The Ethical Moment
Ethics and Economy in Public Administration
Ove K. Pedersen
Introduction

It has become common over the last 25 years to formulate general ethical standards for management of public administration, not only in developing countries, but in most western democratic societies too. Standards of ethical conduct currently exist for public managers in USA, England, New Zealand, Canada, Australia, and a number of other countries. They apply to members of the civil service on the basis of professional merits (meritocracy) as well as to public officials on the basis of their political appointment (politocracy).

The increasing use of ethical standards is a consequence of public administration being subjected to economic values concerning efficiency and productivity, and of administrative bodies being organised and managed to achieve several alternative values and competing policy goals. The introduction of New Public Management (NPM) in public administration have led to economic values being introduced to the management of public organizations, and to public organizations being reorganized and new forms of policy regulation being implemented. Consequently, it is not only in the private sector that ethical codes are being implemented but in public sectors as well. Together the role of ethical standards in regulating conduct in public and private sector is a characteristic of the period from the 1980s and onward. In this article I will deal with only the development in public administration and only one specific aspect of this development—the ethical moment.

The ethical moment happens on the one hand in situations where a civil servant is compelled to choose between competing values and policy goals and to do so with no clear and specific statues for his or hers bureaucratic discretion. On the other hand it happens in situations where—for the same reason—a manager is required to give ethical reasons for his decisions rather than referring to an already established set of legal rules on which their decisions can be judged. In

---

1 See American Society for Public Administration Code of Ethics, http://www.aspanet.org/ethics/coe.html
6 See review of ethical code, EthicsWeb.ca, http://www.ethicsweb.ca/resources/government; og OECD, http://www.oecd.org/document/4/0,2340,en_2649_34135_2672772_1_1_1_1,00.htmlT
9 A distinction can be made between different types of codex, e.g. for private companies and for public organisations. But the most important distinction is that between three types of codices for public sectors. The first is the codex on “Good Governance” which the UN, the World Bank, the OECD and other international organisations have developed as a guideline for developing countries’ receipt of aid and financial assistance. See e.g. OECD, 2001:34, Public Sector Leadership for the 21st Century. Paris: OECD, and http://www.oecd.org/document/4/0,2340,en_2649_34135_2672772_1_1_1_1,00.htmlT. The second is the codex for international partnerships involving e.g. the EU. See the White Paper on European Governance, http://europa.eu.int/eur-lex/en/com/cne2001_0428en01.pdf. And the third is the codex for highly developed capitalist and democratic national states’ administrations. See the introduction in State Services Commission, 2001, Working Paper NO. 13. A Cross-Jurisdictional Scan of Practices in Senior Public Services: Implications for New Zealand. Crown Copyright, www.ssc.govt.nz
the following I will argue that public managers are compelled to make decisions to an increasing extent in situations of “the legal void”. Too, I will use the introduction of NPM to explain why situations of ethical moments have become an important topic of contemporary public administration. Much of this discussion focuses on the Nordic countries (Denmark and Norway) but will also include examples from United States and other Anglo-Saxon countries.

The article will be organized as follows. First, I argue for the use of a so-called “first person perspective” on the question of ethical standards of conduct. It is in this context that the concept of the ethical moment is introduced. Second, I read a number of general standards of ethical conduct to identify what can currently be identified as “public values”. Based on this reading three areas (or categories) of public values are identified: decisions-making ethics, organization ethics and communication ethics. Third, every area of the public values are situated in relation to current stages of developments in the organisation of public administration, enabling me to discover how NPM have initiated new dilemmas and conflicts and compelled civil servants to make decisions in situations void of legal instructions. Finally, this confrontation of values and trends are explored to create a tentative catalogue of moral doctrines. The purpose is to establish a summary of which ethical standards are needed in order to deal with the challenges created by NPM for the legitimate exercise of authority. Accordingly, the article is descriptive, as well as prescriptive.

Background

Even though it has been claimed for years that the separation of politics from administration is more formal than real and that officials have long had the independence to exercise discretion, the debate on how to separate political power and bureaucratic discretion has become intensified since the 1980s. In attempts to (re)order the relation between politics and bureaucracy the Anglo-Saxon countries in particular (USA, UK, New Zealand and Australia) were pioneers in the development of ethical standards of conduct. They were also the first to introduce NPM. Too, these countries have long traditions for using common law in regulating ties between politics and administration. Against this background, the appearance of general standards in the northwest European countries (Denmark and Norway in particular) is especially interesting. It is in Denmark and Norway we find the longest and most formalised tradition of subordination of public administration to political control. In both countries the separation of politics and administration was introduced at the beginning of the 1800s, and has since been used as a basis for the formal dependency of public administration on political leadership and for not accepting public managers to be selected based on their political affiliation (politocracy). The fact that general standards are now implemented in

---


countries with traditions for both common and positive law is a sign that the appearance of standards is based on changes which cut across constitutional traditions. These changes appear to possess the following features:

- Public organizations have become subject to economic values concerning efficiency and productivity
- They are organized and managed to achieve economic goals and results
- They have achieved a certain bureaucratic autonomy (or “disestablishment”) to prioritise their initiatives within economic frameworks, and through discretion to decide which specific services and benefits citizens are entitled to receive; and finally
- They have become subject to professional management, either by boards of directors comprised of experts or users, or by public managers empowered with independent responsibility.

In short, the NPM has lead to the introduction of new values for public administration, and to the implementation of new forms of organization. The traditional values of the legal exercise of authority are supplemented by new economic values of the efficiency and productivity; and the ties between public organizations and political leadership have been loosened and public organizations have been delegated a degree of autonomy to prioritise their resources and to decide which services and benefits citizens are entitled to. On the same basis, a substantial scope for management has been opened and placed with managers of public organizations and administrative bodies, including schools and hospitals, universities and nursing homes. This is how the conditions for ethical moments are created, i.e., situations where a person in position of public authority is compelled to choose between competing considerations and to do in situations of a legal void. Firstly, public administration is conducted in a situation of mutually competing legal, economic and professional values compelling officials to prioritise between alternative (in cases even opposite) values. Secondly, management of public discretion happens in the framework of competing organisational models including both hierarchy (subject to politically decided rules and directives) and decentralisation (independent relative to politically decided rules and directives) inducing officials to prioritise between to embed themselves in alternative (in cases even opposite) orders of authority. Thirdly and finally, public administration is governed by elected politicians, managed by professional managers and by politically appointed experts (and users) in many cases without a clear (and formalized) distribution of governmental power forcing officials to prioritise between alternative (in cases even opposite) lines of loyalty. As a result, a new situation is established for public administration and for street level bureaucrats and professionals (doctors, nurses, school teachers, etcetera). They are compelled to deliberate in situations with little (or none) guidance in their enabling status concerning how they should shape their regulatory agenda, set priorities and allocate scarce resources. Instead civil servants and professionals are required to make decisions which necessitate that they decide between competing values and goals within the framework of alternative models for the distribution of governmental power by choosing between alternative lines of loyalty. It is in these situations of legal void that they are required to give ethical reasons for their decisions rather than referring to their legal status.

The increasing use of bureaucratic autonomy is the basis for several theories. Among the most important is the principal-agent (PA) theory. In this theory it is assumed that the servant has (or has achieved) some form of autonomy relative to the politician and that the servant will use this autonomy to increase his own preferences. It is also assumed that the principal (the politician) and the agent (the servant) have their own interests and that each is framed by their own set of
incentives. It is finally assumed that when the administrative agent does not necessarily look after the principal’s interests, the principal is interested in using incentives or other mechanisms of control to ensure that this is done. In the USA, England and New Zealand, but also in Denmark and Norway, the PA theory has been applied in reforms to change the relationship between political leadership and administrative management as well as professionals. Fixed-term employment and contractual controls have been introduced, individual salary arrangements have been created, and other incentive systems have been established with the object of ensuring the loyalty of management and professionals. Too, general ethical standards for public administration have been formulated and implemented with the same object in mind.

There is still discussion in public administration research of whether the NPM reforms have increased bureaucratic discretion by amplifying the independency of public organizations and administrative bodies. Even so, a general agreement is emerging that the management of public organizations have gained more independency, and that public managers have gained a significant influence on how the public administration shall be organised, which tasks it shall undertake, and how to set priorities and allocate resources. There is also discussion within political theory of whether public managers (especially top-managers) have become more closely involved in political processes and in the political decision making, or vice versa whether politicians (or appointed users and organized interests) have become more involved in administrative processes. But although the discussion is still going on, there is an emerging unanimity in both fields that the governmental power of politicians has been changed, while public managers and administrative agencies have gained influence, but also that the politician still possess the political responsibility in formal terms, while the legal responsibilities of the official still are more limited than those of the politician.

Even so, there is also an agreement to the fact that the independency of public officials and that changes in the power relations between politics and administration has led to the introduction of new and more comprehensive ways for political institutions to control and steer the administration. Not only have administrative law and judiciary control been strengthen but also changes in administrative practise and formal agreements and contracts have been used with the same purpose; in many cases inspired by the PA theory.

The ethical moment

So, why have codes of conduct for public management become an important topic even if the actions of public employees are to an increasing extent being prescribed by law, administrative practice, agreements, contracts, customs or other formal and informal but binding standards? The question can only be answered in a positive way if it is possible to argue convincingly for two points: (1) that public sector managers are subject to especially strict requirements with which civil servants in general are not required to comply, and (2) that public managers increasingly make

---

decisions on a purely ethical basis. In the following, I will describe the public values which can be derived from the existing codes of conduct, and will on this basis argue why stricter requirements must now be set for public management. The pivotal point is the concept of the ethical moment, why I start by establishing the conditions which must be present for the ethical moment to arise. They all lead us to “the first person perspective”, i.e. towards the authority who finds herself in ethical situations where a choice which she cannot avoid has to be made.

The first condition is that there are certain values which it is taken for granted that all persons who exercise public authority must comply with. I call this first condition “The presence of public values”. This condition includes that public managers must be able to demonstrate that every action they take can be said to have a common purpose\(^\text{18}\). The second condition is that public managers find themselves in situations where they have to make decisions with little (or none) guidance to find in their enabling status concerning how to set priorities, allocate scarce resources, and to distribute the costs and benefits involved in the budgets they are managing. I call this second condition “The presence of autonomy”\(^\text{19}\), which presumes that the more autonomy the executive enjoys, the stricter the requirement that both politicians and citizens are entitled to insight into and justification for the decisions made. I call the third condition “The presence of ethical choice”. This assumes that because managers can find little (or none) guidance in their status they are compelled to give ethical reasons for their decisions in situations including an element of dilemma or conflict of values or goals. An ethical conflict thus arises when there are incompatibilities in a situation of choice between two considerations, and that it is entirely obvious which consideration the decision maker should favour from an ethical point of view\(^\text{20}\). An ethical dilemma, on the other hand, arises in situations where a choice has to be made in situations of two opposing interests, where it is not clear which of these interests the person making the decision should promote from an ethical point of view\(^\text{21}\). It is my claim that all three conditions must be present for the ethical moment to arise. The ethical moment therefore involves a person who finds herself in a situation where she void of legal instructions only can give ethical reasons for decisions she is compelled to make in situations of dilemma or conflict.

In the following I describe the public values which can be found in the existing codes of conduct in USA, England, New Zealand, Australia, Denmark and Norway. I place these in relation to brief descriptions of actual trends in the last 30 years’ implementation of New Public Management. Much of this discussion will be based on examples from Denmark and Norway and less so from Anglo Saxon countries. Finally, I explore this confrontation to launch a catalogue of moral doctrines for management in contemporary public administration. I do this for several reasons. First, because none of the existing codes identify ethical moments as reasons for why ethical codes are necessary in the first place. Some codes give no reasons at all; others point to the legal void; but none address the ethical nature of bureaucratic discretion in situations of the legal void. Second, because none of the codes covers all of the challenges that are generally recognized as a consequence of the introduction of NPM ideals and thus identify the magnitude of the challenges in a systematic way. Some codes emphasise the professional qualities which must be present for good management, i.e. Codes of Competences (USA, England, Canada, New Zealand, Denmark, and Norway). Others formulate moral doctrines for good management; i.e. Codes of Conduct (USA, England, Canada, Australia, New Zealand); still others create employment policies with the purpose


\(^{19}\) L. Lundquist 1988, Byråkratisk etik, Lund: Studentlitteratur, pp. 143-49.

\(^{20}\) Ibid., p. 168.

to ensure good management by rules of mandatory training, evaluations and payment, i.e. Civil Service Acts (England, USA, New Zealand).

**Public values**

Before identifying public values originating in codes of conduct two points are worth emphasizing.

- All values stated (explicitly or present by logical implication) are quite general. They are introduced as if they apply to all democratic forms of government at all times; and to all civil servants at all levels, even if – in the last case – they address only public managers (and not civil servants or professionals in general). In no case do codes of conduct argue for the specific context in which they are introduced; neither with reference to the particular mode of government, in which they are implanted, nor with reference to contemporary developments or trends or in this mode. All codes are – more or less - introduced without reference to context or history.

- All values stated accepts that existing laws, rules, administrative practise or other formal or informal but binding rules are “not enough” to assure appropriate action by civil servants or public managers. They take for granted – explicitly or implicitly - that public officials have gained some scope of independency, or that bureaucratic discretion sometimes happens in a legal void. All codes address persons constituted in a position delegated public authority and take for granted that persons – qua their positions – have enough independency that there positions as agents (and not principals) must be checked by means other than existing laws and rules. All codes argue at the first person level, and address persons in public positions rather than public organizations or bodies.

In the political history of the western democratic society, it has been widely accepted – and even taken for granted – that public manager’s and other public agents - do not have the autonomy necessary to make decisions in a legal void or to be positioned in ethical moments without guidance to be found in formal instructions. On the contrary, managers, like other public agents, have been regarded as servants of the law (subject to the principle of legal authority) and obeying a legally established impersonal order. Too, it has been widely accepted that it is the authority of the elected representatives of the people (i.e. the politicians assembled in political institutions) to establish the body of law and by doing so to express what is to be understood as “the general will of the people” or “the common good”, and not in the authority of the public agents to do so.

It is on this background that the ethical standards applied to public administrations are setting out to identify a set of general (or universal) public values as framework for introducing ethical standards rather than letting “the body of law” or the established impersonal order of “the law” perform this role. Too, it is on this background that public values are derived from the premises that

---

22 “That the person who obeys authority does so, (...) only in his capacity as a “member” of the organization and what he obeys is only “the law”, M. Weber (1978), on Legal Authority. With a Bureaucratic Administrative Staff, pp. 217 in Economy and Society. Berkeley: University of California Press.

23 The concept of common good or “the will of the people” is one of the most contested within democratic theory. For different readings, see I. Shapiro, 2003, *The State of Democratic Theory*. Princeton: Princeton University Press, see also J. Schumpeter, 2003, “Capitalism, Socialism, and Democracy”. Pp. 5-11 in R.A. Dahl, I. Shapiro, and J.E. Cheibub, (eds.), *The Democracy Sourcebook*, Cambridge: The MIT Press. It is not my ambition to be involved in this discussion. Instead I take for granted that mainstream democratic theory from Aristotle’s to contemporary understandings of deliberative democracy base their theory of democracy on the normative conception that democratic methods (or institutions) should be geared to discover or manufacture some notion of the common good.
public authorities are implanted in democratic government (and not in “the law”); and also that
notion democratic government unite public agents to follow standards different from those applying
to private companies or to citizens in general. It is even on this background that the codes of
conduct list two different roles of ethics in democratic government, and do so in the line of theories
of political ethics24. The first is that democratic politics can be said to embed ethical decisions. The
second is that a political ethic can be said to embed democratic government. In the first case the
argument is this: Many of the decisions which concern the basic conditions of life – life and death,
imprisonment and others - must, in the final analysis, be decided by complying with some form of
democratic procedure. It is thus by democratic legislation that it is decided whether or not, when
and when not an abortion may be carried out, or for how long and in what way criminals should be
punished – and also in the final instance, it must be decided what is understood to be the proper
democratic procedure to comply with. In the second case the argument is this: It is widely accepted
that contemporary democratic government is based on the fundamental rights and freedoms of the
individual; it is also widely accepted that bureaucratic discretion must be compatible with due
regard for human dignity and human rights, even if the rights, the freedoms and the understandings
can only be argued for in ethical terms and as such must be based on moral (or universal) principles.
It follows from these arguments that there is a logical relationship between political ethics and
democratic government, and that ethical decisions shall be made following democratic procedures,
just as democratic politics must be justifiable by moral principles.

Thus, the basic public value to be identified in codes of conduct is that ethical decisions are
embedded in democratic procedures, just as democratic government is embedded in moral
principles. The two are intertwined; together they constitute what can be called a logic of
democratic government based on which the existing codes of conduct derives a number of more
specific public values, two of which must be emphasised. First, the public value of transparency and
responsibility. It is taken for granted that the public administration as such exist to implement (or
administer) common purposes, why society (or its citizens) has a special claim to be able to judge
how officials act, and also have a special claim to be able to hold the people in question responsible
for the actions they perform. Because the public administration exists to implement a common good
and is required to act for us and on our behalf, public managers (as well as civil servants) have
inghts, but also obligations, which the general public does not possess. This applies especially to
public managers because they have a managerial responsibility. Second, the public value of
promoting general values and representing a public interest. While it is taken for granted that public
managers are expected to work for us, it is also expected that they will promote general values and
represent a public interest. Among the general values they are expected to uphold is working within
the frameworks of democratic governance, and to implement the interests of the public as such and
not only their personal interests or the interests of their proper public organization. This too applies
especially to public managers because they have a managerial responsibility.

Indeed, all codes of conduct are concerned with both sets of public values. They also point to
three types of functions public managers are compelled to administer and in which they are
supposed to have a certain autonomy to act. From this follows that the object of all standards is two-
fold, but also that the object has to be managed by three different functions. The object is two-fold
in the sense that the purpose of codes is to formulate criteria for how citizens and politicians can
asses’ executive actions (criteria for the assessment of actions) on the one hand, and on the other
hand to equip managers with criteria for how actions can be appropriately exercised (standards for

appropriate action). Codes of conduct equip citizens with criteria for assessing actions; and public managers with criteria for how to make appropriate decisions. Beside, this is supposed to happen through the administration of three types of functions. All three are derived from codes of conduct and the types of functions public managers are supposed to act upon in their position as managers. Decision-making is the first and deals with how public managers can make appropriate decisions. Organization is the second and is related to how public managers can organize and manage their organization in appropriate ways. Communication is the third functions and is oriented towards how managers can communicate and construct the knowledge to be communicated in appropriate ways.

I will now compare the two sets of public values with trends in public administration. Each of the trends is either explicitly described in codes or can be induced from these. The same goes for the three functions. Based on the comparison of trends with values I move from describing codes of conduct to prescribe 12 moral principles for how contemporary public administration can handle challenges created by the implementation of New Public Management. I do this by comparing (1) public values, (2) with moments where public executives find themselves in ethical moments, after which (3) four moral principles are formulated for each of the three functions. The result is 12 moral principles arranged within 3 areas of ethics:

<table>
<thead>
<tr>
<th>Decision-making ethic</th>
<th>Organisation ethic</th>
<th>Communication ethic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principles of loyalty and distance</td>
<td>Principles of responsibility and ethical reflection</td>
<td>Principles of impartiality and analytical independence</td>
</tr>
<tr>
<td>Principles of political authority and anticipation</td>
<td>Principles of collective purpose and responsiveness</td>
<td>Principles of independence and dialogue</td>
</tr>
<tr>
<td>Principles of the common good and pluralism</td>
<td>Principles of employee care and caring management</td>
<td>Principles of generality and individuality</td>
</tr>
<tr>
<td>Principles of subjugation of own interests and professional leadership</td>
<td>Principles of proportionality and certainty</td>
<td>Principles of precedence of freedoms and free choice</td>
</tr>
</tbody>
</table>

Moral doctrines for ethical moments: Decision-making ethics

The decision-making ethic comprises the doctrine of the appropriate way of making decisions. I concentrate exclusively on the decisions which involve ethical moments.

1. **Public values**: Public managers are subject to the law, and expected to comply with constitutional norms and formal rules. In western countries it is widely accepted that in principle every public servants are to be a neutral and objective administrator who is employed on her merits and whose job is to implement the legislation and the decisions are adopted by political institutions following accepted democratic procedures. It is this value which creates the justification for the government’s position relative to the officials, and the general role of the official in relation to the subordinate, and finally for the courts’ authority to judge a law or a decision to be legally valid or invalid.

- **Ethical moments**: As managers in the public sector become professionalised and develop their own form of professionalism, they come to possess a special set of skills relative to both the political leaders and the expert knowhow of the various employees. On this basis,
the manager’s professionalization creates a “distance” to both sides in terms of information, knowledge or attitude. Conditions for asymmetrical information relative to the political leader are created. The executive possesses information which the political leader does not have. He also has a particular attitude towards competent and good management which the politician does not necessarily share. This applies especially to top managers who, all else being equal, may be assumed to have reached the top because they have built up a special knowledge during their career, have gained special experience, and have demonstrated a special attitude to management which on all points distinguishes them from other potential candidates. The building up of managerial skills creates, in other words, an asymmetrical relationship between political leader’s and public managers, and gives the manager a measure of autonomy. For the same reason, the need to establish a relationship of loyalty between the two is sharpened. At the same time, the manager should be responsible under democratic doctrines to the law, the democratic form of governance and the principles of the rule of law. Together, this strengthens the need to base the relationship of loyalty on moral principles. In democratic theory, including bureaucratic ethics, there has long been discussion of how public executives can show loyalty to those who have been elected, while at the same time also being loyal to the law, the rule of law, and the spirit which should characterise a democratic administration. The first ethical standard derives from this question.

- **Ethical standard.** Top executives should show loyalty to their political leaders and use their managerial skills on behalf of the latter, and position their organisation so that it accommodates the government’s priorities. This implies a *principle of loyalty*, i.e. that the manager uses his special skills to promote and safeguard the president’s or the government’s or the minister’s political interests. But loyalty to the law also involves a second principle, namely the *principle of distance*, which assumes that in showing loyalty, the manager upholds his or her duty to serve the common good and put this duty before the duty to serve the elected politicians, and is therefore obliged in cases of a clear breach of the law, breach of agreements or setting aside of general considerations (including corruption, personal impropriety etc.) to draw attention to this and possibly to pass the information on to other superior authority.

2. **Public values:** Democratic theory holds the ideal that the organisation of the public sector is determined by parliament by legislation and by the government by decisions. It is the government’s (or the president’s) prerogative to organise the government’s administration and the minister’s responsibility to lead it. It is taken for granted that the officials will work within organisational frameworks over which they themselves have no influence, and that they will work under a division of authority which they themselves have no authority to change. It is this doctrine which justifies the political leadership’s prerogative to determine the government’s organization and to arrange the government’s or the municipality’s management. It is also this ideal which will ensure that officialdom works within frameworks which serve a collective purpose.

- **Ethical moments:** As public organizations have been made independent in various ways from the parliamentary chain of control, they have gained a measure of independency relative to the political institutions. This also applies to the political leadership. Further independence is gained when public managers are given managerial authority and extend its scope. Both forms of independency mean that the executive gains a responsibility – which is also imposed on him – for structuring the organization’s powers and duties, and for its general performance, including achieving required goals and results. Other examples of how
independence is gained could be given. For example, politicians let themselves be represented by officials in supranational and transnational contexts, or on boards of directors, councils, tribunals, centres and other organs locally or regionally, including in networks which lack the character of an organ, but in which political negotiations nevertheless take place or political agreements nevertheless are entered into. Political leadership is increasingly being exercised via “go-between’s”. This function is left to public managers in particular, and they are consequently assuming a measure of independency in political decision-making processes. Public executives are basically appointed to undertake the duties prescribed by law, but gradually, as they gain increased independence, it has become a problem for democratic theory to justify why and how officials may legitimately take part in and make political decisions. This question is directed especially to top managers who have better chances, all else being equal, of becoming part of these processes than do other public employees. If we thus assume that public managers can make independent and political decisions, how can they do so by following principles which guarantee the politicians’ right to lead and the principle of political loyalty? The second ethical standard arises from this question.

• **Ethical standard**: Public managers should seek a political mandate for everything they do. This implies a *principle of political authority*, i.e., that executives enter into agreements with their political head on how they may use their special insights, and under what terms they may make independent decisions or influence decisions. This also implies a *principle of anticipation*, i.e., that executives not only possess adequate knowledge of which decisions the political leader wants made, and how the latter wants to be represented in various contexts, but also, via the procuring of information and knowledge, attempt to predict the problems and challenges which the political leader can be expected to have to handle.

3. **Public values**: The public sector plays a special societal role. Its existence is based on the common good and its interests. There is no doubt that all members of society have a shared interest in the existence of organizations which guarantee the individual citizen’s life, safety and welfare. Seen in this light, the public sector’s societal role is based on making public goods available for members of society, including a legal system and guarantees of the individual’s safety and welfare. It is this public interest which creates justifications for the constitutional state’s principles of legality, equality before the law and transparency in its application, including the need for supervision by the courts.

• **Ethical moments**: The public sector has come to embedded several types of special interests in step with the establishment of different forms of organization subject to essentially different forms of rationality (policy, administration, service and production). These could be sectorial interests where the interests of the municipalities and those of the central or federal state do not necessarily coincide. They could be organizational interests where the interests of a hospital and those of the health system as a whole do not necessarily coincide. They could be professional interests where the interests of the doctors and the hospital administrator do not necessarily coincide. And they could be many other competing interests. The basic point is this: that those who are appointed managers (and are employed as public professionals) are meant to represent the public interest. But if we assume that, like politicians, public managers like public professionals can legally allow themselves to be influenced by, and show consideration for special interests, how can they do so by following principles which guarantee the common good? The third ethical standard arises from this question.
• **Ethical standard**: Managers should safeguard the interests of the common good when they allow themselves to be influenced by, and to show consideration for, special interests. This involves a *principle of the common good*, i.e. special interests must not be given advantages unless they can be justified as a public interest or as being a public good. A *principle of pluralism* is also involved, i.e. before consideration is shown for special interests, other special interests should also be heard so that a balanced weighing of interests can act as the basis for action on behalf of a public interest.

4. **Public values**: The public sector employee is appointed on his or her professional merit and not because of any party-political affiliation, or on grounds of gender, race, religion, sexual preference or other characteristic. In this sense the appointment is based on the interests of the common good in ensuring that the public sector is staffed by persons who are equipped with the best possible and most appropriate skills. It is this public interest which creates the justification for the so-called meritocracy and for the bureaucratic tradition that employment in the public sector is not based on subjective (or ideological) considerations. It is also this tradition which creates the justification for the presence of rule-of-law principles underlying valid administration, and that employment, salary and advancement and other benefits are awarded to the individual employee on the basis of objective merit.

• **Ethical moments**: As public managers are entrusted with increasing managerial responsibility and gain independent skills, not merely in relation to political leadership but also in relation to employees, the possibility of paternalistic relations is created. “Paternalism” here means situations where a superior influences others to do something against their will, but nevertheless in their own interest. This could be accepting unreasonable working conditions or providing financial or sexual favours in return for a benefit – an appointment or promotion. Similarly, as managers are designated on the basis of professional merit and not in accordance with standards in a particular system of advancement, their options for advancement come to depend on the evaluations of peers and other employees. The conditions for a paternalistic relationship also exist here, where “paternalism” is to be understood as the situation where a leader prefers to remain blind to an employee’s incompetence, slovenliness, corruption or neglect of ordinary conduct in order to achieve a benefit himself – to keep his position, avoid criticism or similar. And finally, as merit comes to be associated with salary, appointments and promotions, personal interests are coupled to the manner and degree to which the manager’s organization meets goals for objectives and results or otherwise achieves status and reputation in the community. Here again, the possibility of paternalistic relations arises, where “paternalism” is to be understood as the situation where a superior induces his employees to produce inaccurate or wrong information on the organization’s performance so that the superior himself or his employees can gain a benefit – additional resources, a better reputation, higher status. Officials are employed and given opportunities of advancement because they possess objective skills. It is therefore also a problem for democratic theory to justify why executives may look after their own personal (career) interests when they are simultaneously required to look after society’s and/or the interests of political elected leaders. This problem of course applies especially to managers. If we assume that they can legally base the exercise of their managerial functions on their own interests, how can they do so by following principles which guarantee the common good? And if we assume that managers, like all others, are dependent on the evaluation of their peers and other employees and on

---

collective performances, how can they perform their managerial duties without paternalism? The fourth and final ethical standard in the decision-making chain arises out of this question:

- **Ethical standard**: Managers should safeguard the interests of society ahead of their own interests and always show loyalty to their own organization and its employees ahead of loyalty to their own careers and conditions of employment. This involves a *principle of subordination of own interests*, i.e., that own interests may not be an important reason for the decisions made by the manager, including decisions on organizational changes, arrangement of the work processes, allocation of tasks, and appointment and remuneration of employees. In principle, public managers should also be free of suspicion that paternalistic rather than professional considerations are the basis for their decisions. This involves a *principle of professional management*, i.e. that management may not be based on paternalistic relations.

**Moral doctrines for ethical moments: Organization ethics**

Organization ethics are the doctrine of the appropriate way to organize public authority. This section focuses only on the organizational questions which involve ethical moments.

1. **Public values**: The law is the basis for all public authority, and only public authority may award rights and impose duties. In principle, all civil servants are required to allow the law or other binding rule to decide by whom the decision must be made, under what circumstances, and on which legal grounds and with what legal consequences this is to happen. Ideally, the legal framework does not grant any freedom to the public authority or official to make decisions in a legal void.

- **Ethical moments**: The delegation of broad, policy making powers to administrative bodies have empowered managers to issue regulations and to set priorities and allocate resources based on bureaucratic discretion including by balancing different interests. At the same time, the delegation requires managers to make decisions in situations where several of these various interests rest on mutually competing or even mutually exclusive values or policy goals. These situations of competing values can be the regard for the freedom of the individual and equality before the law as against considerations of public security, or health, or the environment, or of society’s economic growth. There can also be considerations regarding professional and ethically defensible treatment of patients or embryo’s as against the interest of the efficiency and productivity of public organisations or of technological development. Today many decisions are made by servants and professionals in situations where they are delegated autonomy to make decisions through discretion, and where the decision will inevitably involve a conflict or a dilemma. To the extent that street level bureaucrats or professionals are systematically required to make decisions in ethical moments, problems arise which are particularly troublesome for public managers. Managers are responsible for the total performance of their organization, why they cannot avoid responsibility for the discretion made by bureaucrats or professionals on their behalf, even if discretion is made by “many hands”, i.e. by a several employees being part of a complex division of labour. The problem with “many hands” has long occupied theories of bureaucratic ethics, but is accentuated by developments in the number of interests to include in discretions; but also as ever bigger and more complex operating units are established. If

---

therefore we assume that it is legal to poise individual with public interests and to weigh several public interests with each other, how can public managers then assure, that somebody (or themselves) can be held responsible for decisions made by many hands? The fifth ethical standard arises out of this question.

- **Ethical standard**: Public managers are responsible for ensuring that citizens whose lives, welfare or property are affected by bureaucratic discretion can claim responsibility for the decisions made. This involves a *principle of responsibility*, i.e., that the manager is responsible for establishing a set of standards which specify where responsibility for every decision is to be placed, and even for decisions made by “many hands”. This also involves a *principle of ethical reflection*, i.e., that such standard of conduct should include a set of procedures for how discretion made by many hands is to be made through deliberation. The theory of bureaucratic ethics includes a model for the “maximum responsible deliberation”\(^\text{27}\), which requires *inter alia* the person (or persons) making the decision to be aware of all the interests and values involved in the decisions. In most cases it is impossible to live up to the maximum model. It is therefore up to the manager to ensure that standards of conduct are prepared which define the procedure for reflecting on how to rank and prioritize interests and values, making officials aware of how reasons can be known for prioritizing among values and how values are supposed to be prioritised – e.g. life before law, law before impartiality, impartiality before efficiency, and efficiency before expediency.

2. **Public values**: The ultimate object of the public sector is to represent the common good. We need a public sector because, cutting across all our individual needs and interests, there are objectives which we cannot realise ourselves, and because in some cases tasks are best performed collectively. This is the criterion underlying the fact that it is up to political institutions like the Parliament to delegate powers to administrative bodies; or in the power of heads of governments to decide how to organize their governments and its bureaucracy. Governments are appointed (or elected) to safeguard the interests of society as a whole and to do so through a public administration organized with the purpose to do so.

- **Ethical moments**: While public managers are required to amend and to adapt their organization to political purposes managerial authority has been extended to included the authority to reform and change public organizations according to policy goals and results. In the line with NPM ideas reform programmes have delegated broad reform making powers to public managers. So if we assume that public managers are empowered to reform their organization, how can it be ensured that this is done as a response to political or societal requirements or as a reaction to the needs and interests of a significant group of citizens and users? The sixth ethical standard arises out of this question.

- **Ethical standard**: Public managers are required to reform their organization with the aim to improve the capability of the organization to fulfil policy goals or to meet the needs and interests of citizens. This involves a *principle of public interest* under which every change in the organization’s structure and division of labour can be argued to enhance the capability of the organization to fulfil such goals. This also involves a *principle of responsibility*, i.e. the fact that the organization is structured so that it is able to be warned about, to learn about or to be informed about policy goals or the needs and demands of groups and segments of the population as well as of individuals with relevant needs.

3. **Public values**: The ideal that the public sector looks after public interests and the needs of its citizens signify that the sector should be staffed with competent and efficient employees. This ideal underlies the justification for employing the most suitable people; that salary follows merit and efficiency; that managers are appointed on merit; and that the employees’ skills should always correspond to the duties required of the organization.

- **Ethical moments**: The introduction of new forms of payment and the consequent competition between public employed imply that the official’s loyalty to the organization depends on salary and promotion options. At the same time, the fact that public organizations are entering into ever more complex relations with other public/private organizations implies that public managers as well as public professionals are exposed to all sorts of attempts to exert influence or enter into situations where their loyalty to the organization is challenged. If we therefore assume that the manager has his or her own interests and that these do not necessarily coincide with those of the organization, and that the official’s loyalty is always being tested, how can it be ensured that the officials who best match the organization’s duties are always appointed, that they are equipped with the requisite skills, and that they are generally efficient, including that they always show the necessary loyalty to the organization? The seventh ethical standard follows from this.

- **Ethical standard**: Public managers should ensure that their employed possess skills which correspond to their duties, and that they are otherwise efficient. This involves a *principle of staff care* which assumes that the executive should ensure that the organization is always staffed with skilled employees and that these are given opportunities to arrange and to develop their tasks so that they are able to execute their duties competently and efficiently and with quality. This also involves a *principle of caring management*, i.e., the executive should take the initiative to create perceptions of the organization’s objectives and base these on values which ensure the staff’s respect for the organization’s objectives and their loyalty to its management. But also that the individual employee gains respect for the executive as a person who shows loyalty and care for the employees as individuals with their own needs and special interests.

4. **Public values**: Like other executives, public managers are equipped with independent managerial responsibility. This is formalised by law and in collective agreements and individual contracts, and it is also part of administrative practise and custom. The law is, however, usually quite broad in its instructions, which challenges the manager to create his or her concrete managerial space or scope. But because this space is not (absolutely) delimited in advance, and because many people have an interest in how the managerial scope is delimited and which resources the manager are authorised to use, conflict must always be expected over the managerial space and the concrete use which the executive makes of it.

- **Ethical moments**: The battle for the managerial space is currently heating up. This is especially the case with respect to the public executive’s managerial space, which is related not only to the fact that managerial responsibility for executives has been under constant expansion, but also to the fact that top managers in particular have been required to assume ever greater responsibilities. The same battle is taking place between the individual manager and the political leader, between the top executive and staff organisations, and between the executive and employees, but also between the manager and external competitors – e.g. other executives, public organizations, and interest organizations. At the same time, the public organizations are becoming more complex, implying that the manager must delegate
tasks to many levels and create bodies for cooperation in the organization and across several organizations. If we therefore assume that public managers carry a legally imposed managerial responsibility, how does a manager in question ensure that he can meet this responsibility and also provide competent and good management? The eighth ethical question, the last in the organization ethics, arises from this question.

- **Ethical standard**: Managers should secure their managerial latitude, but take account of other moral doctrines for appropriate management. This involves a principle of proportionality, i.e. that managers should secure the managerial space required to be able to meet the obligations which have been formally and informally imposed on them, but such that there are always objective justifications for how they execute their obligations. This also involves a principle of certainty, i.e. that delegation of managerial powers to internal bodies may never be so vague as to cause doubt, and it may never be so permanent that it cannot be revoked. Even if, in the nature of the case, managers must delegate duties to many employees and must cooperate with many interested parties (including employees and staff organizations), he must always ensure that he possesses the necessary conditions for being able to provide competent management, also if this happens to be against the interests of a majority of employees.

**Moral doctrines for ethical moments: Communication ethics**

Communication ethics are concerned with the appropriate way of communicating.

1. **Public values**: Public organizations are increasingly required to prepare reports, including prognoses and evidence based knowledge. Public administration has increasingly become data oriented. This is expressed in the use of scientific analyses or other forms of systematic gathering of knowledge. It is also expressed in the fact that analyses, evaluations or other forms of knowledge (including scientific knowledge) must be assessed for their administrative or political utility. The generation and use of such knowledge has various purposes. One is to devise policy goals to be included in legislation, or to point to policy problems on which to base policy proposals and public interventions. Another is to evaluate scientific research for policy or administrative use, or to evaluate social or organizational experiments for the purpose of identifying best practise. In democratic theory it is assumed that knowledge in general is generated and used with the object of manufacturing (or realizing) the common good, but also with the purpose to create an informative and insightful platform for decisions to be made by political institutions and their leaders.

- **Ethical moments**: Knowledge has become an important resource for political leaders and public management. The generation and use of knowledge has also become politicised. Like the business sector, politicians have an interest in how knowledge is accumulated, analysed, assessed, concluded and passed on. With the increased politicisation, there are important political conflicts involved in the formulation of the public interest. For the same reason, knowledge cannot be deemed to be true or objective, relevant or applicable just because it is presented as if it is neutral or trustworthy. Competition for knowledge and the competition among those who generate knowledge are now of such a character that knowledge has become a tool for the safeguarding of special interests, and the formulation of the public interest is politicized. If we therefore assume that public organizations can legally generate and use knowledge, the ninth ethical standard then arises.

- **Ethical standard**: Public managers must ensure that knowledge is generated and used professionally. This involves a principle of professionalism, i.e. that the manager must
create the conditions for ensuring that the knowledge on which political and administrative
decisions are based has been generated and is used in such manner that it is trustworthy,
relevant and valid. This also involves a principle of analytical independence, i.e. that the
manager ensures that the experts who are required to prepare the knowledge are guaranteed
against interference in their obligation to gather data and analyse the information on the
basis of professionally recognised theories and methods, including that their analytical
assumptions and conclusions can be subject to critical reflection by both the general public
and other experts.28

2. Public values: Public organizations are increasingly using knowledge to influence public
debate and the news cycle. This occurs when organizations issue press statements, or
publishes reports and blue prints, or when they conduct public campaigns or initiate
processes in which social problems are identified and brought to the attention of the public,
i.e. when authorities seek to influence the public debate or to create public attitudes and
influence the awareness of the news media and the public debate. This also occurs indirectly
when public authorities use the media in order to take part in the public debate, including
influencing or controlling the political debate, i.e., the debate which includes or is conducted
between political parties or elected members of parliaments or local councils. There is a
democratic ideal which assumes that the public and the political debates must be free from
the influence of public administration and able to house the expression of a plurality of
attitudes and interests not influenced by the interests of public administration or
administrative agencies.

• Ethical moments: The public and political moulding of opinions now occurs mainly by and
in the media. The media agenda have become an important political institution. At the same
time, political institutions (President and Congress, Parliament and Government, Municipal
Councils and Mayors) are obliged to guarantee that the rivalry for public opinion remains
open for deliberation, i.e. accessible to the bulk of the population and its collective
organizations without interference from the public administration, but also that political
institutions have become obliged to be responsive to the needs of parties, organizations,
institutions and individuals in their competition to influence the public opinion. This also
applies to public managers to the extent to which they have achieved the independence to
make decisions in situations where they have to balance oppositional views, evaluations and
analysis. The tenth ethical standard derives from this.

• Ethical standard: Public managers must ensure that it is possible to make decisions which
are adequately independent of the media’s agenda and news cycle so that decisions can be
based neutral and relevant knowledge and made without reference to the here-and-now
turmoil of the news agenda. This involves the principle of independence, i.e. that the
manager should ensure that her organization makes decisions based on appropriate and
trustworthy expertise, independently of the media’s agenda and volatile public attitudes.
This also involves the principle of dialogue, i.e. that the organization is responsive to the
needs of parties, interests and organizations in the public moulding of opinion, including
that the public organization can enter into dialogue with citizens and users based on neutral
and applicable information, and be available to the media and other interests for trustworthy
and applicable information.

• **Public values**: Delivering services and distributing benefits to citizens is in the main a public duty. It is also done on terms which are predictable, universal or based on objective criteria for distribution. The modern welfare state is built on principles of social solidarity, equality and respect for the freedom or the dignity of the individual. A public ethos has developed, in which it is assumed that the welfare state facilitate the needs and interests of its citizens (with the object of ensuring the welfare and safety of its citizens’, but also to maintain and develop among its citizens’ a sense of national identity and a feeling of solidarity). This ethos rests on virtues, including a set of public values, which assume that it is the responsibility of the state to care for welfare of its citizens and the social cohesion of its population, so that the individual possibly can develop into a socially competent person.

• **Ethical moments**: In recent years, the public sector has been required to perform additional, new and more complex tasks. At the same time, the terms for doing so are changing. For example changes are occurring in the population’s age distribution, in the cultural diversity of the populace, and in the religious creeds of the inhabitants, in general making it possible for individuals as well as groups to choose between alternative lifestyles, political and ideological attitudes, including between notions of gender, life and nature. Consequently, the public values are under pressure; the same can be said about the public ethos. The public administration as well as the political institutions must perform tasks on behalf of numerous religions, multiple lifestyles, various ideologies, and alternative understandings of gender and identity; and do so even in a situation where the administration is being integrated into transnational institutions and international organizations as well as being obligated to implement rules and norms decided by transnational and supranational entities (the EU for example). The standard operating procedures of action which have hitherto applied to direct contact and relations with the citizens are changing accordingly and the public administration is now involved in the same development as private business becoming part of multinational companies, employing foreign labour, entering into transnational value chains, and trading on global markets. At the same time, the public sector remains bound to the nation state and to maintain and foster a sense of national identity and to service a national public interest. If we therefore assume that the public sector has gradually been required to perform tasks which involve clashes between numerous different values (national, religious, cultural, financial, gender-related) the eleventh ethical standard arises.

• **Ethical standard**: Public managers must ensure that the values which underpin direct contacts between their organization and its customers are based on universal principles and that decisions can be justified on a rational basis. This involves a *principle of generality*, i.e. that values on which contacts, services and benefits are based are universal, or that if they can be applied in one instance, they should also be able to be applied in others which in all relevant respects are identical. This also involves a *principle of individuality*, i.e. that the individual citizen is treated without prejudice and with respect for his or her sex, religion and lifestyle, and that companies are treated without regard to who they are owned by, by whom they are managed, and which employees they appoint.

3. **Public values**: Public authorities have a monopoly on the exercise of power. At the same time, they are required to look after the public interest, including by protecting the individual against the arbitrary exercise of power. Like political freedoms, human rights are at the base of democratic institutions, and it is the state (the public administration) itself – and its safeguarding of the public interest – which poses the most significant danger to the rights and freedoms of individuals (or collectives of individuals). For the same reason, the
boundary between public authority and private freedoms is important; also that the boundary for the execution of public authority is unambiguous, predictable and possible to monitor.

- **Ethical moments**: It is increasingly the case that borders between legal and informal standards have become fluid. A distinction is made between “hard law” and “soft law”, precisely to emphasise how a new set of non-binding but informal instructions is used by public authorities or semi-public bodies to implement public or semi-public authority. It is also the case that public administration, by contract or agreement with individual citizens, imposes a particular form of life on the latter, and that the administration by campaigns and persuasion, request companies to assume a social responsibility (CSR) with the object of extending state control to self-control. It is also the case that public authorities use marketing techniques when they advertise their own services in competition with other providers. Consequently, there has been a significant increase in the reservoir of tools for the exercise of public authority and many of the informal standards and new tools are being prepared and used without the involvement of Parliaments or other legislating authority, and that the monitoring of their compliance is either being left to private parties to do themselves or outsourced to private organisations. Such standards generally lack any binding effect, but are nevertheless associated with consequences for those who do not obey them. For the same reason, the boundary between authority and autonomy has become fluid, and the “administrative boundary” between public authority and privacy has become ambiguous, unpredictable and uncontrollable. The twelfth and final standard thereby arises.

- **Ethical standard**: The public manager must ensure that his organization exercises new and soft forms of power with respect for, and taking account of, the personal, economic and political freedoms, rights and autonomies. This involves a principle of primacy of freedoms, i.e., that soft forms of power should only be used if citizens and companies voluntarily agree to be “exposed”, and that their exercise must happen in ways there are transparent and open to public scrutiny. This also involves a principle of free choice, i.e. that, like private services on contract to public organisations, public organisations only provide customers with objective, relevant and honest information on services, their price and quality, so that customers are able to make an uninfluenced rational choice.

**Summary**

Twelve moral principles have been formulated within three categories of ethics, all of them derived by confronting public values with organizational and other developments in public administration. I assert that the introduction of New Public Management (NPM) has made ethical moments an important part of the everyday work of public managers by compelling them to choose between competing values and policy goals and to do so with no clear and specific statues for their bureaucratic discretion. I also assert that ethical standards of conduct has been introduced as a remedy for public managers in situations where they are compelled to give ethical reasons for their decisions rather than referring to an already established set of legal rules on which their decisions can be judged. This is particularly evident from the fact that NPM emphasises economic interests (efficiency and productivity) in confrontation with a legally established impersonal order, and that the introduction of economic values has created conditions for ethical moments, i.e., situations where officials are required to choose among opposing values and goals in a legal void. For the same reason, public administration is currently a matter for discussions on ethics and economy, as are private companies. Considerations of corporate social responsibility (CSR) or business ethics do not apply only to private companies. They increasingly also apply – on the basis of the special public values – to public administration.