attributes this disparity to the female managers’ tendency to feel “they need to take personal responsibility for each and every task . . . hold[ing] themselves personally accountable for the success or otherwise of each business operation no matter what the size of their business.”<sup>208</sup> Note that difficulties with delegating are neither essential nor unique to women, however. One study from 2007 found that nearly half of the 332 companies surveyed evinced concern about employees’ skill at delegation.<sup>209</sup>

Various writers speculate on the reasons that some managers have trouble delegating. One popular writer suggests that non-delegators have a “false economy of time,” in other words, a short-sighted belief that they do not have time to explain how to do a task.<sup>210</sup> Another commentator proposes that some “managers don’t delegate” because of perfectionism, a “feel[ing] it’s easier to do everything themselves, or that their work is better than others’,” or because of a “lack [of] self-confidence” and fear of being “upstaged by their subordinates.”<sup>211</sup>

Writing in this area offers numerous how-to guides to delegation, though little of this advice seems to go much beyond advising managers to identify tasks clearly, give others lucid instructions and space and encouragement to solve problems, devise mutually agreeable techniques for monitoring progress, and provide feedback.<sup>212</sup> Perhaps more applicable to household admin distribution is one author’s “warning signs” of “unnecessar[y] hoarding [of] work”—including “working long hours and feel[ing] totally indispensable” or feeling that “your team doesn’t take ownership over projects and that you’re the only

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207. Syeda-Masooda Mukhtar, *Differences in Male and Female Management Characteristics: A Study of Owner-Manager Businesses*, 18 SMALL BUS. ECON. 289, 304–05 (2002).

208. *Id.* at 305.

209. *You Want It When?*, i4CP (June 26, 2007), <http://www.i4cp.com/news/2007/06/26/you-want-it-when>.

210. Adele Gregory, *Reasons Why Delegation Is Hard for Some Managers*, HELIUM (Apr. 6, 2010) (on file with author).

211. Amy Gallo, *Why Aren't You Delegating?*, HARV. BUS. REV. (July 26, 2012), <http://hbr.org/2012/07/why-arent-you-delegating>.

212. See, e.g., Pam Jones, *How to Delegate Successfully*, PUB. FIN., Mar. 2012, at 42, 42–43, available at <http://www.publicfinance.co.uk/features/2012/03/how-to-delegate-successfully>; K.T. Bernhagen, *Women in Management: How to Delegate Better*, HUFFINGTON POST, [http://www.huffingtonpost.com/2011/09/30/women-management-delegate-better\\_n\\_989254.html](http://www.huffingtonpost.com/2011/09/30/women-management-delegate-better_n_989254.html) (last updated Nov. 30, 2011, 5:12 AM); Jo Miller, *Ask Jo: How Do I Delegate Without Micromanaging?*, ANITA BORG INST., <http://archive-org.com/page/618237/2012-11-10/http://anitaborg.org/news/archive/ask-jo7> (last visited Apr. 4, 2015).



one that cares.”<sup>213</sup> In this author’s words, “If [staff members] use phrases like, ‘I’m happy to help you with this,’ it may be an indication that you’re doling out tasks, not handing over responsibility.”<sup>214</sup> Conversely, in the intimate context, if one partner states familial problems in a way that implies the problems are obviously for the other partner to solve, without ever asking for help—much like a child silently holds out a dirty tissue for a parent to snatch up and throw away, in what might be described as an “imperial delegation gesture”<sup>215</sup>—that gesture may be a sign that the designated problem-solver is the lone manager, and perhaps also the lone secretary, in the household.

### 3. Emotional Resistance to Seeing Admin

Admin’s invisibility has been a theme of the Article—its relative invisibility both practically (because much of it is mental work or happens in the interstices of life) and culturally (because it is not salient). Because admin may also be difficult to see as an emotional matter, redistributing admin can be difficult as well.

*a. The Second Arrow.* First, for the individual, regret or self-judgment can accompany the realization of how much of a day or a life is spent on admin. That judgment is palpable in an earlier epigraph, where a woman who is losing sleep over managing her family’s admin describes that labor as “stupid stuff, when it comes down to it.”<sup>216</sup> On top of laborious thinking and loss of sleep, she has added derisive trivializing of that mental work.

The idea that much of human suffering comes from the self-judgment we layer on top of unpleasant experiences is a focal point of Buddhist psychology. This concept is sometimes represented by the metaphor of the so-called second arrow—the idea that an unpleasant experience is made much worse by the internal reaction to it: the resistance, judgment, or regret that often accompanies it.<sup>217</sup> In short, the first arrow is inevitable, but the second is optional.<sup>218</sup> These negative internal reactions can make it hard to see the problem of unequal admin burdens and take steps to address this problem, especially with a partner. No one wants to see the toll this work can take on us as individuals or on those around us.

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213. See Gallo, *supra* note 211.

214. *Id.*

215. I thank Amy DiBona for this analogy and the apt description of it.

216. See *supra* text accompanying note 77 (quoting text) (internal quotation marks omitted).

217. See, e.g., TARA BRACH, TRUE REFUGE 162 (2012) (“The Buddha once asked a student, ‘If a person is struck by an arrow, is it painful?’ The student replied, ‘It is.’ The Buddha then asked, ‘If the person is struck by a second arrow, is that even more painful?’ The student replied again, ‘It is.’ The Buddha then explained, ‘In life, we cannot always control the first arrow. However, the second arrow is our reaction to the first. And with this second arrow comes the possibility of choice.’”).

218. The idea is that certain Buddhist practices, like meditation, can help to alleviate the suffering of the second arrow. See, e.g., *id.* at 162–63. There is a traditional parable that offers another way of viewing this principle. See Sasha Maggio, *Buddhist Parables: A Story of Two Monks*, EXAMINER (July 24, 2010), <http://www.examiner.com/article/buddhist-parables-a-story-of-two-monks>.



*b. Tacit Agreements Not to See.* The metaphor of the second arrow—the idea that bad experiences are made worse by regret or judgment—sets into relief an obstacle particular to the problem of distribution. Couples who aspire to equity may develop unspoken agreements to avoid seeing or acknowledging the unequal distribution of their household admin.

Just as the partner who does less admin (*the non-doer*) has a clear incentive to not see his partner's extra work, the one who does more (*the doer*) also has a potential incentive to do the same. Although the reasons for cognitive dissonance may be most obvious for the equality-minded couple,<sup>219</sup> seeing the time one partner spends on admin may also be unappealing for some couples with a more role-based division of labor.

#### 4. The Individual Costs of Admin Innovation

Devising ways to reduce or redistribute admin can be costly. Within relationships, trying to address inequities takes time and energy. Some of that relationship work is itself admin. For instance, redistributing household admin can involve implementing creative admin solutions—such as syncing people's calendars or finding, installing, and setting up apps for shared shopping lists. Many of these efforts consist of finding ways to share information instantly and passively—that is, with no transaction costs—because, as noted earlier, one aspect of admin that makes it sticky is the person-specific information that accumulates. Some of the work of trying to redistribute admin is emotional and psychological problem-solving, which may require scheduling time to talk, negotiate, and plan for new experiments and approaches. The energy consumed by these efforts to redistribute might be thought of as a “relationship responsibility tax.” Who bears this tax? Typically the person who is already weighed down by admin burdens.<sup>220</sup>

Again, the distributional point has an efficiency analogue. Addressing admin inefficiencies also takes time and energy. Developing, for instance, a shopping checklist template (so that it is easy to check what needs to be replaced), a system to organize important documents (so they do not get lost and inspire time-wasting searches or replacement efforts), or a process to label, save, and file important receipts (so they are easy to locate and use for tax documentation or other purposes) is not costless. Neither is trying out new apps or other technologies to keep track of to-do lists or share calendars. The term “admin-related transition costs” is not elegant, but neither is the process of reducing admin burdens.

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219. See *supra* notes 126–29.

220. Cf. *supra* Part II.B (discussing the stickiness of admin). This may make it easier just to do the work than to dispute it. Cf. Mederer, *supra* note 83, at 142 (reporting that employed women married to men express conflict with their husbands around distribution of household “tasks,” but not around distribution of household “management,” even though they feel both distributions to be unfair).



## IV. AVENUES FOR CHANGE

Law shapes our admin burdens in numerous ways. For starters, at the broadest level, a society's choice of social welfare regimes determines individual and familial admin burdens. The example of health care is again illustrative. A national health insurance scheme that is universal rather than means-tested, and delivered without intermediaries, typically requires little paperwork.<sup>221</sup> Everyone gets the services, so no one needs to apply, prove eligibility, or submit claims.<sup>222</sup> By contrast, means-tested social programs add a layer of admin because participants must prove that they qualify.<sup>223</sup> Top of the heap for admin burdens is likely to be private health insurance covering out-of-network doctors, which requires individuals to choose plans and doctors, accumulate receipts, and submit them to insurance companies for reimbursements.<sup>224</sup> Couple this private insurance scheme with a federal pre-tax dollars program—to subsidize the high cost of private health care by permitting workers to use pre-tax dollars to cover health care costs that exceed insurance coverage<sup>225</sup>—and one individual must document health services interactions for at least two different entities (and more if any appeals are necessary).

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221. See, e.g., KATHY WALLER, ADVANTAGES OF A SINGLE-PAYER UNIVERSAL HEALTH INSURANCE PLAN, available at <http://www.lcmcsu.org/wp-content/uploads/2012/10/Wallersinglepayermaterial.pdf> (“Currently there are hundreds of insurance companies, each with different forms and policies for providers and patients. A single-payer plan would simplify our system and require less paperwork.”); *Single-Payer FAQ*, PHYSICIANS FOR A NAT’L HEALTH PROGRAM, <http://pnhp.org/facts/single-payer-faq> (last visited Apr. 4, 2015) (“The United States has the most bureaucratic health care system in the world. Over 31% of every health care dollar goes to paperwork, overhead, CEO salaries, profits, etc. Because the U.S. does not have a unified system that serves everyone, and instead has thousands of different insurance plans, each with its own marketing, paperwork, enrollment, premiums, and rules and regulations, our insurance system is both extremely complex and fragmented. The Medicare program operates with just 3% overhead, compared to 15% to 25% overhead at a typical HMO. Provincial single-payer plans in Canada have an overhead of about 1%.”).

222. It may, however, involve significant forms of “passive waiting” in order to see experts or receive treatments.

223. See, e.g., *Census Bureau, IRS Data and Administrative Expenses Multipliers*, U.S. DEP’T OF JUSTICE, <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm> (last visited Mar. 20, 2015) (outlining paperwork required for means-tested bankruptcy program); *Health Benefits: Financial Assessment*, U.S. DEP’T OF VETERANS AFFAIRS, [http://www.va.gov/healthbenefits/cost/financial\\_assessment.asp](http://www.va.gov/healthbenefits/cost/financial_assessment.asp) (last updated Jan. 27, 2015) (outlining paperwork requirements for Veterans Affairs means-tested health benefits).

224. See, e.g., Megan Johnson, *How to Choose a Health Insurance Plan: 12 Helpful Tips*, U.S. NEWS (Nov. 1, 2010, 4:55 PM), <http://health.usnews.com/health-news/managing-your-healthcare/insurance/articles/2010/11/01/how-to-choose-a-health-insurance-plan-12-helpful-tips> (presenting twelve tips to help individuals choose a private health insurance plan in the United States); *Check Your Bills and Save Receipts*, UNIV. MICH. HEALTH SENSE, <https://web.archive.org/web/20130525105013/http://hr.umich.edu/healthsense/manage/manage-bills.html> (last visited Mar. 20, 2015) (advocating saving health care receipts).

225. See ADP, SUBMITTING YOUR FSA HEALTH CARE CLAIM 1 (2009), available at <http://www.converse.edu/sites/default/files/site-files/HR/HealthCareClaimfor2009.pdf> (“The supporting receipts or billing statements must state the vendor name, vendor contact information, purchase date, a description of the expense(s) and the expense amount.”); *Healthcare Enrollment: New Federal Employee Enrollment*, U.S. OFFICE PERSONNEL MGMT., <http://www.opm.gov/healthcare-insurance/healthcare/enrollment/new-federal-employee-enrollment> (last visited Mar. 20, 2015) (“Premium Conversion is a ‘pre-tax’ arrangement that allows the part of your salary that goes for health insurance premiums to be non-taxable.”).



The transition costs to any sizable new health regime are also likely to be great, no matter what form it takes. A country's approach to health care involves many policy considerations, of which administrative burdens typically play a small role.<sup>226</sup> A notable exception is the prominence of admin frustrations surrounding the implementation of the Affordable Care Act: The Act's Health-care Exchange portal, HealthCare.gov, frustrated many healthcare purchasers with its crashes and lengthy downtimes.<sup>227</sup> For this brief and politically charged moment, admin was in the public spotlight. More generally, though, diverse health insurance schemes nicely illustrate the ways these large-scale matters of law and policy have direct effects not only on the quality and cost of health care, but on how individuals spend their time and energy.

Moreover, specific laws influence both the extent, and the social salience, of admin burdens. As noted in the Introduction, a specific federal law aims to reduce time spent on paperwork,<sup>228</sup> and courts occasionally highlight spouses' contributions to household management.<sup>229</sup> Much more could be done, however, to cast a spotlight on admin and to reduce its burdens. This Part identifies possible legal and other mechanisms to do precisely that.

To most people, including this author, regulating how families distribute their admin is too intrusive to contemplate. Considerations of autonomy and privacy, not to mention efficacy, line up against the prospect of state intervention in family choices about how to divvy up family admin. Thus, my proposals for addressing admin distribution consist of reducing the overall burden of the work, rather than targeting the distribution directly. These proposals nonetheless confront distributional inequities in two significant ways.

First, by reducing the overall quantity of admin demands faced by the public, these proposals should, in principle, disproportionately benefit those who currently face the greatest admin demands. The explanation for this distributional effect draws on an idea familiar from the field of antidiscrimination law. In the context of employment discrimination, scholars have observed that remedial responses to disparate impact that change the rule for everyone effect a redistribution to those who were harmed by the rule.<sup>230</sup> For instance, if African-American men are disparately harmed by Domino's ban on facial hair for pizza delivery people,<sup>231</sup> then a judicial verdict that Domino's must lift the ban and allow all delivery people to wear facial hair will disproportionately benefit

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226. *But see* Pear et al., *supra* note 17 (discussing the website difficulties in the recent roll-out).

227. *See id.*

228. For more on the Paperwork Reduction Act, see *infra* Part IV.A.1.

229. *See infra* Part IV.E (discussing ways courts may consider admin in examining questions of custody and marital property).

230. *See* Owen M. Fiss, *A Theory of Fair Employment Laws*, 38 U. CHI. L. REV. 235, 304 (1971); Christine Jolls, *Antidiscrimination and Accommodation*, 115 HARV. L. REV. 642, 653 (2001).

231. *See* Jolls, *supra* note 230, at 653 ("Because the skin condition pseudofolliculitis barbae makes shaving impossible for a significant number of black men (and difficult for still more), but has no such effects on white males, some courts have found that a no-beard rule has an unlawful disparate impact on black men." (citing *Bradley v. Pizzaco of Neb., Inc.*, 7 F.3d 795, 796–99 (8th Cir. 1993); Richardson



African-American men.<sup>232</sup> Similarly, if women are disproportionately burdened by admin, then reducing the overall burden of admin for everyone should disproportionately benefit women.

Moreover, in principle at least, this remedy of reducing admin generally will be keyed to the *extent* of admin's burden on women. That is, if women suffer far greater admin burdens than men, then women should benefit far more than men from an overall reduction in admin. If, however, women face only slightly greater admin demands than men—recall that the data on this point are still at an early stage<sup>233</sup>—then reducing the overall quantity of admin burdens should benefit women only slightly more than men. In the latter case, we should probably care less about the gender distribution dimension of admin, and in this way, the remedy is well-suited to the problem, and to the empirical uncertainty about the extent of the gender component of it.<sup>234</sup>

Second, these proposals aim to make admin a more salient component of contemporary life. Many of these proposals direct attention to admin as a form of labor by introducing mechanisms to minimize or compensate admin. Other proposals specifically target the salience of admin, by requiring or encouraging private entities to disclose the admin burdens they impose, for instance, or by developing legal doctrines that make admin count. Making admin salient should have benefits for everyone who faces unwanted admin demands, but it should have particular benefits for those who are disproportionately burdened by admin. It should also help those entering relationships of different kinds—including marriage and coparenting relationships—to divvy up admin demands with their eyes wide open.

This Part discusses five types of legal and regulatory interventions: (1) reduce the admin imposed by government; (2) direct agencies to do or facilitate some kinds of admin; (3) require or incentivize private actors to reduce the admin burdens they impose; (4) create legal mechanisms to compensate people for time lost to admin imposed by public and private entities; and (5) make admin visible by increasing the public salience of admin burdens.

The ensuing discussion explains and elaborates these tools through a series of examples, some extant and some novel. Deciding whether and when to reduce

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v. Quik Trip Corp., 591 F. Supp. 1151, 1153–56 (S.D. Iowa 1984); EEOC v. Trailways, Inc., 530 F. Supp. 54, 55–59 (D. Colo. 1981)).

232. The typical remedy is instead to “require[] employers to exempt black men who are unable to shave from rules prohibiting beards,” but this example nonetheless illustrates the point. *Id.* at 655.

233. See *supra* Part II.A.1.

234. There is one possible way that the remedy of reducing overall admin may not be responsive to the distributional concerns about the problem: if admin burdens are greater on women in only some areas but the solutions tend to reduce the forms of admin only in other areas. So for instance, if women are disproportionately burdened by medical admin but not by tax admin, but the solutions reduce only the tax admin, then women will not be helped disproportionately by these solutions; in this case, the solutions would do little to address the distributional problems of admin and might even accentuate them. There is no reason to think this is so, but if it were, then the interventions’ positive impact on gender distribution would depend solely on the second point—concerning salience.



admin involves balancing various considerations, including the value of the ends achieved through admin labor and the availability of alternative means. This Part therefore offers a toolkit for identifying possibilities, rather than a roadmap for change.

#### A. REDUCE THE ADMIN IMPOSED BY GOVERNMENT

Government is a major source of admin demands. As noted earlier, for example, the federal government alone required 9.45 billion hours of paperwork in fiscal year 2013.<sup>235</sup> Moreover, government demands admin of everyone, regardless of their resources or ability to outsource or otherwise obtain help with these burdens. Reducing government-imposed admin is thus an obvious place to start assessing possibilities for regulatory change.

##### 1. Reducing Government Paperwork Burdens

At the federal level, the Paperwork Reduction Act<sup>236</sup> (“PRA” or “the Act”) explicitly requires public entities to lighten the admin burden they impose. The Act “requires agencies to justify any collection of information from the public by establishing the need and intended use of the information, estimating the burden that the collection will impose on respondents, and showing that the collection is the least burdensome way to gather the information.”<sup>237</sup> In response, for example, immigration forms, tax forms, and Social Security Disability Insurance forms indicate the estimated time it takes to complete them, as in, “[a]pplying for disability is a multi-step process that may take between *one to two hours* to complete depending on your situation.”<sup>238</sup>

One might wonder whether, in effect, the statute merely prompts entities to *disclose* how much of a burden they create—without really leading entities to reduce admin to its “least burdensome” form<sup>239</sup>—given that paperwork burden hours have continued to increase in recent years.<sup>240</sup> OMB’s Office of Informa-

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235. See OFFICE OF MGMT. AND BUDGET, *supra* note 10, at 2. Approximately twenty-one percent of the agency submissions reviewed and concluded by OIRA in calendar year 2013 impact personal admin. For a discussion on the methodology used to conduct this analysis, see *infra* note 248.

236. 44 U.S.C. §§ 3501-21 (2012). Regulations implementing the act are found at 5 C.F.R. §§ 1320.1–.18 (2010).

237. CURTIS W. COPELAND & VANESSA K. BURROWS, CONG. RESEARCH SERV., R40636, PAPERWORK REDUCTION ACT (PRA): OMB AND AGENCY RESPONSIBILITIES AND BURDEN ESTIMATES ii (2009), *available at* <http://graphics8.nytimes.com/packages/pdf/nyregion/2009/records/paperworkreductionreportbycrs.pdf>.

238. *Apply for Benefits*, SOC. SEC. ADMIN., <https://secure.ssa.gov/iCLM/dib> (last visited Apr. 5, 2015) (emphasis in original); see also, e.g., SOC. SEC. ADMIN., AUTHORIZATION TO DISCLOSE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION 2, *available at* <http://www.ssa.gov/online/ssa-827.pdf>; U.S. CITIZENSHIP & IMMIGRATION SERVS., INSTRUCTIONS FOR EMPLOYMENT ELIGIBILITY VERIFICATION 6, *available at* <http://www.uscis.gov/files/form/i-9.pdf>; *Disclosure, Privacy Act, and Paperwork Reduction Act Notice*, INTERNAL REVENUE SERV., <http://www.irs.gov/instructions/i1040a/ar03.html> (last visited Mar. 20, 2015).

239. COPELAND & BURROWS, *supra* note 237, at 2.

240. See WHITE HOUSE OFFICE OF INFO. & REGULATORY AFFAIRS, INFORMATION COLLECTION BUDGET OF THE UNITED STATES GOVERNMENT 2012, at 2 (Jan. 2013), *available at* [https://www.whitehouse.gov/sites/default/files/omb/info/eg/icb/icb\\_2012.pdf](https://www.whitehouse.gov/sites/default/files/omb/info/eg/icb/icb_2012.pdf) (showing growth of paperwork burden from 2001–11).



tion and Regulatory Affairs (OIRA), which is charged with enforcing the PRA,<sup>241</sup> engages in ongoing efforts to streamline admin burdens imposed on the public,<sup>242</sup> though, according to one scholar, “the relevant officials are operating under partially vague standards and very scarce resources.”<sup>243</sup> Recent initiatives have nonetheless attempted to jumpstart efforts at paperwork reduction. For instance, a recent order from OIRA directed all agencies “to identify at least one initiative, or combination of initiatives, that would eliminate at least 50,000 hours” in annual paperwork burdens, and set higher targets for “the agencies that now impose the highest paperwork burdens.”<sup>244</sup> Further, a 2012 initiative specifically called on agencies to evaluate all new paperwork through focus groups or cognitive testing, in an effort to lessen the burdens they inflict.<sup>245</sup> Moreover, in recent years, the agency that imposes the greatest paperwork demands—the IRS—“has already done a great deal to simplify its forms—for example, with Form 1040 EZ.”<sup>246</sup> Note that bold measures in this area would not necessarily be stricter requirements—though they could be—since bold measures could comprise effective “nudges” like rewarding or publicizing entities that model good behavior.<sup>247</sup>

Despite these initiatives, the admin burden that the federal government imposes on individuals and households continues to grow, as evidenced by OIRA data.<sup>248</sup> For example, of the information collection requests affecting

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241. Office of Information and Regulatory Affairs, THE WHITE HOUSE, <https://www.whitehouse.gov/omb/oira> (last visited Mar. 20, 2015).

242. See, e.g., Memorandum from Cass R. Sunstein, Administrator, OIRA to Heads of Executive Departments and Agencies 1–2 (June 22, 2012), available at <https://www.whitehouse.gov/sites/default/files/omb/inforeg/memos/reducing-reporting-and-paperwork-burdens.pdf> (suggesting “meaningful steps” that “agencies should take . . . to reduce paperwork and reporting burdens on the American people,” such as using “‘short form’ options” and “[r]educing [the] frequency of information collection”).

243. Adam M. Samaha, *Death and Paperwork Reduction*, 65 DUKE L.J. (forthcoming 2015), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2592714&download=yes](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2592714&download=yes) (making these observations in the context of an argument, more generally, that the government’s attempts to value people’s time and lives are rife with unjustified inconsistencies, such that the “administrative state is basically determined to convert risks to people’s lives, but not always losses of their time, into dollars; and when government does convert our time into dollars, our wages are used to produce large disparities in valuation”).

244. See CASS R. SUNSTEIN, *SIMPLER: THE FUTURE OF GOVERNMENT* 185 (2013).

245. See Memorandum from Cass R. Sunstein, Administrator, OIRA to Heads of Executive Departments and Agencies and of the Independent Regulatory Commissions 2 (Aug. 9, 2012), available at <http://www.whitehouse.gov/sites/default/files/omb/inforeg/memos/testing-and-simplifying-federal-forms.pdf>.

246. SUNSTEIN, *supra* note 244, at 185 (“In the fullness of time, I expect to see major results from these requirements, very possibly in excess of the targets.”).

247. See, e.g., RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS* (2008); Sunstein & Thaler, *supra* note 140.

248. The statistics cited in this paragraph and *supra* notes 10 and 235 are based on a study conducted by a group of research assistants who analyzed the information collection requests, reviewed and concluded by OIRA in 2013, that affect personal admin. To conduct this study, the researchers limited their search to requests affecting “individuals or households,” as identified on OIRA’s website. For 2013, the researchers identified a total of 936 agency submissions that impacted personal admin. For each, the team went through the agency’s documents, extracting relevant data. To calculate the



personal admin that OIRA reviewed and concluded in 2013, nearly forty-five percent increased personal admin burdens, either by issuing new information collections or updating previously approved forms; thirty-nine percent involved no change; and only sixteen percent led to a decline in the existing admin burden on individuals. Although fifty-one percent of the requests affecting personal admin were discretionary in nature, forty-one percent were prerequisites to claiming or protecting public benefits, and nine percent were mandatory. These data suggest that, in spite of the government's efforts to reduce paperwork burdens on individuals and households, reining in federal paperwork burdens remains an elusive goal.<sup>249</sup>

Since much governmental regulation of family life operates at the state level,<sup>250</sup> comparable efforts by states could affect admin demands on families. For example, completing and filing paperwork related to marriage or adoption can be time intensive. States could evaluate their forms and procedures for these events, to see if any of their burdens create unnecessary and unjustified time demands on citizens at these critical junctures. Second-parent adoption procedures, in those states that offer them to same-sex couples, typically require substantial paperwork and other admin.<sup>251</sup> If that process were streamlined, then those individuals or couples—or whichever partner does that kind of admin—would benefit.<sup>252</sup> A fuller inquiry would be needed to determine what aspects of the work involved in adoption serve vital interests to securing the safety, interests, and rights of children and other parties involved. But some work emphasizes that placements for international adoptions have been effectively streamlined under urgent conditions, suggesting that there may be room for lightening the load on prospective adopting parents in some contexts.<sup>253</sup>

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percentage of agency submissions that impacted personal admin, *see supra* notes 10 and 235, the team divided the 936 agency submissions that affected personal admin by the total number of submissions, 4,530. The team followed OIRA's discretionary, pre-requisite, and mandatory categories in the "obligation to respond" section of the information collection forms. The author wishes to thank the following research assistants for their excellent work on this project: Andrea Clay, Sophie Elsner, Laura Lane-Steele, Taylor Poor, Davida Schiff, and Ilan Stein.

249. Our nation's lawmakers appear to be partly responsible for this trend. From fiscal year 2004 through fiscal year 2013, "[n]ew statutes account[ed] for an estimated increase of 1.5 billion paperwork hours"—an amount that constitutes "a substantial majority of the estimated net increase in paperwork burden during this ten-year period." *See* OFFICE OF MGMT. & BUDGET, *supra* note 10, at 5.

250. *See, e.g.*, *United States v. Morrison*, 529 U.S. 598, 615 (2000) (recognizing "family law" as an "area[] of traditional state regulation"); *United States v. Lopez*, 514 U.S. 549, 564 (1995) (suggesting that family law should not be under the purview of Congress to regulate). *But see* Jill Elaine Hasday, *Federalism and the Family Reconstructed*, 45 UCLA L. REV. 1297, 1298 (1998) ("[T]he ground on which the argument for exclusive localism in family law now stands is entirely inadequate."); Meredith Johnson Harbach, *Is the Family a Federal Question?*, 66 WASH. & LEE L. REV. 131, 139 (2009) ("[T]he work of protecting contemporary American families is work the federal courts must not avoid.").

251. N.Y. DOM. REL. LAW § 116 (McKinney 2013) (outlining the process).

252. *See supra* Part I.C.4.

253. Steve Deace, Column, *The Red Tape Around Adoption: Column*, USA TODAY (May 6, 2013, 4:57 PM) <http://www.usatoday.com/story/opinion/2013/05/03/adoption-stuck-bureaucracy-column/2124199>.



## 2. Building One-Stop Government

Some states and municipalities have created initiatives to streamline individual access to government obligations and services. Initiatives such as the Midtown Community Court in Manhattan aim to connect individuals with services through the entry point of the court system.<sup>254</sup> Services include not only access to counseling and treatment but also assistance with job-relevant admin like “resume assistance, . . . rap sheet repair, . . . and assistance lowering child support arrears.”<sup>255</sup> Similarly, New York City’s Family Justice Centers “provide criminal justice, civil legal, and social services in one location. . . . Victims can meet with a prosecutor, speak with a trained counselor, and apply for housing and financial assistance in just one place.”<sup>256</sup> In some communities, city schools are being used as “hubs” for access to a range of social services.<sup>257</sup>

The closest analogue at the federal level is USA.gov’s “U.S. Government Services and Information” page, which allows a citizen to “find [U.S.] government services” that he can access from his computer, such as applying for government benefits, food safety information, and FDA drug information.<sup>258</sup> Whereas the USA.gov site merely lists links to other sites, though, a broader conception of “One Stop Government” has been proposed, and in some cases implemented, in various jurisdictions beyond U.S. borders.<sup>259</sup> Some of these

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254. See *Midtown Community Court: Social Services*, CTR. FOR COURT INNOVATION, <http://www.courtinnovation.org/social-services> (last visited Mar. 22, 2015).

255. See MIDTOWN COMMUNITY COURT, SOCIAL SERVICES AT THE MIDTOWN COMMUNITY COURT 3, available at [http://www.courtinnovation.org/sites/default/files/documents/Social\\_Services\\_MCC.pdf](http://www.courtinnovation.org/sites/default/files/documents/Social_Services_MCC.pdf)

256. NYC Family Justice Centers, NYC.GOV, <http://www.nyc.gov/html/ocdv/html/help/fjc.shtml> (last visited Mar. 22, 2015).

257. Maisie McAdoo, *Cincinnati Community Schools: A Model for New York?*, UNITED FED’N OF TCHRS. (May 24, 2012), <http://www.uft.org/insight/cincinnati-community-schools-model-new-york> (“[Schools function as] community ‘hubs,’ open day and evening, where local businesses, nonprofits and city agencies provide services and resources that the community—students, parents and non-parents—need[.]. That could be translation services or computers for adults. It could be tutoring, dental clinics or discounted sneakers for the kids. Local School Decision-Making Committees, chaired by a community partner, not the principal, meet monthly at each school to determine what resources will be provided in the building. A community resource coordinator in every school signs up community partners selected by the committees to provide the services. The coordinator acts as the ‘glue’ to ensure delivery and assess the needs.”).

258. *U.S. Government Services and Information*, USA.GOV, <http://www.usa.gov/Citizen/Services.shtml> (last updated Feb. 2, 2015).

259. See, e.g., Marios Chatzidimitriou & Adamantios Koumpis, *Marketing One-stop e-Government Solutions: The European OneStopGov Project*, 35 IAENG INT’L J. COMPUTER SCI., no. 1, 2008, at \*1, available at [http://www.iaeng.org/IJCS/issues\\_v35/issue\\_1/IJCS\\_35\\_1\\_11.pdf](http://www.iaeng.org/IJCS/issues_v35/issue_1/IJCS_35_1_11.pdf); Efthimios Tambouris, *An Integrated Platform for Realising Online One-Stop Government: The eGOV Project*, 2001 IEEE COMPUTER SOC’Y 359, 359 (“One-Stop-Government refers to [Europe’s] integration of public services from a citizen’s—or customer of public services—point of view. Online one-stop government allows citizens to have 24 hours access to public services from their home or even on the move.”); ONESTOPGOV, <http://islab.uom.gr/onestopgov/> (last visited Mar. 25, 2015) (“OneStopGovGov is a thirty six month EU-funded research and development project [begun in the mid to late 2000s] that aims at specifying, developing and evaluating a life-event oriented, all-inclusive, integrated, interoperable platform for online one-stop government.”). Versions of One Stop Government implemented around the world thus far seem to look more like a much-expanded version of the community courts and schools



efforts are organized around citizen “life-events,” such that an individual who is, for instance, getting married can “electronically handle all the interactions with the public sector that are required for getting married using a single point of access.”<sup>260</sup> Though one-stop solutions do not necessarily reduce the amount of paperwork to be done, they can reduce overall admin time by eliminating the need to locate these services and travel among them.

#### B. DIRECT AGENCIES TO DO OR FACILITATE SOME KINDS OF ADMIN FOR PEOPLE

Government (or nonprofit) entities could do, or help do, some of the admin for individuals and families. This section sketches several versions of this approach, drawing on current examples.

##### 1. Aggregate and Assess Information (So That Individuals Do Not Have To)

Aggregating information that many separate individuals or families would otherwise have to gather themselves promises to save many people’s duplicative efforts. For instance, the Parks Department of the county of Arlington, Virginia, collects and organizes information on summer camps for kids, making details available to parents in a way that saves them the trouble of individually repeating this exercise.<sup>261</sup> Some jurisdictions collect and provide assessment tools for childcare programs, along with the basic facts about them: For example, the Florida Department of Education is required by law to provide a “readiness rate” for voluntary pre-kindergarten programs, which “measures how well a VPK provider prepares four-year-olds to be ready for kindergarten.”<sup>262</sup> The Department offers a search tool that allows parents to click on the county where they live (or name the particular provider or network of providers), and receive a list of all the relevant providers and their readiness scores, as well as links to further details.<sup>263</sup>

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described above, though some aspire to the “life events” approach in the long-term. *See, e.g., Uzbekistan: A New Approach to the Provision of Public Services*, UN PUB. ADMIN. NET. (Apr. 12, 2010), <http://www.unpan.org/PublicAdministrationNews/tabid/115/mctl/ArticleView/ModuleID/1467/articleId/21519/Default.aspx> (describing Uzbekistan’s “One-Stop-Shop for provision of public services,” which is “aimed at reducing the number of procedural steps” facing citizens by allowing them to receive “about 80 services . . . provided by almost 20 government departments” in one physical location); *Services Available Through BangaloreOne Portal*, BANGALOREONE, <https://www.bangaloreone.gov.in/public/bOneServicesatCentr-info.aspx> (last visited Nov. 17, 2013).

260. *See, e.g.,* Tambouris, *supra* note 259, at 359 (“[T]he citizen [should be] able to access these services in terms of life-events and without knowledge of the functional fragmentation of the public sector. For example, ‘getting married’ is a life-event and ideally the citizen should [be] able to electronically handle all the interactions with the public sector that are required for getting married using a single point of access.”).

261. *See Summer Camps Information*, ARLINGTON PARKS & RECREATION, <https://parks.arlingtonva.us/programs/camps> (last visited Mar. 25, 2015).

262. *Voluntary Prekindergarten Readiness Rate Resources for Parents*, FLA. DEPT. OF EDUC., <https://vpk.fldoe.org/InfoPages/ParentInfo.aspx> (last visited Mar. 25, 2015).

263. *See, e.g., Readiness Rate Search*, FLA. DEPT. OF EDUC., <https://vpk.fldoe.org/InfoPages/ReportCriteria.aspx> (last visited Mar. 25, 2015). Similarly, a program in Minnesota called “Parent Aware” has created a ratings system for childcare and early education providers, which is less comprehensive but



More generally, many kinds of government labeling serve this purpose—for instance, nutritional information labels on food products or fuel economy labels for automobiles. In some respects, mandated labeling forces sellers to disclose information to which consumers would not otherwise have access; though vital, this function does not necessarily reduce admin. (Indeed, extensive disclosures of product information could increase admin for the concerned citizen or parent.) But the aggregation, synthesis, and accessible presentation of available information on a product can reduce the costs to individuals who would otherwise feel obliged to perform that research and analysis themselves. The same goes for informing the public about health and safety concerns: Making information available reduces admin costs only to the extent that the information is synthesized and simply presented.<sup>264</sup>

## 2. Collect, Store, and Supply Personal Information as Needed

Another, related type of mechanism collects and stores an individual's information and makes it available as needed. For instance, some states are taking steps to create statewide registries of immunization records.<sup>265</sup> Parents could then submit their request for information to this one registry, saving them the time and mental energy involved in retaining, filing, and retrieving such information for schools, camps, and other entities that require it.<sup>266</sup> Improved versions of such a system could also inform or remind parents about the proper schedule for upcoming immunizations. As another example, the Affordable Care Act has introduced an incentive program, the Meaningful Use Program, to provide monetary bonuses to medical entities that transfer their files to an Electronic Health Record (EHR) system.<sup>267</sup> When fully operational, the EHR should spare patients the trouble of filling out forms with basic information when they go to new doctors or hospitals, in addition to improving medical care and cutting costs for providers.<sup>268</sup> Veterans already have access to a similar program, called

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may nonetheless usefully provide information about childcare providers' details and (if the system works) quality. See PARENT AWARE, <http://www.parentawareratings.org> (last visited Mar. 25, 2015).

264. For a helpful discussion framed around the recent presentation of the "plate" approach to healthy eating to replace the old "pyramid" approach, see SUNSTEIN, *supra* note 244, ch. 4.

265. See, e.g., Immunization Branch, *FAQs for Parents*, TEX. DEP'T OF STATE HEALTH SERVS., <http://www.dshs.state.tx.us/immunize/parents.shtm> (last updated May 28, 2014); *Health and Human Services: Information for Parents and Patients*, MASS. EXEC. OFFICE OF HEALTH & HUM. SERVS., <http://www.mass.gov/eohhs/gov/departments/dph/programs/id/immunization/miis/public-health-cdc-miis-info-parents-and-patients.html> (last visited June 20, 2013).

266. See, e.g., Immunization Branch, *supra* note 265.

267. Kathleen Sebelius, *The Affordable Care Act: Helping You Spend More Time with Your Doctor, Reducing Costs*, HHS.GOV (Oct. 17, 2011), <http://www.hhs.gov/healthcare/facts/blog/2011/10/deliveryreform10172011.html>; *Meaningful Use Regulations*, HEALTHIT.GOV, <http://www.healthit.gov/policy-researchers-implementers/meaningful-use> (last visited Mar. 25, 2015).

268. See *Benefits of EHRs: Patient Participation*, HEALTHIT.GOV, <http://www.healthit.gov/providers-professionals/patient-participation> (last updated Mar. 19, 2014); *Benefits of EHRs: Medical Practice Efficiencies & Cost Savings*, HEALTHIT.GOV, <http://www.healthit.gov/providers-professionals/medical-practice-efficiencies-cost-savings> (last updated Mar. 20, 2014).



the “Blue Button,” which offers storage and instant retrieval of their health records.<sup>269</sup>

On the tax front, there has been a proposal for the federal government to fill out tax forms for taxpayers, modeled on California’s CalFile (formerly known as ReadyReturn) program.<sup>270</sup> In addition, some states piggyback their returns on the federal return, thereby saving taxpayers in those states time in filling out separate forms.<sup>271</sup> Relatedly, public or private entities could devise common mechanisms to transfer information from one context to another, for instance, by devising a “common form” for various purposes, such as a “medical release form” or a “medical history form,” thereby reducing the need for people to complete it over and over for different entities.<sup>272</sup>

### C. REQUIRE OR ENCOURAGE PRIVATE ACTORS TO REDUCE THE ADMIN BURDENS THEY IMPOSE

Some government initiatives directly require private entities to take steps to refrain from imposing certain kinds of admin on individuals. For instance, the National Do Not Call Registry saves people the time of answering the phone to unwanted solicitations (in principle at least).<sup>273</sup> Similarly, the New York City Taxi and Limousine Commission’s decision to make taxi cabs permit credit card payments spares residents and visitors who take cabs the hassle of remembering to carry cash or locating ATMs.<sup>274</sup> The rest of this section focuses on more indirect techniques for intervening in privately imposed admin.

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269. See Kim Nazi, *How Do I Get My HealtheVet Data as a Download?*, MY HEALTHeVET, [https://www.myhealth.va.gov/mhv-portal-web/anonymous.portal?\\_nfpb=true&\\_nfto=false&\\_pageLabel=spotlightArchive&contentPage=spotlight/September%202010/spotlight\\_bluebutton.html](https://www.myhealth.va.gov/mhv-portal-web/anonymous.portal?_nfpb=true&_nfto=false&_pageLabel=spotlightArchive&contentPage=spotlight/September%202010/spotlight_bluebutton.html) (last updated Feb. 4, 2013); SUNSTEIN, *supra* note 244, at 98. The privacy concerns raised by the programs discussed in this paragraph may be addressed, at least in part, by making the initiatives opt-in or (low-admin) opt-out.

270. See generally AUSTAN GOOLSBEE, BROOKINGS INSTITUTION, THE HAMILTON PROJECT, THE SIMPLE RETURN: REDUCING AMERICA’S TAX BURDEN THROUGH RETURN-FREE FILING 7 (2006) available at [http://www.brookings.edu/views/papers/200607goolsbee\\_wp.pdf](http://www.brookings.edu/views/papers/200607goolsbee_wp.pdf) (proposing this idea); *CalFile*, ST. OF CAL. FRANCHISE TAX Bd., <https://origin-www.ftb.ca.gov/online/calfile/index.asp> (last visited Mar. 25, 2015); see also Richard H. Thaler & Cass R. Sunstein, *A Nudge For Tax Day*, NUDGE BLOG, <http://nudges.wordpress.com/a-nudge-for-tax-day> (last visited Mar. 25, 2015). But see *supra* notes 183–85 and accompanying text (discussing opposition to broader implementation of programs like CalFile).

271. See Ruth Mason, *Delegating Up: State Conformity with the Federal Tax Base*, 62 DUKE L.J. 1267, 1279–80 (2013) (“[B]y requiring state residents to report the same amount for state tax purposes as they report for federal tax purposes, states reduce taxpayers’ compliance costs.”).

272. Cf. *supra* Part III.A.2.a (discussing the challenges to introducing common form applications in some contexts).

273. See *National Do Not Call Registry*, FTC, <https://www.donotcall.gov> (last visited Mar. 25, 2015). Of course, putting yourself on the Registry initially, and whenever your number changes, requires some admin doing.

274. *Passenger Information*, NYC TAXI & LIMOUSINE COMMISSION, [http://www.nyc.gov/html/tlc/html/passenger/passenger\\_creditcard.shtml](http://www.nyc.gov/html/tlc/html/passenger/passenger_creditcard.shtml) (last visited Apr. 21, 2015).



## 1. Press Private Entities to Disclose the Admin Costs They Impose

The government could encourage private entities to reduce the admin burdens they put on individuals and families. Directly requiring improvements in efficiency may be difficult, but various indirect strategies are more plausible. Focusing on disclosure is one possible approach. Insurance companies could be required or incentivized to gather and disclose information about how long it takes (on average) for individuals to get reimbursed for an out-of-network claim. By “how long it takes,” I do not mean how long a claimant must wait for reimbursement to come, that is, what I have termed a “passive wait time” (which would admittedly be good to know also, but is not related to admin).<sup>275</sup> Of interest here are “active wait times”; that is, how many minutes or hours does the average insured actually spend—filling out forms, talking with representatives, waiting on hold, requesting and copying and submitting documentation, or submitting materials for an appeal—to obtain the reimbursement?<sup>276</sup> Models for this include the requirements placed on emergency rooms to gather data on wait times.<sup>277</sup> The admin work involved in getting one’s benefits under an insurance contract could be thought of as a “hidden cost” akin to those costs that credit cards are now required to document and report to prospective customers.<sup>278</sup>

## 2. Design Legal and Regulatory Infrastructure to Reduce Admin Costs

Government can also create the conditions for admin reductions through legal infrastructure. Examples include the law governing standard-form contracts and regulatory decisions concerning technologies that could affect admin.

*a. A Duty Not to Read Standard-form Contracts.* Consider the standard form contract with its endless small print and legalese. Even while acknowledging that parties may not always read these terms, courts continue to imply that

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275. On active and passive waiting, see *supra* text accompanying note 49.

276. Cf. *supra* text accompanying note 49 (distinguishing “active” and “passive” waiting).

277. CDC’s National Center for Health Statistics tracks emergency room wait times. ESTHER HING & FARIDA BHUIYA, CTNS. FOR DISEASE CONTROL & PREVENTION, NCHS DATA BRIEF No. 102, WAIT TIME FOR TREATMENT IN HOSPITAL EMERGENCY DEPARTMENTS: 2009, at 1 (2012), available at <http://www.cdc.gov/nchs/data/databriefs/db102.pdf> (“Between 2003 and 2009, mean wait time to see a provider increased 25%, from 46.5 minutes to 58.1 minutes.”).

278. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-06-929, CREDIT CARDS: INCREASED COMPLEXITY IN RATES AND FEES HEIGHTENS NEED FOR MORE EFFECTIVE DISCLOSURES TO CONSUMERS 17 n.25 (2006) (explaining that the 1988 amendment to the Truth in Lending Act (TILA) “provide[d] for more detailed and uniform disclosures of rates and other cost information in applications and solicitations to open credit and charge card accounts . . . [and] required issuers to disclose pricing information, to the extent practicable as determined by the Federal Reserve, in a tabular format”). Information akin to what gets called “consumer usage data”—in this case, for instance, how much time it actually takes people to do certain things, presented in an individually-tailored way—is likely to be more helpful than abstract statistics. Cf. Oren Bar-Gill & Ryan Bubb, *Credit Card Pricing: The CARD Act and Beyond*, 97 CORNELL L. REV. 967, 1003–04 (2012).



responsible parties should read them.<sup>279</sup> Why, an admin perspective presses us to ask, would we think it desirable that people spend their time reading standard-form contracts? Imagine instead a law of contracts organized around the principle that parties *should not waste time* reading standard-form contracts for small-scale commercial transactions, despite a duty to read for individually crafted contracts and large-scale transactions between sophisticated parties. Scholars of many stripes have proposed a distinctive legal regime for standard-form contracts;<sup>280</sup> to do so here is not novel. The unusual proposal that an admin perspective invites is that courts stop regretting consumers' failure to read these contracts—which, studies suggest, consumers generally do not read<sup>281</sup>—and courts instead encourage people *not* to read them. Laws should be designed to protect consumer interests and their time, by, for instance, declining to hold consumers to terms that take longer than a few moments to read.<sup>282</sup> Whatever the precise design of this legal regime, I predict the result of this approach will not be what Judge Easterbrook feared in *Hill v. Gateway*: that sellers will be forced to “read the four-page statement of terms before taking the buyer’s credit card number” over the phone and thus “the droning voice would anesthetize rather than enlighten many potential buyers.”<sup>283</sup> Very few consumers, and therefore no sellers, would put up with that anesthetizing call. Thus, market pressure would likely inspire new ways to communicate pertinent information, more favorable rules for consumers, or mechanisms for consumers to opt out of hearing the terms.

*Hill v. Gateway* raises one other point about legal infrastructure: The court’s decision to enforce this terms-later contract provision implies that it is reason-

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279. See, e.g., *Allied Office Supplies, Inc. v. Lewandowski*, 261 F. Supp. 2d 107, 112 (D. Conn. 2003) (discussing the “duty to read rule”).

280. See, e.g., OREN BAR-GILL, *SEDUCTION BY CONTRACT: LAW, ECONOMICS, AND PSYCHOLOGY IN CONSUMER CONTRACTS* 4 (2012) (arguing, *inter alia*, that consumers of cell phones and credit cards need disclosures that include “product-use information,” not just attribute information, to help them make smarter choices); RADIN, *supra* note 178, at 13–15, 210, 226–32 (arguing that these “contracts” are not really contracts at all and would be best regulated by other means, such as tort law or regulation); Friedrich Kessler, *Contracts of Adhesion: Some Thoughts About Freedom of Contract*, 43 COLUM. L. REV. 629, 632–33 (1943).

281. See, e.g., OFFICE OF FAIR TRADING, *CONSUMER CONTRACTS* 17 (2011), available at [http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.oft.gov.uk/shared\\_of/market-studies/consumercontracts/oft1312.pdf](http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.oft.gov.uk/shared_of/market-studies/consumercontracts/oft1312.pdf).

282. It is beyond the scope of this Article to attempt to elaborate the ideal legal regime, but a few considerations are worth noting. Something like a “Schumer Box” for consumer contracts might be a good idea, with consumers held only to those terms. But permitting contracts to go on for pages while holding consumers only to the Box terms would not entirely solve the problem. Since most contract disputes never make it to court, sellers would be able to persuade many unwitting consumers that the terms in the lengthy contract were enforceable, creating some pressure on consumers to read these terms before signing or at least once a dispute arose. Proposals that address this problem include the following: limiting the written terms to a certain length, like one page per price unit, for instance; requiring that any terms not reasonably interpreted to favor the buyer must be in the Box, with statutory penalties applied to those that fall outside this standard; or a framing rule requiring sellers to make a clear and prominent statement about the legal (in)significance of non-Box terms.

283. 105 F.3d 1147, 1149 (7th Cir. 1997).



able to expect consumers to spend their time requesting terms by mail before formation (presumably to read them), researching minor contract terms through third parties (presumably to try understand them), or going through the hassle of returning the package after opening it and finding (and presumably reading) the additional terms.<sup>284</sup> Any legal rule that contemplates consumer research into minor terms or, worse yet, trips to the post office warrants harsh words from an admin perspective.

*b. Spurring Admin-Reducing Technologies.* Legal infrastructure can also spur, facilitate, or impede technological improvements. For instance, President Clinton's decision in 2000 to order the military to "stop intentionally scrambling the satellite signals used by civilians" increased Global Positioning System (GPS) signals "tenfold."<sup>285</sup> This change triggered the development of individual GPS devices that reduce the time people have to spend planning a trip by car or on foot. Likewise, regulations that effectively protect individuals' interests in the privacy and security of their financial information online facilitate the convenience of e-banking.<sup>286</sup> Ongoing debates about the proper balance of privacy concerns with individual convenience and government information gathering—for instance, over the tracking of New Yorkers' E-ZPass devices beyond toll booths to gather information and improve traffic patterns—cannot be resolved by thinking only about admin.<sup>287</sup> But an attention to the burdens of active waiting and other admin costs highlights an important consideration.

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284. *Id.* at 1150 ("Perhaps the Hills would have had a better argument if they were first alerted to the bundling of hardware and legal-ware after opening the box and wanted to return the computer in order to avoid disagreeable terms, but were dissuaded by the expense of shipping. What the remedy would be in such a case—could it exceed the shipping charges?—is an interesting question, but one that need not detain us because the Hills knew before they ordered the computer that the carton would include *some* important terms, and they did not seek to discover these in advance. Gateway's ads state that their products come with limited warranties and lifetime support. How limited was the warranty—30 days, with service contingent on shipping the computer back, or five years, with free onsite service? What sort of support was offered? Shoppers have three principal ways to discover these things. First, they can ask the vendor to send a copy before deciding whether to buy. The Magnuson–Moss Warranty Act requires firms to distribute their warranty terms on request, 15 U.S.C. § 2302(b)(1)(A); the Hills do not contend that Gateway would have refused to enclose the remaining terms too. Concealment would be bad for business, scaring some customers away and leading to excess returns from others. Second, shoppers can consult public sources (computer magazines, the Web sites of vendors) that may contain this information. Third, they may inspect the documents after the product's delivery. Like Zeidenberg, the Hills took the third option. By keeping the computer beyond 30 days, the Hills accepted Gateway's offer, including the arbitration clause.").

285. Reuters, *Clinton Frees GPS Signals*, L.A. TIMES (May 2, 2000), <http://articles.latimes.com/2000/may/02/business/fi-25557>; see also SUNSTEIN, *supra* note 244, at 80.

286. See, e.g., FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL, AUTHENTICATION IN AN ELECTRONIC BANKING ENVIRONMENT (Supp. 2011), available at [http://www.ffiec.gov/pdf/Auth-ITS-Final%206-22-11%20\(FFIEC%20Formatted\).pdf](http://www.ffiec.gov/pdf/Auth-ITS-Final%206-22-11%20(FFIEC%20Formatted).pdf).

287. See, e.g., Kashmir Hill, *E-ZPasses Get Read All Over New York (Not Just at Toll Booths)*, FORBES (Sept. 12, 2013, 4:44 PM), <http://www.forbes.com/sites/kashmirhill/2013/09/12/e-zpasses-get-read-all-over-new-york-not-just-at-toll-booths/>.



### 3. Create or Support an Admin Watchdog Agency

These are just a few examples of the kind of government initiatives that can lighten private admin burdens. But they point to a field of opportunity for efforts to encourage innovation in this area.

*a. The Individual Time Protection Agency.* Perhaps a watchdog agency targeting private admin is called for: the Individual Time Protection Agency (ITPA). ITPA could build on the federal government's efforts to reduce paperwork demands on individuals,<sup>288</sup> as well as the work of other government entities that track wait times and other state impositions.<sup>289</sup> But ITPA's scope would be broader, and include monitoring, publicizing, and discouraging private impositions on individuals' time, as well as targeting governmental time impositions beyond paperwork. Labels and rating schemes could be modeled, for example, on those used (or proposed) for informing the public about the fuel efficiency of cars.<sup>290</sup>

*b. Private Alternatives.* Alternatively, private actors might be better situated to demand greater efficiency for the basic transactions that consumers and others endure. A private nonprofit version of ITPA might be an appealing alternative to a governmental agency, though this would require funding. Instead of a non-profit, perhaps an Internet-based entrepreneur could make money from an entity dedicated to assessing how much different companies value their customers' time. This endeavor would be akin to Ian Ayres and Jennifer Brown's idea for an LGBT seal of approval for companies,<sup>291</sup> but instead of depending on (most) customers' being publicly minded,<sup>292</sup> this rating would tell customers something that concerns their self-interest.

*c. A Respect Our Time Rating Scheme.* Customers are notoriously optimistic about their purchases, causing them at times to discount warranties and other back-end costs because they assume they will not be the ones to have problems with the product.<sup>293</sup> But a simple rating system related to the company's respect for their time might have more salience than the idea of a warranty. In a sense,

288. See *supra* text accompanying notes 236–47.

289. See *supra* text accompanying note 277.

290. See, e.g., SUNSTEIN, *supra* note 244, at 81–88 (comparing the various labels considered and used for vehicle fuel economy).

291. See IAN AYRES & JENNIFER GERARDA BROWN, *STRAIGHTFORWARD: HOW TO MOBILIZE HETEROSEXUAL SUPPORT FOR GAY RIGHTS* 84 (2005).

292. Since most customers are not LGBT themselves, that is. Ayres and Brown's book is specifically about how straight people can help advance LGBT rights.

293. See, e.g., Russell Korobkin & Chris Guthrie, *Heuristics and Biases at the Bargaining Table*, 87 MARQ. L. REV. 795, 800–01 (2004) (“Substantial evidence indicates that individuals are particularly likely to make judgments concerning existing facts and future probabilities in ways that confirm pre-existing belief structures, assume high degrees of personal agency in the world, and create a positive presentation of self. This tendency will often result in judgments compromised by what is called the ‘self-serving’ or ‘egocentric’ bias.”).



the significance of a warranty, at least for a consumer product that is not very expensive (and even for some that are), turns in no small part on how easy or hard the company makes it to exercise rights under the warranty. The same with returns: Some customers surely care more about how much time returns will take—and whether that return requires any form of active waiting (like calling by phone and waiting on hold, or waiting in lines of some kind)—than how much of her money she will get back or in what form.

To take a simple example: Imagine a company that sells vacuum cleaners—let us call it Schmoover. It has a one-year warranty on vacuums and parts, but requires that the buyer personally take the broken product to a service center to get the product inspected and repaired, and offers no way to ship the product to the company or to a service center for this undertaking. Or imagine that Schmoover accepts returns of replacement parts or accessories within thirty days, but requires the buyer to devise her own return shipping label (which likely means a trip to the post office to obtain weight information the company already has) even though many companies these days provide shipping labels so customers can use a UPS or FedEx dropbox. Schmoover thus imposes substantial time costs for the consumer if the product has any problems. Schmoover's disregard for customer time is hard to discern before purchase, however.

As of now, there is no way to research whether, or to what extent, companies respect customers' time. This makes "comparison friction" particularly great with regard to the time dimension of a product's value.<sup>294</sup> Reviews on secondary websites sometimes discuss customer service, but those reports are blended in with evaluations of product quality. Moreover, any customer service comments may blur the friendliness or accessibility of customer service representatives with the time and energy it takes a buyer to solve a problem with the company. Companies such as Amazon and Zappos have arguably built their businesses in part on making the process of returns as simple as possible—automatically accepting and facilitating returns electronically—possibly signaling a demand that has not been fully realized by the market.<sup>295</sup> A rating scheme could be based either on an expert evaluator's assessment of the returns or warranty scheme, on customer reports, or ideally on some combination. Perhaps the ROT—Respect Our Time—rating scheme is already on its way.

#### D. CREATE LEGAL MECHANISMS TO COMPENSATE INDIVIDUALS FOR ADMIN

Earlier this year, a district court in California refused to award compensation to a man who spent two hours on the telephone trying to get a refund after

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294. On comparison friction, see SUNSTEIN, *supra* note 244, at 86–87.

295. See, e.g., Heather Clarke, *Return an Item to Amazon—It's Easy and FREE!*, QUEEN BEE COUPONS (May 8, 2012, 4:27 PM), <http://queenbeecoupons.com/returning-an-item-to-amazon-its-easy>. Amazon apparently has some kind of tiered system of customer treatment, however, and they ban customers whose practices raise certain warning flags. *I'm Outraged! Amazon Banned Me Forever Because of Too Many Returns*, MACRUMORS (Aug. 27, 2008, 5:48 PM), <http://forums.macrumors.com/archive/index.php/t-552203.html>.



Skype charged him for a three-month subscription renewal he did not order.<sup>296</sup> This case is just one example of a broader trend. Individuals are typically unable to recover for lost personal time.<sup>297</sup> This may seem puzzling in light of the truism that time is money.<sup>298</sup> Once the personal and relational costs of admin become salient, this oversight is more striking. This section reviews a few inroads into compensation for lost time, as examples of what might be possible.

## 1. Compensating for Admin Created by the State

Government-created admin could be compensable, following the recent suggestion of a few scholars and court decisions. For instance, one tax scholar has proposed that the government should compensate individuals for the time, as well as the financial cost, they expend on random audits.<sup>299</sup> This argument is based on the perceived unfairness of random audits, but it could be further supported by a concern about the admin burdens that the state places on individuals. There is some limited precedent for courts requiring the government to compensate individuals for lost time.<sup>300</sup> For instance, under the predecessor statute to the Individuals with Disabilities in Education Act, the First Circuit compensated parents for the time they lost driving their child to school because the state improperly denied their child busing.<sup>301</sup> This decision gestures in the right direction, as it compensates people for time expended on relational labor on the margins of admin. More squarely addressing admin, under the Privacy Act of 1974,<sup>302</sup> the Sixth Circuit allowed prison employees to recover for “lost time” taking care of personal business when their government employer mistakenly allowed inmates and staff access to their private information.<sup>303</sup>

## 2. Facilitating Recovery for Time Wasted by Private Others

Admin burdens imposed by private parties could also be compensable. One recent statute exemplifies a concern with admin that individuals inflict on one

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296. *Becker v. Skype Inc.*, No. 5:12-CV-06477-EJD, 2014 WL 556697, at \*2 (N.D. Cal. Feb. 10, 2014) (“Plaintiff provides no authority suggesting that the Court may consider the opportunity cost of pursuing a refund sufficient to constitute actual injury absent any allegations that Plaintiff actually lost billable work.”).

297. *See* Frisch, *supra* note 12, at 758–59; Gross, *supra* note 12, at 684.

298. *But cf. supra* note 13 (critiquing the truism).

299. Sarah B. Lawsky, *Fairly Random: On Compensating Audited Taxpayers*, 41 CONN. L. REV. 161, 169 (2008) (“[A]udits may cost a taxpayer time because he may have to gather and review documents for an auditor, or sit with an auditor while the auditor reviews documents and questions the taxpayer. This is likely time the taxpayer would prefer to spend on another activity, or time the taxpayer could have spent earning money.”).

300. *See* Frisch, *supra* note 12, at 768–69.

301. *See* *Hurry v. Jones*, 734 F.2d 879, 884 (1st Cir. 1984); *see* Frisch, *supra* note 12, at 768 (discussing the case).

302. Pub. L. No. 93–579, 88 Stat. 1896 (codified as amended at 5 U.S.C. § 552a (2011)).

303. *Beaven v. DOJ*, 622 F.3d 540, 559–60 (6th Cir. 2010); *see* Frisch, *supra* note 12, at 768–71 (discussing the case).



another; the Identity Theft Enforcement and Restitution Act of 2008 requires convicted identity thieves to “pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.”<sup>304</sup> But for occasional statutory exceptions such as this one,<sup>305</sup> however, individuals generally cannot claim damages for lost personal time due to breach of a contract, even when the lost time results directly from another’s breach.<sup>306</sup> For instance, in one striking case, a court declined to grant recovery for all the admin hassle that accompanied a grocery store’s security breach affecting the plaintiffs’ credit cards. The court explained that efforts these individuals had to make to cancel cards and manage identity theft problems were just “the ordinary frustrations and inconveniences that everyone confronts in daily life with or without fraud or negligence.”<sup>307</sup> The court’s lack of sympathy is typical. Just as businesses can claim damages for employees’ lost time—in the form of compensation for the wages paid to them—individuals should be able to recover for their lost personal time resulting from a breach of contract.<sup>308</sup>

Setting the proper rate of compensation is no simple task, as several authors have discussed.<sup>309</sup> Recognizing admin as a form of labor invites a novel answer to this quandary. Personal time lost to admin doing could be valued at the prevailing wage rate for personal assistants (PAs), that is, at the cost of outsourcing this particular form of labor. Wage rates of PAs address the distributional objection to the metric of individualized wage rates (that is, why should executives receive more compensation for lost-luggage admin time than school teachers?), and the evidentiary objection to more subjective measures of valuing lost time (that is, how do we really know how painful lost-luggage admin is for one individual or another?). Valuing lost personal time by PA wage rates will not answer all quandaries because some admin cannot be fully outsourced—particularly where companies will not deal with anyone other than the principal, for instance, where sensitive private information is involved—and hiring someone itself involves admin costs.<sup>310</sup> But it may well be preferable to the metrics previously proposed, and it surely seems an improvement on courts’ dismissing these claims as trivial or too hard to quantify.

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304. 18 U.S.C. § 3663(b)(6) (2011); *see* Frisch, *supra* note 12, at 767 (discussing the Act).

305. *See* Frisch, *supra* note 12, at 768.

306. *See id.* at 758–59.

307. *In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 613 F. Supp. 2d 108, 134 (D. Me. 2009).

308. *See, e.g.*, Frisch, *supra* note 12, at 792; Gross, *supra* note 12, at 685.

309. *See, e.g.*, Frisch, *supra* note 12, at 794–801; Gross, *supra* note 12, at 700–01. The metrics debated include individualized wage rates, *see* Frisch, *supra* note 12, at 799 (“[T]he price is at least the market-equivalent wage rate applicable to the individual’s actual or potential employment opportunities.”); willingness-to-pay, *see id.*, at 797 (outlining the several steps involved in a subjective willingness-to-pay valuation); and out-of-pocket expenses, *see* Gross, *supra* note 12, at 701 (“Another way to measure damages for lost personal time is to determine how much additional expense the plaintiff has incurred as a result of not being able to do a job that he would otherwise have been able to do himself.”).

310. *Cf. supra* notes 58 and 147 (discussing the admin involved in outsourcing).



## E. INCREASE THE VISIBILITY AND SALIENCE OF ADMIN

The invisibility of admin creates challenges for addressing admin inefficiencies and distributional inequities across relationships, as discussed earlier. The problem of admin burdens could be targeted indirectly through efforts to make admin more transparent.

Some of these types of interventions have been discussed in previous sections. For efforts specifically focused on household distribution, we might imagine interventions to make the precise time particular organizations require more obvious up front, in order to nudge families to confront head-on the question of who will assume these responsibilities. For example, particular schools or camps could report the average time parents must spend on school paperwork and ask applicants to name the “Admin Contact(s)” for the family.

In a different vein, attention to admin within family law disputes could draw attention to this work as a form of familial labor and a question of fairness. Although we would not want the government to instruct families precisely how to divide their admin burdens, some family law matters involve ex post assessments of the value of family labor, or ex ante instructions for families to explicitly divvy up their responsibilities. These situations offer inroads into making admin visible. For example, one judicial domain where admin is becoming more visible is the law governing custody of children on divorce, in at least two ways. First, for those seeking joint custody, court-required “parenting plans”—which are becoming more common—often lay out who will do what admin and how they will manage it together. These range from relatively brief determinations of schedules and holiday plans, on the one hand, to highly detailed distributions of, and procedures for, medical, school, and financial decisionmaking.<sup>311</sup> Second, custody disputes that reach litigation increasingly require parents to demonstrate competency in what we might call *kid admin*, such as knowing the pediatrician’s name.<sup>312</sup>

Finally, as noted earlier, courts have occasionally acknowledged the value of admin labor when examining questions of marital property upon divorce.<sup>313</sup> In the words of one court, “[I]n addition to performing household work and *managing the family finances* defendant was gainfully employed throughout the marriage, . . . she contributed all of her earnings to their living and educational expenses and . . . her financial contributions exceeded those of plaintiff.”<sup>314</sup> If

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311. Compare, e.g., STATE OF N.H. JUDICIAL BRANCH, NHJB-2064-F, PARENTING PLAN (2015), available at <http://. . ./nhjb-2064-f.pdf> (requiring delegation of decisionmaking authority, routine scheduling, and outlining requirements for relocation and parental communication), with FLA. TWELFTH JUDICIAL CIRCUIT FAMILY LAW DIV., INSTRUCTIONS AND OVERVIEW FOR YOUR HIGHLY STRUCTURED PARENTING PLAN (2008), available at [http://. . .//////\\_\(outlining steps and requirements for “highly structured parenting plan” over twenty-six pages\).](http://. . .//////_(outlining steps and requirements for “highly structured parenting plan” over twenty-six pages).)

312. See, e.g., *How to Prepare for a Heated Custody Battle*, CANTOR LAW GROUP (Oct. 16, 2013), <http://cantorlawgroup.com/blog/how-to-prepare-for-a-heated-custody-battle.html>.

313. See, e.g., *O’Brien v. O’Brien*, 489 N.E.2d 712, 714 (N.Y. 1985).

314. *Id.* (emphasis added).



courts highlighted admin contributions more consistently and explicitly, admin could become a more salient part of household labor.

### CONCLUSION

Our focus continually fights distractions, both inner and outer. The question is, What are our distractions costing us?  
— Daniel Goleman<sup>315</sup>

The contemporary moment presents nearly constant opportunities for distraction from what matters. While our beliefs about what matters will vary widely across individuals, there is something that generally does *not* matter—that we by and large do *not* value—that is constant across individuals: admin. The subject of this Article is, by definition, something an individual does not value.<sup>316</sup> More precisely, the time we spend doing admin is a means to an end, not an end in itself.

This Article therefore draws our attention to something that most people do not think much about, something most people do not want to think much about. But we should think about admin because its effects are significant, both individually and relationally. Though seemingly trivial, admin is critically important because it takes up time and energy we could spend on other things. Moreover, because so much of it happens remotely, it draws our attention away from things that matter to us even when we are doing something else. Admin can interfere with our ability to think creatively, to get into a flow with work or play.<sup>317</sup> Admin can prevent us from relating effectively to the person right in front of us, pulling us into an “away.”<sup>318</sup>

Distraction can happen because we have our devices constantly with us, drawing us out of the present moment. Concerned commentators—scholarly and popular, secular or spiritual—will recommend putting away the devices.<sup>319</sup> Strategic efforts to go off the grid, whether for a dinner or a weekend, may have various benefits individually or relationally.<sup>320</sup> But going off the grid does not solve the problem of admin.

If admin is pressing enough, it may still be on our minds: We may still be solving a problem of planning or scheduling, or, less productively, we may be

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315. See GOLEMAN, *supra* note 164, at 7–8.

316. *But cf. supra* notes 191–98 (noting disputes about what counts as admin, in light of varied preferences and views as to what is merely a means to an end and what is an end in itself).

317. See GOLEMAN, *supra* note 164, at 8.

318. See *supra* text accompanying note 164.

319. See, e.g., GOLEMAN, *supra* note 164, at 8; Ariel Meadow Stallings, *The Unplugged Wedding: Couples Tell Guests to Put Down Their Devices*, OFFBEAT BRIDE (June 13, 2011), <http://offbeatbride.com/2011/06/unplugged-wedding>.

320. See, e.g., BRACH, *supra* note 217, at 34–35; GOLEMAN, *supra* note 164, at 56–58; PHILLIP MOFFITT, EMOTIONAL CHAOS TO CLARITY: MOVE FROM THE CHAOS OF THE REACTIVE MIND TO THE CLARITY OF THE RESPONSIVE MIND 195 (2012).



preoccupied by a more generalized anxiety at the prospect of forgetting what needs to be done. Admin sucks up our time, even if we do not do it through multitasking that pulls us away from our focus on the task at hand, on another person, or on our leisure. If admin needs to be done, then putting it aside now will mean missing out on another activity later.

Consider the following moment in Daniel Goleman's recent book *Focus*, quoted in the epigraph above:

The little girl's head came only up to her mother's waist as she hugged her mom and held on fiercely as they rode a ferry to a vacation island. The mother, though, didn't respond to her, or even seem to notice: she was absorbed in her iPad all the while. . . . The indifference of that mother . . . [is a] symptom[] of how technology captures our attention and disrupts our connections.<sup>321</sup>

Goleman probably does not mean to demonize this woman; he means to present her as symptomatic of the contemporary moment of multitasking, of distraction from human connection and focus on what matters. But within the context of his story, she seems like a bad, preoccupied mother, checking her email or doing something trivial, or perhaps even just doing her job, when she should be present for her daughter.<sup>322</sup>

The perspective of admin presents another plausible story about this mother's engagement with her iPad: She may be ordering groceries or scheduling her daughter's next playdate; she might be researching a medical complaint her daughter just made or trying to figure out what summer camps might fit her daughter's age group and interests. In other words, she might be doing admin.

The touching ferry moment with the daughter may not be the ideal time to order, schedule, research, or catalogue. Research discussed above suggests that women regret or resent the multitasking that they do when spending time with their kids.<sup>323</sup> And the mother's distraction is probably not great for the daughter either. But blaming the mother does not seem to be the answer. That mother's dilemma—whether to order the groceries now when it might mean missing a precious moment with her daughter—may be part of a distributional dilemma.

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321. GOLEMAN, *supra* note 164, at 4–5.

322. Drawing on David Strauss's reverse-the-groups test for discriminatory intent, we can see further the distributional significance of this passage by imagining the little girl with her father. *Cf.* David A. Strauss, *Discriminatory Intent and the Taming of Brown*, 56 U. CHI. L. REV. 935, 956–57 (1989). One reader made the plausible suggestion that—unlike the mother who is understood to be depriving her child of her full attention—a father in this scenario would more likely be understood to be so dedicated to his child that, although he had so much work to do, he left the office to do his work remotely in order to spend time with his daughter on the ferry trip.

323. *See supra* notes 132–36. Goleman's story may also help to illuminate women's dislike of multitasking in public. *See* Offer & Schneider, *supra* note 135, at 828 (“[O]nly among mothers is the likelihood of multitasking at home similar to the likelihood of multitasking in public, and only among mothers is multitasking in public associated with increased negative affect, stress, work-family conflict, and family time guilt.”).



Is this mother doing more than her share of admin? Moreover, this mother's dilemma also points to a problem facing all of us: When is the right time to do admin?

For many people, admin falls on them and goes largely unseen, leading to inequities and inefficiencies. Indeed, the ease of judging the mother on the ferry stems from the invisibility of admin: Observers have no idea what that mother is doing. Nor do they typically assume she is doing admin. Because admin is not salient, there may be no designated "later" that *is* a good time to do it. And because the admin is not salient, no one else is forced to take ownership of it. Perhaps for this mother, like so many others, admin requires either lack of focus in this moment or lack of sleep later.<sup>324</sup> The parallel shift makes demands on us all, whether we perform the labor ourselves or redistribute it to others.

The task of devising the best time and place to do all these things may be helped by making the admin demands of modern life more visible—by starting a conversation about them. And developing techniques for more fairly distributing these tasks across households, or for compensating those who do them in other ways, may also come from drawing our attention to this hugely time consuming aspect of family life.

All of us—partnered or single, with dependents or without—have an interest in a simpler set of changes in this regard: reducing the amount of admin that we have to contend with. The state already contributes to admin burdens; it adds to them or reduces them, directly and indirectly, through a variety of laws and administrative functions laid out in this Article. It sets legal frameworks, like the lack of damages for lost personal time in breach of contract suits, that shape the incentives of private actors in the market. It has the capacity to reduce admin and encourage private actors to do the same. In these and many other ways, the state could become not merely a partner, but a leader, in reducing the admin burdens that distract us all.

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324. See *supra* text accompanying note 77 (quoting a passage about sleeplessness and mothers).