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SYMPOSIUM ARTICLE

Rationing with time: time-cost ordeals' burdens and distributive effects

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Abstract

Individuals often face administrative hurdles in attempting to access health care, public programmes, and other legal statuses and entitlements. These ordeals are the products, directly or indirectly, of institutional and policy design choices. I argue that evaluating whether such ordeals are justifiable or desirable instruments of social policy depends on assessing, beyond their targeting effects, the process-related burdens they impose on those attempting to navigate them and these burdens' distributive effects. I here examine specifically how ordeals that levy time costs reduce and constrain individuals' free time, and how such time-cost ordeals may thereby create, deepen and compound disadvantages.

Keywords: economic ordeals; targeting; free time; distributive justice; social and political inequality

1. Introduction

Recent scholarship has drawn attention to the 'administrative burden', 'inconvenience' and 'sludge' that individuals encounter in obtaining healthcare, accessing public programmes and benefits, and securing legal licences and statuses. Such 'hassle costs' are the products, directly or indirectly, of institutional and policy design choices. This raises questions about whether and to what extent these costs ought to be reduced, and more broadly, about when their imposition is justifiable, and what considerations are relevant to such assessments (Emens 2015; Olken 2016; Eyal *et al.* 2018; Herd and Moynihan 2018; Sunstein 2019).

One argument for their imposition is that non-monetary costs may effectively function as rationing devices, targeting scarce resources to those who need or will use them the most. The idea is that such 'ordeals' may serve to sort potential recipients, because whether one is willing to bear an ordeal may indicate how much one will benefit from a good or service (Nichols and Zeckhauser 1982).

Moreover, as recent research in development economics has demonstrated, targeting with non-monetary costs may be more effective than alternative

provision methods. Pascaline Dupas *et al.* (2016) for instance, compared arrangements in which chlorine solution to treat water for disease prevention was distributed freely to households, could be purchased directly for a small monetary fee, or could be obtained by redeeming a voucher at a nearby store. Relative to free provision, the monetary cost did reduce the portion of households using chlorine, while the non-monetary cost did not, though it did reduce the portion with unused chlorine. In this case, targeting by ordeal improved targeting efficiency relative to alternative provision methods, producing fewer errors of both inclusion and exclusion.

Yet, while ordeals may sometimes be effective mechanisms for targeting social resources, whether rationing through inconvenience is a justifiable or desirable instrument of social policy depends on assessing more than just its targeting efficiency. The assessment of whether a particular ordeal is, all things considered, a justifiable method for providing basic goods and services requires giving proper weight to a wider array of factors. These considerations include, in addition to an ordeal's targeting effects, the burdens that the process of navigating an ordeal itself imposes and the distributive implications of these process-related burdens.

I here highlight one such burdensome effect and its distributive implications: how ordeals that levy time costs reduce and constrain free time, and how such time costs may thereby create, deepen and compound disadvantages.

Time-cost ordeals may, all things considered, be a justifiable and desirable way of targeting scarce social resources. But to justify using time costs as a means of targeting requires, beyond assessing whether doing so is effective, evaluating the process-related burdens they impose. In this paper I argue that any such evaluation must recognize and give due weight to the loss of free time and its associated distributive consequences.

Section 2 sets out a framework of normative considerations relevant to the assessment of rationing by ordeal. Section 3 shows how time-cost ordeals to obtain basic goods and services reduce and constrain free time, a valuable resource to which citizens have legitimate claims. Section 4 examines further effects of time-cost ordeals that limit free time, namely that they may impair abilities to meet other needs and obligations, reduce access to shared free time and thereby may restrict opportunities to participate in social and associational life, and may also undermine social and political equality. Section 5 concludes by suggesting three practical considerations that generally apply in favour of alternative provision methods over rationing with time costs.

2. A framework of normative considerations

The process of obtaining basic goods and services and other legal entitlements may be experienced primarily as an attempt to navigate and overcome hurdles. Administrative burdens and inconveniences are commonly encountered in the USA, for instance, in: obtaining healthcare (medical treatment; health insurance; coverage of treatment); accessing public benefits and programmes (nutrition, housing, transportation subsidies; financial assistance; disability benefits; unemployment insurance, job training); obtaining educational resources for oneself or one's children (school enrolment; disability accommodations; financial aid); and securing licences and

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legal statuses (driving licences; identity documents; voter registration; immigration statuses) (see Emens 2015; Herd and Moynihan 2018).

These hurdles, in addition to the financial costs they may entail, impose non-monetary time and effort costs on those navigating them. Potential claimants must spend time and effort (or use bandwidth, see Mullainathan and Shafir 2013: 41–42) to learn about the programmes and eligibility requirements, fill out forms and obtain documentation, wait in line and speak with service representatives, travel to service and office locations, and so forth. And as indicated by Nichols and Zeckhauser's recognition that 'demeaning qualification tests and tedious administrative procedures' (1982: 376) might serve as sorting devices, these hurdles may also involve tolerating experiences ranging from mildly unpleasant and irritating tasks to disrespectful treatment and frustrating, intrusive and degrading procedures. These experience costs might also include waiting through a time-lag or delay to obtain a good or service (e.g. donor waiting lists, naturalization waiting periods, benefit eligibility delays). (For overviews of these non-monetary costs, see Emens 2015: 1419–1422; Eyal *et al.* 2018: 12, 18; Herd and Moynihan 2018: 22–9; Sunstein 2019: 1853.)[1]

Whether and to what extent attempts to obtain basic goods and services and legal entitlements are marked by these various non-monetary costs is the product, either directly or indirectly, of institutional arrangements and policy choices.[2] And given that these institutional and policy choices – in particular programme design and implementation and agency capacity and resources – are open to evaluation and change, it is essential to examine whether, all things considered, such ordeals are justifiable.

Three considerations are central to such assessments:

(i) *Effects on access and their distributive implications*. Whether an administrative burden or inconvenience is intentionally designed as a targeting mechanism or not, if such an ordeal shapes who has access to and makes use of social resources, it ought to be evaluated for these targeting effects. This requires assessing its effects on errors of inclusion, i.e. whether it provides a good to those who are not eligible, do not need it, will not use it, or do not value it sufficiently highly, and its effects on errors of exclusion, i.e. whether it deters or blocks access for those in the reverse positions (type I and type II errors). Assessments of targeting efficiency unavoidably depend on normative judgements about how such errors ought to be specified, how these errors ought to be weighed, and how to evaluate inclusion of those near the threshold. Most plainly, judgements must be made about whether it is more important that *all* who need a good obtain it, minimizing unmet needs and unrealized claims, or that *only* those who need it obtain a good, minimizing waste and false claims (Atkinson 1995: 30, 35; citing Weisbrod 1970: 125; see also Goodin 1985; Sunstein 2019: 1865–1868).

[1]For a related analysis of the non-monetary (and monetary) costs incurred in navigating the criminal justice system, see Feeley (1979). I thank Lucas Swaine for noting this connection.

[2]The role of policy design choices and administrative capacity in shaping the extent and form of the burdens a programme imposes on recipients is well illustrated by Herd and Moynihan's discussion of Social Security, as a programme that, in contrast to alternative possible arrangements, allows almost all of those eligible to obtain benefits with relative ease (Herd and Moynihan 2018: 215–239, see also 8–12).

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Moreover, an ordeal ought to be assessed not solely in terms of its overall inclusion and exclusion effects, but in terms of which members of society are included and excluded – the distributive effects of targeting. As a result of material, social and personal circumstances, people are differentially able to pay and bear an ordeal's various non-monetary costs, and these differences are likely to interact with a society's broader patterns of advantage and disadvantage. It is possible that ordeals may mitigate inequalities, providing the disadvantaged with greater access than alternative methods, but it is also possible that they may compound inequalities, further limiting the disadvantaged's access to basic goods and services and other legal entitlements (Gupta 2017; Eyal *et al.* 2018: 15–16; Herd and Moynihan 2018: 6–8; Sunstein 2019: 1859, 1872; see also Roberts 2018).

(ii) *Process-related burdens imposed and their distributive implications*. Though the first consideration addresses an important set of concerns, it does not directly address another important set of concerns that must be included in any full normative evaluation. That is, it is necessary to assess not only how an ordeal affects access to a good or entitlement, but also the process-related burdens an ordeal imposes on those attempting to acquire a good or entitlement. If an ordeal is envisioned as a thicket of hassles that one must find a way through to obtain a social resource, the first consideration assesses whether this thicket deters, reduces or blocks people's access to the resource. The second consideration, by contrast, focuses not on whether people make it through the thicket, but on the burdens that people bear while attempting to navigate it – the lost time, the expended efforts, the injuries and frustrations. These process-related burdens, apart from their effects on access, are themselves objects of normative concern. Further, these burdens too must be assessed for their distributive effects. While they may counteract a society's existing patterns of disadvantage, they may also cause, worsen or compound insufficiencies and inequalities.

(iii) *Alternative provision methods*. Any assessment of whether an ordeal is justifiable must also compare that particular provision method to the range of possible alternatives under different institutional arrangements and policy designs. The breadth of relevant possibilities may vary with the conditions and scope of normative evaluation; for instance, if the ordeal is subject to evaluation at the local or sectoral level the alternatives may be more circumscribed than at the societal or even global level.[3] That said, in general terms, rationing with a particular ordeal ought to be compared, in addition to alternative ordeal designs, to provision instead universally or categorically (e.g. to all citizens, or all those under or over a certain age); on the basis of means-tested eligibility (with minimized qualification burdens); through the market or with monetary costs; or with direct rationing (e.g. committee decision, lottery).

These three considerations are fundamental to any normative evaluation of whether an ordeal, or pattern of ordeals, is justifiable. To be sure, though these three considerations are essential to any evaluation, they do not comprise an exhaustive set, as different frameworks of evaluation may draw on additional considerations as well. An assessment might also, for instance, evaluate whether

[3]For a related discussion of whether a society ought to address disadvantage by taking a sector by sector, or more comprehensive societal perspective, see Wolff and de-Shalit (2007: 90–92, 94–96).

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an ordeal strengthens or undermines public support and commitment to the programme or benefit over time, and more generally how it affects people's experiences with and attitudes toward a profession, an agency or the government (Sen 1995: 14, 21; Herd and Moynihan 2018: 29–30; see also Soss 1999; Campbell 2003; Mettler 2005).

Within this framework of normative considerations, the focus here is to examine specifically time-cost ordeals and the process-related burdens they impose and these burdens' distributive implications (the second consideration).[4] Ordeals' time costs have been rightfully assessed with respect to their effects on access (the first consideration) (Olken 2016; Eyal *et al.* 2018: 15–17; Sunstein 2019: 1872; see also Roberts 2018: 1048, 1059). In favour of ordeals, it is argued that time costs may produce fewer errors of exclusion than monetary costs if those who are poorer can more readily spend time than pay a financial cost. Yet, it is also aptly recognized that time costs may produce errors of exclusion if those who need a good in fact have little time at their disposal to devote to overcoming the ordeal.[5]

The targeting effects of time costs are indeed important factors to consider, but the process-related burdens time-cost ordeals impose – beyond their effects on access – are also essential to consider in any normative evaluation of an ordeal's justifiability. Less attention has been given to examining the burdens imposed by time-cost ordeals, and moreover the distributive implications of these burdens.[6] As such, the focus here is to highlight how the process of navigating time-cost ordeals imposes burdens, in particular by reducing and constraining free time, and how these process-related burdens may create, deepen and compound disadvantages.

3. Reduced and constrained free time

First and most fundamentally, time-cost ordeals to obtain basic goods and services reduce and constrain free time, and free time is a valuable resource to which people have legitimate claims. Free time – that is, time not consumed by meeting the necessities of life – is an all-purpose resource that people generally require for the pursuit of their ends, whatever those ends may be. To pursue any end other

[4]An ordeal may require bearing various costs, including time, effort and experience costs. Though most ordeals entail at least some time costs, an ordeal does not necessarily do so: it may make the process of obtaining a good more difficult or frustrating, for instance, without affecting the time required to obtain the good. The focus here is specifically on ordeals' time costs. The same analysis could be extended to the other process-related burdens that ordeals may impose and these burdens' distributive effects, as the attention and effort ordeals may require and the grating, frustrating and degrading experiences they may entail may similarly create, deepen and compound disadvantages.

[5]Those who have a scarcity of time may also have less bandwidth available to manage ordeals; see Mullainathan and Shafir (2013: 63–66, 220–222).

[6]To be clear, though it has received less attention and development, the fact that time costs impose burdens is recognized in the literature. See in particular Emens (2015: 1447–1448); see also Sunstein (2019: 1883). See also Eyal *et al.* (2018: 15) noting that 'spending many hours in line for health care would impose onerous burdens' on low-paid workers without paid medical leave, and Olken (2016: 865) noting that it is important that 'the time the poor spend on claiming benefits is not so onerous that it outweighs the benefits from better screening', as well as Alatas *et al.* (2016: 421) noting that those bearing an ordeal 'lose valuable time'.

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than meeting the necessities of life, one must have some amount of free time. The resource of free time, so understood, may be defined more precisely as time not committed to meeting one's own, or one's dependents', basic needs, whether with necessary paid work, household labour or personal care (Rose 2016: 40–45, 58–60).

Ordeals that require one to pay time costs to obtain basic goods and services, i.e. those that enable one to function at a basic level in one's society, effectively inflate the time one must spend meeting the necessities of life for oneself or one's family members. Compared with provision methods that minimize time costs, methods that impose time costs beyond those that are essential to a good's provision affect free time in two primary ways. First, time-cost ordeals reduce one's free time by requiring one to spend a greater amount of time to meet basic needs. Second, time-cost ordeals can constrain one's free time by requiring one to engage in tasks at particular times or at particular intervals to meet basic needs, and further, these constraints might require one to coordinate one's time with others.

The total amount of time one spends, for instance, to obtain insurance coverage for medical treatment filling out long complex forms, waiting on hold, travelling to the hospital's financial assistance office to submit documentation, speaking with service representatives, sorting out statements, and so forth reduces one's free time. One's free time is, moreover, constrained if, for instance, the service representatives and financial assistance office are only available during certain hours, or if one must wait to receive multiple statements, fill out a claims form before calling a service representative, but must call before the window for making claims has closed, etc. And navigating these ordeals might require one to coordinate with others, for instance, with one's employer to leave work early to make it to the benefits office in time, or with a friend to watch one's children to find time to wade through paperwork.

The extent to which a time-cost ordeal reduces and constrains one's free time compared with time cost minimizing provision methods of course depends on how much time it requires and how greatly it constrains one's time, as well as how frequently one faces the ordeal. Furthermore, if individuals or groups are likely to face multiple time-cost ordeals to obtain basic goods and services, an ordeal's impact on free time ought to be evaluated as part of this broader potential pattern. If those with low incomes, for instance, have to pay a time cost with each attempt to access a different specific programme – to obtain insurance coverage for each medical service, as well as financial assistance, nutrition assistance, monthly rent subsidy and public transportation discount, educational and job training resources, and so forth – such that the receipt of every benefit comes with a time tax, these time costs together are significantly more onerous and ought to be evaluated in this broader context.

To reduce and constrain claimants' free time is to diminish their shares of a valuable resource. The pursuit of one's projects and commitments, whatever they may be, generally depends on having the free time available for these ends, whether to gather with family and friends, join in community life, participate in politics, take advantage of educational and cultural opportunities, undertake a productive or creative endeavour, take part in religious practice, engage in a

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hobby or sport, or any other end. As such, to have time that one can devote to one's chosen pursuits, whatever they may be, one generally must have time not consumed by meeting the necessities of life. To have reduced and constrained free time is to have less of this necessary resource for the pursuit of one's ends (Rose 2016: 1–4, 40–45; see also Goodin *et al.* 2008: 3–4, 27–34). Accordingly, those bearing time-cost ordeals to obtain basic goods and services bear the loss of a valuable resource.

Further, not only is free time a valuable resource, but citizens have legitimate claims to fair shares of free time. Citizens' claims to free time are grounded in the widely endorsed principle that citizens have legitimate claims to fair shares of the resources that are generally required to exercise their liberties and opportunities. This principle reflects a foundational commitment of liberal egalitarian theories of justice to ensure that citizens possess the means to take advantage of their formally guaranteed liberties and opportunities, and more generally to pursue their projects and commitments. Without the means to exercise them, citizens' liberties and opportunities would be of little worth, enjoyed in name only (Rose 2016: 66–73).[7]

This principle is standardly relied upon to ground citizens' claims to the resources of income and wealth, but it also grounds claims to the resource of free time. To exercise one's right to vote, to participate in a town meeting, or to join in a protest, one must have not only the means to travel to the polls, the town hall and the public square, one must also have the free time to exercise these liberties. This same point applies not only to the political liberties, but to the full range of essential liberties and opportunities, and indeed to the enjoyment of almost any of one's formally guaranteed freedoms. Thus, given the foundational commitment to ensuring that citizens have a fair share of the resources that are generally required to exercise their liberties and opportunities, citizens have legitimate claims to a fair share of free time.[8] This claim entails having a fair amount of free time, as well as to possessing this free time on conditions that allow for its effective use, in particular with sufficient discretion over when one's free time occurs, or with access to free time on a predictable schedule and in periods of sufficient duration (Rose 2016: 1–6, 66–74, 135–144; see also Alperovitz 2005: 38–41; Arnold 2017: 222–223; Neufeld 2017: 78–79; for historical antecedents of this argument, see Hunnicutt 2013: 1–94; Gourevitch 2015: 126–132, 144–145).[9]

Thus, time-cost ordeals targeting the provision of basic goods and services, compared with provision methods that minimize time costs, reduce and constrain claimants' free time, limiting their shares of a valuable resource to which they have

[7]This widely held commitment is integrated and developed in different theories of justice in an array of ways, with different scopes, metrics, conditions, and distributive principles. (See, for instance: Van Parijs 1995: 21–29; Anderson 1999: 315–21; Rawls 1999: 179; 2001: 148–151; Fabre 2000: 18–20; 2006: 31–33; White 2003: 25–76.) It is central to liberal egalitarian theories, as well as endorsed within other theories of justice; for a republican statement of the commitment, for instance, see Pettit (2012: 75–129; 2014: 77–108).

[8]The argument developed here leaves open what constitutes a fair share of free time, to be specified by a theory's distributive principles. I will assume that to have very little free time or to have it on highly constrained terms is to have an inadequate share of free time, or to be time-poor.

[9]More generally, on how the resource of time is legally, socially and politically valued and structured, see Rakoff (2002) and Cohen (2018).

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legitimate claims. Importantly, this burdensome effect also has distributive implications. Depending on the extent of an ordeal or pattern of ordeals, and existing shares of free time, the burdens imposed by time-cost ordeals may create or exacerbate inadequate or unequal shares of free time. Further, depending on how time-cost ordeals interact with existing patterns of social advantage and disadvantage more broadly, the burdens they impose may also compound disadvantages.[10]

For those with little free time, time-cost ordeals are disproportionately burdensome.[11] If free time is valued only in monetary terms, as a good that is fungible with earnings, time-cost ordeals appear to be relatively more costly for high earners, because their time has a higher opportunity cost in terms of forgone earnings.[12] Yet, when free time is recognized as itself a valuable resource to which people have distinct claims, it is apparent that on these terms navigating an ordeal is relatively more costly for those with little free time. Akin to how a uniform tax rate is disproportionately burdensome for those who are poor, as it taxes a greater proportion of their necessary incomes, a uniform time-cost ordeal is disproportionately burdensome for those who are time-poor, consuming a greater proportion of their free time.

Moreover, given that time-cost ordeals are disproportionately burdensome for those with little free time, if those who are socially disadvantaged on other dimensions are also more likely to have limited and constrained free time, the burdens imposed by time-cost ordeals may compound disadvantages. Low-wage workers, most plainly, must work longer hours to earn a decent living. Low-wage workers in the USA are also disproportionately likely to have non-standard and unpredictable work schedules, and to have less control and flexibility over their work hours (Gerstel and Clawson 2015: 1096–1097; 2018: 82). Almost half of all private sector employees in the lowest wage quartile do not receive any paid vacation days or holidays, and those in the lowest wage quartile have fewer than one-third the number of vacation days as those in the highest wage quartile (Maye 2019). Further, in addition to persistent racial and gender wage gaps (Patten 2016), there are disparities in constraints on free time. Women and black employees have less access to flexible work scheduling (Golden 2008), and

[10]Though the argument here draws out the potential negative distributive implications of the burdens imposed by time-cost ordeals, to be clear, these burdens could also serve to counteract and mitigate existing inequalities if they were disproportionately borne by the more advantaged. As noted below, however, in the contemporary USA it is the least advantaged who tend to bear more and more time-consuming ordeals.

[11]One has little free time if one must spend long hours in paid work, household labour and/or personal care to meet one's own, or one's dependents', basic needs. It may, of course, be necessary to work long hours in paid work if one's available employment opportunities only pay low wages. It may also be necessary if one's available terms of employment otherwise require working long hours. For workers who are overemployed – that is, they would prefer to reduce their hours of work for a corresponding reduction in income in their given occupations, but are unable to do so – their available employment options may make it effectively necessary to work long hours, even if they earn an above-necessary income. Workplace competitive pressures and social norms that undermine employees' ability to choose not to work long hours may also produce the same result. For a fuller discussion on these points, see Rose (2016: 58–60, 77–80, 137–139; 2017: 114–117).

[12]For statements (not endorsements) of this view, see Alatas *et al.* (2016: 374) and Eyal *et al.* (2018: 15).

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workers who are black are disproportionately likely to have non-standard work schedules (Presser 2003: 51).

Time-cost ordeals may also compound disadvantages if those who are socially disadvantaged on other dimensions are more likely to bear more and more time-consuming ordeals. It is the least advantaged Americans, Herd and Moynihan argue, who tend to face more and more time-consuming administrative burdens, because those who are poor face ordeals in applying to a number of specific programmes, and because programmes that are targeted toward poor people tend to have the greatest burdens (2018: 6–8, 18). Additionally, in some cases there are disparities in how much time an ordeal imposes, who bears ordeals, and what ordeals one faces based on race, gender and gender identity (Emens 2015: 1433–38, 1429; Eyal *et al.* 2018: 16).

4. Further effects on opportunities and political and social equality

The central burden that time-cost ordeals to obtain basic goods and services impose – expanding the time that must be spent to meet the necessities of life, thereby reducing and constraining free time – may also have a range of further effects. First, for those who have little or highly circumscribed free time – whether because they must work long hours, have inflexible or unpredictable work schedules, and/or have time-consuming caregiving obligations or disabilities – increasing and constraining the time they must put into necessary tasks may impair their ability to meet their other needs and obligations. While those who face extensive time-cost ordeals may successfully navigate their burdens, if their time is already greatly consumed by necessity, doing so may come at the cost of time to take care of themselves or their dependents, or – and especially for low-wage workers who are more likely to have inflexible schedules and little or no paid time off – may risk their ability to keep their jobs (Emens 2015: 1447–1448).

Further, by reducing and constraining one's free time, time-cost ordeals effectively limit one's access to periods of shared free time, and thereby may limit one's opportunities to engage in associational pursuits. Engaging in pursuits with others generally requires sharing free time together. Bearing time costs, and doing so under particular time constraints, may diminish one's opportunities to participate in gatherings with friends and family, in collective religious practices, in community or political association meetings, in shared recreational pursuits, and so forth. And, as with free time itself, not only is shared free time a valuable resource, it is a generally required resource for the exercise of associational liberties, and as such citizens also have legitimate claims to reasonable access to sufficient periods of shared free time (Rose 2016: 93–111; on the importance more broadly of coordinating time, see Rakoff 2002).

Whether an ordeal, or pattern of ordeals, does effectively limit one's opportunity to engage in associational pursuits depends on how extensively it reduces and constrains one's access to shared free time, as well as one's existing access to this resource. It is not difficult, however, to see how associational opportunities may be limited if, for instance, seriously ill people or their partners attempting to obtain medical treatment and insurance coverage, parents of children with disabilities attempting to secure resources and accommodation, or people with low incomes attempting

to access multiple specific programmes and benefits must spend considerable amounts of time navigating various ordeals.[13] If, additionally, those facing such time-cost ordeals have limited access to shared free time to start, the ordeals may exacerbate this disadvantage.

Moreover, and following from the prior considerations, if time-cost ordeals cause or worsen inadequacies or inequalities of free time, or compound existing disadvantages, this may have further detrimental effects on political and social equality. If, for instance, those with low incomes must engage in multiple time-consuming ordeals to obtain basic goods and services, and as a result have reduced and constrained free time, they may thereby have diminished opportunities to exercise their political liberties and more broadly participate in civic and political life. Additionally, apart from whatever demeaning treatment ordeals may entail, if time-cost ordeals impair people's abilities to meet their needs and obligations and diminish their opportunities to participate in shared or common experiences, this may perpetuate patterns of social exclusion and undermine social equality (Anderson 1999: 316–321; Wolff 2015: 24–31; Rose 2017: 118–120).[14]

5. Practical considerations against rationing with time costs

The third central consideration to assessing an ordeal's justifiability is how it compares to alternative provision methods, and in particular how it fares with respect to the first two considerations – its effects on access and the process-related burdens it imposes. While any such comparative assessment depends on a circumstance-specific empirical evaluation, there are, I suggest, three practical considerations that tell against rationing with time-cost ordeals. These considerations provide reasons – to be weighed in a full normative and empirical assessment – in favour of instead providing resources universally or categorically, on the basis of means-tested eligibility (with minimized qualification burdens), with proportionally or progressively scaled monetary costs, or through some other mechanism (e.g. lottery).

First, information about potential claimants' shares of free time is less readily available than information about their shares of income and wealth. Public agencies collect information about earnings and assets, primarily through taxation, and could make use of and potentially share this information (with appropriate

[13]On the procedural tools parents may use to influence schools' allocation of disability resources, see Johnson (2019).

[14]If time-cost ordeals threaten in these ways to diminish opportunities to participate in civic, political or other important shared activities, and if these activities occur at particular times (e.g. election day, campaign season, holidays), this provides a reason in favour of minimizing ordeals around these particular times. I thank one of the journal's reviewers for suggesting this point. Additionally, time-cost ordeals that are not attached to basic goods and services, and so do not reduce and constrain free time, may also undermine political and social equality, if they are conditions for accessing important political and social goods and the time costs are unequally applied and/or there are existing inadequacies or inequalities of free time. For instance, if the wait times to vote are longer in precincts with more black voters, or if wait times are long and low-wage workers with inflexible schedules do not receive paid time off to vote, even if all citizens burdened in these ways do successfully overcome the wait time ordeal and vote, the unequal and disproportionate burdens themselves undermine political equality. (One might also hold that time devoted to some political activities qualifies as necessary time, and thus such ordeals would also reduce and constrain free time. I thank Jennifer Rubenstein for emphasizing this point.)

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regard for privacy and security) to determine eligibility and minimize claimants' burdens (e.g. with auto-enrolment or prepopulated forms) (Sunstein 2019: 1869–1870, 1882). But public agencies do not currently have similar access to information about how much free time people in different relevant circumstances have, taking account not only income and wealth, but also work schedules and commutes, and necessary household labour, personal care and caregiving. While better information ought to be collected to measure how much free time people have (consistent with feasibility constraints of doing so non-invasively and efficiently), this information is at present not as readily available, limiting the ability to design time-cost ordeals that do not result in errors of exclusion or impose disproportionate burdens.[15]

Second, given these informational limitations and other logistical constraints, it is likely to be significantly more difficult to reliably implement scaled time costs than scaled monetary costs.[16] Costs that are proportionally or progressively scaled to an individual's resources may address both errors of exclusion and disproportionate burdens. Yet it is likely to be difficult to tailor time costs to individual circumstances, as is well illustrated by imagining the complexities involved in instituting a scaled waiting or paperwork time ordeal. This would require, in addition to information about potential claimants' shares of free time, implementing a mechanism such that the time-poor, for instance, only have to wait for five minutes or fill out a short form, while those who are not time-poor have to wait one hour and fill out long forms. While it may be possible to roughly scale time costs (for instance, by locating more and better-staffed service locations in neighbourhoods with more time-poor residents, or by waiving a requirement to visit a service location for residents of rural areas), in general it is likely more feasible to reliably scale monetary costs.

Third, it is not possible to refund time spent, and monetary compensation is an imperfect substitute. Refunds may be an effective targeting mechanism: one's willingness to bear a cost upfront and wait for a refund may indicate one's need for or expected use of a good or service. (Of course, this mechanism must be assessed on the basis of the same considerations as other ordeals, as, depending on how a refund is administered, it may also impose process-related burdens and produce errors of exclusion if the circumstances of those in need limit their means to bear the initial cost.) Yet, unlike the fungible resource of money, the time one has spent navigating a time-consuming ordeal cannot be refunded; that time is past. While the time itself cannot be replaced, an attempt may be made to compensate for its loss with money. However, although one may be able to use a monetary payment to obtain future free time, depending on the constraints one faces, one may not be readily able to covert money into time. If, for instance, those who spent five hours bearing a time-cost ordeal were compensated with that time's monetary equivalent, they may have limited abilities to redeem that

[15]Time diaries, such as those collected by the American Time Use Survey produced by the U.S. Bureau of Labor Statistics, provide valuable sources of information, as do time-use studies based on this and other data, such as Hamermesh (2019). Importantly, beyond how people spend their time, to assess how much free time people have, as it is understood here, measures must take account of how much time people must spend in necessary activities. For developments of such measures, see Goodin *et al.* (2008), Hobbes *et al.* (2011) and Williams *et al.* (2016). See also Rose (2016: 46–48, 53–65).

[16]For an argument in favour of proportionally scaling healthcare costs to earnings, see Robertson (2015).

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money for free time if, in addition to any non-pecuniary transaction costs involved, their opportunities to hire the fulfilment of their caregiving obligations are constrained, or if their work schedules do not allow for 'purchasing' those hours off.[17] (On the limitations of compensation, see Wolff and de-Shalit 2007: 24–31; on the imperfect substitutability of money and time, see Rose 2016: 74–89).

Though these practical considerations generally weigh against targeting with time costs, nonetheless, in some instances a time-cost ordeal may, all things considered, be a justifiable and even desirable means of allocating scarce social resources. As the argument here has emphasized, however, making such an assessment requires taking account not only of an ordeal's effects on access, but also the process-related burdens an ordeal imposes on those who attempt to navigate it. To this end, any normative evaluation of the use of a time-cost ordeal to target basic goods and services must not overlook or underweight the central burden it imposes – reduced and constrained free time – and this burden's further effects and distributive implications.

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[17]Emens has hypothesized that, at some future point, it is conceivable that one could be issued directly a 'time refund' for time wasted on administrative work in the form of personal assistance to help with one's other administrative tasks for an equivalent amount of time (Emens 2019: 176–77).

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