



Searching for Virtue in the Public Life

Revisiting the Vulgar Ethics Thesis

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The burden of my claims here is that virtue in the public life is less likely to be found in a clearer understanding of virtue and more likely to be found in a clearer understanding of the public life. With a clearer understanding of the public life, I shall further claim, virtue is to be found not so much in the abstractions and theorizing of higher philosophy but in “vulgar ethics,” Lewis C. Mainzer’s brilliant description of moral education in the classroom and street-level moral practice in the department and the agency (1991). Finally, I shall claim that the hope of virtue in the public life is to be found not just in the individual propensity to be ethical but more so in the development of organizational rules and procedures, in virtuous leadership, and in the development of virtuous public cultures.

We start, then, with the claim that to find virtue in the public life we should turn first to a consideration of the public life. Those who founded the field were wise to label it public administration rather than government administration. Public is the larger idea, the pre-governmental idea. Jurisdictions of government float in a vast public sea. And just as governments float in a vast public sea, so, too, do nonprofit organizations, churches, businesses and corporations, tribes, clubs, networks, and all other human collectives (Frederickson 1997). Some human collectives have rather distinct governmental characteristics—boundaries, laws and constitutions, authority, claims of sovereignty, and, notably, hierarchies and bureaucracies. As Weber teaches us, complex human collectives, particularly those that endure, always have authority hierarchy and bureaucracy—churches and corporations for example. Strictly speaking, such human collectives may not be governments, but they are certainly public (Weber 1952, 60–68). And, as Bozeman teaches us, all such organizations are public, but each is differently public (1987).

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Distinctions between government and public may not have been particularly important in the early years of modern American public administration because the field was so closely identified with government and particularly with government reform. It is important to note here that the early close connection between public administration as a field and the government reform movement had a great deal to do with ethics, particularly the logic of a merit-based civil service as an alternative to political spoils, the almost universal adoption of auditing and accounting procedures, and tighter controls over government procurement and contracting. On looking back, it is clear that both the study and practice of public administration ethics were rooted in jurisdiction-based government reform. But by the middle of the twentieth century, the momentum behind the government reform movement in the United States began to weaken. As a field, public administration has been slow to respond to the declining salience of government reform and, in my view, particularly slow to respond to rapidly changing public contexts and to the ethics challenges found in those changing contexts.

In the past forty years, the growth in the variety and extent of the alternatives to general-purpose American city, county, state, and national governments has been impressive. Consider, for example, single-purpose jurisdictions, such as school districts and the wide range of alternative forms that have been recently experimented with—charter schools, vouchers, test-based performance measures of school quality—all alternatives that essentially reduce the obvious governmentality, if not the publicness, of school districts. Consider the gas, electric, and other power utilities, and particularly the corporate or so-called shareholder-based utilities and their very successful image as models of private enterprise. In fact, of course, power utilities are public monopolies. Rather than “citizens” or “residents,” utility customers are in fact “customers without choice,” reduced to that noble description “rate payer.” The number of single-purpose special district governments has increased significantly. The growth of so-called public-private partnerships, essentially publicly funded or subsidized commercial enterprises, has been phenomenal. The growth of quasi-governmental organizations in the United States or “quangos” in Europe is equally impressive (Koppell 2003).

Jonathan Koppell has recently completed a brilliant analysis of twenty-five non-governmental international bodies he describes as “global governance organizations,” including the European Union, the International Labor Organization, the Universal Postal Union, the World Trade Organization, the World Wide Web Consortium, the International Accounting Standards Board, the World International Property Organization, the International Organization for Standardization, and recently in the news, the International Corporation for Assigned Names and Numbers. In his upcoming new book, *World Rule: The Politics of Global Governance*, Koppell analyzes the authority, legitimacy, and accountability of these organizations (2010). Finally, much of what is described as the so-called extended state or third-party government is corporate and profit-making.

I insist that all of it is public. But certainly not all of it is, strictly speaking, governmental or even quasi-governmental. Indeed in international parlance, all such organizations tend to be lumped together under the label NGO—nongovernmental organizations. Welcome to the new “state of agents.” The “public life” of 2009 is very different from the public life of, say, 1995. Does public administration ethics, rooted as it has been in jurisdiction and general-purpose government, have anything

to contribute to the ethics challenges in this brave new world of alternatives to traditional jurisdiction-based general-purpose governments?

Fast forward to 2009. The era of big government is over, having been replaced by the era of really big government. But modern American government is differently big. There are many names for it—third-party government, the hollow state, the shadow bureaucracy, the blended public workforce, the extended state, articulated chains of third parties, steering rather than rowing, the state of agents, and, perhaps most common, governance. American governments at all levels have moved steadily in the direction of taking managerial and service-delivery functions out of the hands of civil servants and putting them in the hands of nonprofit and for-profit third-party contractors and grantees. Paul Light estimates that the federal civil service has shrunk by nearly 25 percent in the past twenty-five years, while the federal contract workforce has more than doubled (1999). For every nonuniformed federal employee, there are now more than seven contract employees. It is estimated that, all told, there are more than 17 million persons in the modern federal “extended workforce.” There are as many contract employees in Iraq and Afghanistan as there are GIs. Such are the realities of contemporary public life.

The public administration activities now being done by third parties are astonishing. In some jurisdictions, core administrative functions such as human resources management, payroll, budgeting, information technology, and record keeping are now referred to as “back office” functions and are contracted out. It was recently announced that the U.S. Office of Personnel Management is going to contract out its own personnel administration. Large-scale weapons systems in the U.S. Department of Defense are now routinely managed by a contractor that, in turn, contracts with other firms to implement parts of the weapons systems, and these contractors, in turn, subcontract much of their work. It is estimated that between one-third and one-half of the revenues in the budgets of the American states are actually federal dollars granted (or contracted) to the states to carry out federal programs, such as drug and alcohol rehabilitation, parts of Medicaid, and job training—essentially outsourcing federal policy implementation to the states. The states, in turn, outsource many of these activities to their counties, and both the states and the counties, in turn, contract with private and nonprofit organizations to do the actual work. Using an interesting legal claim known as extraordinary rendition, the CIA evidently outsourced to Egypt and other countries the incarceration, interrogation, and torture of suspects its agents picked up in other countries. Italy has just convicted over twenty CIA operatives for engaging in this practice.

The rise of the modern extended state is the dominant feature of our public life and of contemporary public administration. Earlier distinctions between governmental and public institutions on one hand, and private (familial), professional, and business institutions on the other, no longer hold. Contemporary institutions function along a dynamic continuum of shades of publicness ranging from clearly public to only slightly public, a continuum upon which a particular institution’s place is not fixed, but fluid. Consider, for example, General Motors and Chrysler.

Closely associated with the rise of the modern extended state has been the changed nature of governmental regulation of business and corporate practices. Ours is an era of the deregulation of business and corporate self-regulation. Students of the history of business-government relations will recognize that we are in an era ripe with issues of corporate ethics. The recent recession is, I submit, richly illustrative

of the downside of corporate and banking deregulation. The assumption of trust once associated with the grand old public accounting houses such as Arthur Andersen is gone. The accounting ethics crisis has reduced what was once the “big eight” to the “final four.”

Public management via contracting out and grant-making has grown so rapidly and so significantly that the contracting practices of modern governance have gotten far ahead of our capacity to build either explanatory theory or theory that helps government officials organize or manage more effectively. Likewise the growth of corporate deregulation calls not for just greater regulation but for empirically based theory to better inform practice. To paraphrase Todd LaPorte, public administration by contracting out and grant-making and by corporate deregulation may work in practice but certainly does not work in theory.

At the outset I claimed that to search effectively for virtue in the public life, one must first explicate our understanding of modern public life. Having done that, let me turn now to the search for virtue in public life.

Searching for Virtue

Public administration ethics during the early government reform era is associated with a well-known list of accepted standards, agreed-upon assumptions, and preferred practices. Let us call this list the traditional public administration ethics canon, or simply the canon. The canon includes claims regarding:

- Prohibitions against conflicts of interest
- Merit-based appointment and promotion as an alternative to political spoils
- Public office as a public trust
- Formal adoption of ethics rules
- Objective and transparent procurement and contracting procedures
- Standardized internal accounting and auditing protocols and annual external auditing
- Institutional and professional codes of ethics
- Clear lines between day-to-day professional administration and political officeholding, and particularly electoral or campaign politics
- Prohibitions against nepotism
- Prohibitions against bribery
- Fair and equal treatment of citizens
- Ethics training
- NASPAA Commission on Peer Review and Accreditation requirement that MPA degrees include ethics education
- Prohibition against the use of public property or time for personal or political purposes
- Encouragement of and support for whistleblowers

There are, of course, many more things that could be included in the canon.

Did the canon work? Did we find virtue? Mostly yes. By the 1970s, as a result of the widespread adoption of most of the elements of the canon, American government at all levels was more honest and ethical than it had been at the beginning of the century. But did we pay a price? Yes. The full application of the traditional ethics canon slowed government down, focused on what should *not* be done rather

than what *should be* done, filled government with procedural red tape, did little to reduce corruption at the political and electoral level, tended to focus on small or petit ethics (the misuse of computers, cars, expense accounts, and cell phones), leaving big ethics issues (goal displacement) or naughty ethical issues (what to do about poverty or the homeless) untouched (Anechiarico and Jacobs 1996).

To ask again, by the 1970s had the widespread application of the traditional canon of public administration ethics enabled us to find virtue? Yes, but mostly in small things. It was, however, big events and big ethical issues that punctuated the 1970s—political assassinations, an unpopular war, urban riots, an impeached president. In the context of these and other large-scale events and movements, American public administration, however it might have earlier been associated with ethical administration, seemed badly out of touch. As those associated with Minnowbrook I and with the so-called new public administration claimed, the public administration of the 1970s seemed adrift and irrelevant to the important ethical issues of the day (Frederickson 1980).

In the last quarter of the twentieth century, the government reform basis of public administration was challenged on multiple fronts. Rational-choice, market-model economists found bureaucracy to be inefficient and regulation to lessen the effectiveness of business. The reinventing-government movement likewise found bureaucracy wanting and favored contracting out most public services to businesses. Customer-based government, it was claimed, would work better and cost less. The so-called New Public Management emerged, combining market economics and reinventing government. What began as program evaluation evolved into an influential performance measurement movement. And the word “accountability” came increasingly to be used to describe a rather new approach to ethics. At the time, many in the practice of public administration embraced these movements. A few professors, myself included, argued that downsizing, contracting out, and deregulation would, in the long run, be a recipe for both ineffective government and corruption. Such warnings are, after all, what professors do. That is why we have tenure.

Public administration is now part of a considerably different public life, a new life of highly influential public but nongovernmental institutions, many autonomous and semi-autonomous quasi-governmental institutions, many single-purpose governments often financed by fees for service rather than general revenues, increasing percentages of governmentally financed work being done by nonprofit and corporate agents, and elaborate patterns of formal and informal interjurisdictional collaboration and cooperation in the so-called new geo-governance.

I have claimed that the canon of traditional public administration ethics, rooted as it is in general-purpose governments and in early government reform, is not adequate to the task of bringing ethical virtue to this new governance. If that is so, and if necessity is the mother of invention, the necessities of contemporary public life call for the invention of a body of public administration ethics better suited to our times. For purposes of simplicity, let us call it public administration ethics in the era of governance (rather than government).

What might be the elements or components of public administration ethics in the era of governance?

First, while perceptions of government and particularly of big government are not particularly good, perceptions of “publicness” and particularly “grass-roots publicness,” are rather good. For example, the cluster of fashionable concepts and ideas such as civil society, social capital, community, civic engagement, and citizen

participation associated with David Mathews (1999), Theda Skocpol and Morris Fiorina (1999), and Robert Putnam (2000) are promising. Closely associated with the civic engagement advocates are those working on both individual and institutional cooperation and collaboration, including Robert Axelrod (1984), Robert Agranoff and Michael McGuire (2003), and many others in public administration. And, perhaps most interesting, Elinor Ostrom has just received the Nobel Memorial Prize in Economic Science for her work on the commons and particularly her demonstration of the several ways that the so-called tragedy of the commons can be avoided (1990). All of these versions of grass-roots publicness seem to come to about the same conclusions—that effective “publics” have trust, make and enforce rules, build structures, practice reciprocity, and have cultures of ethical leadership. Governments, and particularly local governments, are only a part of this grass-roots publicness.

Public dependence on our high-reliability systems, such as commercial air travel and the provision of electricity and gas, electronic and particularly digital electronic communication, such as television, radio, and the Internet, is so ingrained that we do not handle well any lapses in service. Again, governments are part of these public high-reliability systems, but only a part.

In between the grass-roots and high-reliability systems are a wide variety of public services and functions, some distinctly governmental, such as the criminal justice system and the educational system; others, such as national defense, very mixed, and others, such as the health-care system, very much in play.

From the standpoint of ethics, the issue, then, is not the degree to which a particular system is governmental, but the degree to which it is understood to be public. The more a system is thought to be public, the more the public will expect that system to be ethical.

The public administration task, then, is to take the lead in identifying the various organizations and professions in each public system, and in bringing those organizations and professions together around the subject of ethics.

By now it will have been noticed that I have given little attention to public administration ethics scholarship. While I have been part of that scholarship over the years, I have come more recently to identify with the vulgar ethics perspective. I have no quarrel with the study of ontology or, for that matter, deontology, or the study of moral idealism or of utilitarianism, or claims being made about either dirty hands or many hands, or the ethics of regime values, or even the further study of my own beloved arguments about the patriotism of benevolence. All add to the body of ethics knowledge. Knowledge of these things helps us to know about goodness. But, as Lewis Mainzer (1991) argues, we can study goodness and we can teach *about* goodness, but can we actually teach goodness? He asks this question: Can study, research, and teaching induce moral change in ordinary people?

Mainzer writes thusly:

Socrates wondered, Who are they, having been inferior people, who have now become under your care good and noble? If, so far as one can estimate, churches and priests fail as often as not in truly gentling human nature, whether or not they work aided by the authority of schools or with heaven or hell in their armament, why should schools and professors expect to do better? We may induce a sense of moral exhilaration in the classroom, but evil one day insinuates itself in so prosaic a form that there is no time for warning. Or one seeming good conflicts with another, or embrace of a partial

evil is necessary to avoid a worse. . . . Teachers may seek to be moral guides, but we can at best be confident of our professorial ability to convey a bit of knowledge.

Nevertheless, we persist out of faith.

Whatever one's sense of the connection between knowing the truth and being good, all of us must be uneasy with any supposition that learning philosophy or being able to discuss the pros and cons of a basic issue, leads to virtuous action. Following the advice given by Mark Lilla twenty-five years ago, when it comes to the practical and applied issues of ethics, we should "send the philosophers home," for their theorizing is too abstract. We should admit that moral education would take place, much as it always has, through examples, through families, and even a bit of indoctrination. (1991, 4–5)

Instead, Mainzer suggests vulgar ethics or, put more gently, common ethics or ordinary ethics. This is the public administration ethics of putting rules, regulations, and red tape in place to keep bureaucrats from behaving badly. This can be done without a discourse on Hobbes and his philosophy of human nature. This is the public administration ethics of operating trust-based relational contracting systems without a discussion of Rousseau and his philosophy of human nature. This is not the disembodied consideration of public morality. It is, instead, the fully contextualized application of policies, procedures, and so forth, set out earlier in the description of the canon of public administration ethics developed in the government reform era. And it is the reason that an understanding of the contextual characteristics of the present era of governance and the extended state is essential to the building of a public administration ethic suited to it.

Vulgar ethics suggests the use of ordinary cases, examples, or models, rather than extraordinary cases. The recent excellent work of Steven Maynard-Moody and Michael Musheno comes to mind. In their *Cops, Teachers, Counselors*, they describe how and why street-level bureaucrats make moral choices in the face of scarce resources and high variation in the legitimacy of client claims (2003). Using standard ordinary cases, they describe how vulgar ethics works. An understanding of the ethics of ordinary cases demonstrates why a too great focus on aberrant cases results in aberrant ethics standards.

Finally, those who study ethics will have found in these remarks a decided emphasis on institutional and organizational forms, on rules and regulations, on organizational behavior. Put another way, I have purposely chosen not to emphasize individual moral and ethical choice and not to consider those forms of public administration ethics that rest on individual moral choice claims. This is out of my conviction that most public administrators will, most of the time, make moral choices. For those tempted to be unethical, there must be policies, rules, regulations, oversight, audits, and other forms of institutional arrangements to help them be virtuous.

As you can now see, I am an unreconstructed vulgarian.

Conclusion

To find virtue in the public life, start first with a full understanding of the public sector broadly defined. With that broad understanding of the public sector, turn to matters of ethics and morality in the collective sense rather than as matters of individual moral choice. Insist that the consideration of ethics and morality in the public sector include government but, more important, also include all the institu-

tions and organizations that are public and have public obligations. Employ the full canon of ethics protocols as you build ethics into the modern public sector. Send the philosophers and the Sunday school teachers home. Reach for collective virtue through the application of vulgar ethics.

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