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**"THE ETHICS AND MORAL CHALLENGES OF  
CONTEMPORARY PUBLIC ADMINISTRATION"**

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## THE ETHICS AND MORAL CHALLENGES OF CONTEMPORARY PUBLIC ADMINISTRATION

*"Salus Populi Suprema Lex Est"*

*(Let the Welfare of People be the Highest Law)*

*Roman rule of life*

### Introduction

Besides the utilitarian <sup>1</sup> and deontological <sup>2</sup> approaches which have, throughout the history of the study of public administration, intertwined, the last decades (after 1970) have witnessed the introduction of some new directions in the study of public administration which have marked the period of "**new public management**". One of the most marked new approaches which has appeared especially in the USA is the so-called **critical or philosophical approach**. This approach stresses that values such as righteousness and equality must be considered the most important values in public administration and that civil servants should not comply with and bow only to the objectives of elected representatives. This has led to radical changes which, already at first sight, include important innovations in the study of public administration, and these are **ethical components**.

Another characteristic of the new public management is that it is increasingly operating on the model of business management and public administration managers are referring to such literature. During this period (throughout the recent period of democratic changes also in countries in transition) we have been confronted with the realisation that the **bureaucratic organisation model** has already worn itself out as a method of organisation of public administration and that different relationships between the various structures of public civil servants and the environment are increasingly becoming more pronounced (Rakočević, 1994, pp. 44-50). The closed system theory has been replaced with the open system theory. The problems faced by contemporary public administration have led to the

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<sup>1</sup> Utilitarianism, as a part of moral philosophy is one of the most general forms of ethical thinking and it is very useful in understanding the ethical operation of public administration since it focuses on the advantages and consequences of actions in specific situations (the cost-benefit approach) (Denhardt, 1991: pp. 103-104).

<sup>2</sup> The word *deontology* is derived from the Greek word for *duty* and implies obligatory conduct in particular cases in accordance with generally accepted moral principles. To put it simply, it is the duty of someone to act morally correctly and avoid morally incorrect conduct and indifference towards the consequences of certain conduct (Denhardt, 1991, p. 104; Strojina, 1991, p. 423).

realisation that social systems (including public administration) depend on the environment and are, as such, unpredictable.

On the basis of this realisation, therefore, the **ethical approach** has acquired a very important place in the study of the system and operation of public administration which, in the period of contemporary public management, is faced with serious moral challenges. These challenges, which represent the basis for discussion in this paper are especially distinct in Central and East European countries which are undergoing radical reforms in their public administration system.

One of the most difficult problems faced today by many public administration systems (especially those in transition) is the **unethical conduct of public civil servants** and other public administration employees. The fundamental ethical problem is posed by civil servants who publicly discredit their institution and subordinate themselves to a particular political or professional elite in return for a bribe (gifts, awards, and the like). Together with the development and growth of public administration, several other forms of unethical conduct have also developed, for example, giving priority consideration to friends and relatives, the appropriation of job equipment and other resources, the use of official vehicles for private purposes, refusal to pass on official information to citizens, etc. Ethical problems are, therefore, generally linked to the **abuse of official position** and the **neglecting of legal duties** and also to **unlawful conduct**. The substitution or removal of an unsuitable public employee is one of the fundamental duties of the responsible higher ranking officer.

While the extent of this phenomenon varies from country to country, unethical conduct in public administration certainly depends primarily on people's mentality, tradition and the generally accepted moral principles in a particular environment. In contemporary democratic and legal countries in which no major changes take place in the public administration system and in which traditional moral principles are already indirectly incorporated into the system itself, the unethical conduct of public civil servants does not present a structural problem. This is rather a matter of individual violations of established ethical norms. In the countries in transition, on the other hand, a specific situation has arisen whereby the old system of values has collapsed and the various forms of reform are creating a new moral order. Under such circumstances the greatest danger is, certainly, the intensification of unethical conduct in public administration.

A complex **reorganisation of public administration** is presently going on in the Republic of Slovenia (besides the already accomplished basic (constitutional)

reform of local community and state administration) and the process has not yet been entirely completed. The fact is that ethical components are exceptionally important in the process of public administration reform, since its final aim is to create a pleasant, responsible and efficient administration with which the users (citizens) will be satisfied. And this is, among other things, the aim of the project of modernisation of public administration in Slovenia within the framework of the **agreement between the Slovene and Swiss Governments** <sup>3</sup> which has been undergoing successful implementation since December 1994.

### **The relationship of civil servants with citizens as individuals**

One of the fundamentals of ethical administration is, certainly, the determined **ethical principles** of conduct of civil servants which cover a number of various relations between civil servants and their environment (Pusić, 1968; pp. 240-248). The most important is, undoubtedly, the attitude **of civil servants towards the citizens as individuals**, which is determined based on the presumption that public civil servants simply perform one of the professional duties important for the community and its members. Public administration civil servants must not place themselves in a superior position in relation to other citizens. Within the context of the realisation of this objective, therefore, public civil servants should not be treated separately and in any sense considered a special category. Furthermore public servants themselves should not consider their work something different and special amongst public activities.

As "producers" of a type of social service and, at the same time, as users and consumers of other services, public civil servants must base their relationship with other citizens on the principles of **righteousness** and **equality**. They must always be prepared at work, to help everyone but at the same time without practising favouritism or performing actions which are contrary to the regulations of their profession and service. We must especially point out the problem of **corruption** in public administration which we may define, in this case, as any diversion away from the principle of equality in the relationship between civil servants and citizens.

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<sup>3</sup> This is the so-called Slovene-Swiss "Master Project", whose implementation has been entrusted, on the Slovene side, with the Ministry of Internal Affairs and the Office of the Prime Minister of the Republic of Slovenia

One of the preconditions of a good relationship between public civil servants and the citizens is keeping the public informed about the objectives and working methods of administrative authorities. The administration, therefore, must pay special attention to **systematic communication with the citizens** about its work, the so-called public relations.

### **The relationship of civil servants with society as a whole**

The next aspect of social relationships which is of interest to us, with respect to ethics in the civil service, is the **relationship of civil servants with society as a whole**, which is based on belonging to the community in which the civil servants live and work. The demand for **general political loyalty** of civil servants which is exemplified in the acceptance of the fundamentals of the current social system and recognition of the democratically elected administrative authorities, is also based on this relationship.

The more the ruling system is uninclined to democratic development, the greater the conflict, with respect to political loyalty, between the civil servants and the elected officials. On the other hand, the more democratic and progressive is the social system the rarer are the demands for loyalty. The conflict situation regarding political loyalty is, thus, an excellent measure of the level of democracy and with this also the ethics of a particular public administration. In democratic systems, civil servants may hold any personal views and beliefs but at the same time remain unconditionally loyal to the general ethical values of the community.

Another aspect of the relationship of civil servants with society is their **relationship to political representatives, members of representative bodies or elected political functionaries**. In this relationship, it is necessary to make a distinction between the person and the function. As people, civil servants and political functionaries are completely on equal footing. Both execute particular public work and, due to the limited terms of political functions, their roles may also be interchanged. On the contrary, political functionaries differ from civil servants in their roles as pillars of particular organisational duties. The political (elected) functionaries make individual or collective decisions and supervise the implementation of political decisions, which is the responsibility of civil servants in administrative organisations.

## **The relationship of civil servants with the administrative organisation**

With regard to the **relationship of civil servants with their own administrative organisation**, there are two important aspects, namely, the approval of special objectives, tasks and working method within the framework of general objectives and value criteria of a particular institution and, a friendly relationship with other members of the institution.

## **The attitude of civil servants to work**

From the view point of ethics in the civil service another aspect of social relations is also important, viz., the **attitude of civil servants to work** which in ideal cases is exemplified by the civil servant's intensive interest in his/her professional field, his/her delight in work and in the development of his/her capabilities in a freely chosen profession.

The major obstacle to the existence of such an "ideal" relationship is in the divisive and routine nature of most of the duties of administrative organisations which do not allow the civil servant insight over the entirety of a specific task and does not offer him/her sufficient incentive in the development of his/her capabilities.

**Incentive mechanisms**, such as decorations, praises, prizes and other forms of positive elevation of a particular civil servant and, **sanctions** based on various forms of accountability (disciplinary, punitive, administrative) offer solutions only in excessive cases. In case these mechanisms are relatively frequently applied, an unfavourable attitude to work normally develops in the majority of civil servants.

## **The systemic incorporation of ethical components in the case of the Republic of Slovenia.**

I have already mentioned, in the introduction, the special situation of the countries in transition in which, after the introduction of democratic changes, new moral values are surfacing, different from those of the socialist or communist period, most of which have been adopted from Western countries. The important difference in the Western world is that ethical principles are already traditionally incorporated into the public administration system while in the former socialist states the process of reorganisation of the system is still going on and this

presents serious danger also for civil service work, which is the most sensitive part of the system.

The incorporation of ethical components into the constitution and legislature does not mean the determination of the relationship of civil servants to the environment but, primarily, **protects citizens from unethical conduct on part of civil servants**. This of course has an influence on the general conduct of civil servants and on the development of general moral principles in the consciousness of all citizens. The constitutionally and legally determined "rules of the game" are, therefore, exceptionally important in the **creation of a general ethical environment** in a particular country and the writers of the Constitution of the Republic of Slovenia which represents the basis for all laws and legal regulations, had to take this into consideration. The creation of an ethical environment is one of the objectives of the Slovene-Swiss state administration reform project mentioned above, currently taking place in Slovenia. In addition to all the necessary democratic requirements (the protection of human rights and basic freedoms, a democratic state organisation, the public financing of the state and local community administration, statutory and legal protection, etc.) the Constitution of the Republic of Slovenia also includes some **special features** because of which it enjoys special reputation and meaning in other countries in Europe and the world.

The most outstanding feature which, with respect to ethics in public administration is very important, is the provision offering special **protection to Italian and Hungarian autochthonous minorities** who have the right to use their language in all public matters (Article 64 of the Constitution of the Republic of Slovenia) as follows:

- in the field of **local community and state administration** (the right to create ethnic local communities with own jurisdiction (or that passed on from the state), the right to direct representation in local community administration bodies and in the National Assembly),
- in the field of **administrative internal affairs** (equality of language in all administrative procedures, two-language documents, compulsory two-language official forms in ethnically mixed regions, etc.),
- and in some other fields such as upbringing and education (compulsory two-language schooling in ethnically mixed regions), the judiciary, economy, culture, scientific research activities, public communication and publication which, however, do not have much to do with ethics in public administration.

In addition to this the Slovene Constitution provides **everyone** (including foreigners) with the right to use his/her language and writing in realising his/her



rights and obligations and in proceedings with the state and other bodies performing public services (Article 62 of the Constitution of the Republic of Slovenia). The **Gypsy community** living in Slovenia also enjoys special rights and status Article 65 of the Constitution of the Republic of Slovenia).

#### **Administrative reform and demands for better quality public administration services**

It is also important to point out that the republic of Slovenia, like other countries in transition, is faced with another special problem concerning the systemic change of the public service. Slovene citizens expected local administration and state reform to improve the **quality of public sector services and efficiency in public administration** as a whole.

They therefore expected revolutionary changes for the better. The fact is, however, that the development of administration systems does not allow for a lot of space for radical transformations which would turn things upside down overnight and create a feeling that a lot of problems have been solved in this way (Trpin, 1994: p. 258). Administrative systems are a sensitive instrument and it is necessary to allow them **gradual organic growth** with a clear vision of their future functions and structure. The solutions of the transition period, therefore, had to be temporary and in the form of compromises, adapted to the present level of development of public administration.

As the quality of services and efficiency of public administration will gradually improve so will **ethics in public administration**. The incorporated ethic components (systemic or traditional) do not mean the immediate creation of a stable ethical environment. The proper development of administrative systems and gradual improvement of the quality of public services will lead to an appropriate ethical environment within the public administration and society as a whole.

#### **The role of the ombudsman in the realisation of ethical components in public administration in the Republic of Slovenia**

The protector of human rights and basic freedoms or, simply, the **ombudsman**, is an entirely new and, before the democratic changes at the beginning of the 90s, a completely unknown institution in our system which even the new Constitution does not regulate in all detail but provides only the necessary foundations for legal institution. The Slovene Constitution (Article 159) defines the ombudsman as the **protector of human rights and basic freedoms** in the relation between

government authorities, local administrative authorities and public authorities on the one hand, and the citizens on the other.

The most important function of all ombudsmen and similar institutions all over the world is the **investigation of complaints by individuals** whose rights have been violated or limited by a public authority representative (Denhardt, 1991: p. 58, 63; Zimmerman, 1994: pp. 165-167). The fact is that the institution of ombudsman is the most prolific in parliamentary democracies. The ombudsman can operate only in an environment with a determined minimum level of respect for laws.

The ombudsman is introduced, primarily, as a **protector of legality** and, as such must be capable of judging correctness in the performance of public services and participate in the setting of administrative standards by exerting influence through his decisions and critical comments. This represents the greatest power of the ombudsman in the introduction of an ethical environment and moral standards in public administration and society as a whole.

In the case of Slovenia, it is necessary to point out a special feature of the institution of ombudsman which is developing simultaneously with systemic changes in the field of state and local administration. Under such circumstances, the Slovene Ombudsman plays a particularly vital role as he/she can directly influence the **creation of an ethical environment** and the **introduction of ethical values** during the process of the formation of a democratic and amicable public administration. The introduction of the institution of ombudsman simultaneously with the systemic changes enables the ombudsman to acquire the experience urgently required for further work and contributes to greater public awareness with regard to possible unethical conduct of public civil servants.

### **Ethics in the police**

Contemporary professional literature shows a growing interest in the issues concerning ethics and as such in ethics in public management and organisational development in general. The increase in the attention paid to these issues may be explained by a number of factors, namely:

- **growing public indifference** towards public organisations,
- **increasing public demand** for greater participation in decision making and demand for **greater accountability**,

- **increased visibility of events** (partly also due to developments in telecommunications technology)
- **quick changes in society and increasing inequality**, and
- **decreasing financial resources** (which opens questions about the cost of the efficiency of sensitive administrative measures and control).

As a topic for debate, ethics have become especially important in the specific segment of public administration, that is its repressive apparatus - **the police**, primarily due to the unavoidable extent of police powers in relation to the citizens. The police are, undoubtedly, in the front row in matters concerning life, freedom, safety and human rights.

The performance of police work on the basis of ethical standards is as old as police work itself (Himelfarb, 1995). Given the rising inequality between people, fast social changes, improvements in communications systems, growing public responsibility and increasing control and several other limitations, ethical police work has all the more symbolic meaning. The first step towards the achievement of ethics in the police had to be taken, certainly, at the organisational level in such a way that the general ethical values of highest priority in society were recorded in the so-called **police ethical code**, by which all police officers ought to abide. The fact is that many police institutions do have such codes of conduct whose influence may be felt also in other administrative organisations. It is not at all news that police ethical codes are frequently used as the model and basis for debate about the **general administrative ethical code** that may be applied to all public civil servants and other public employees.

Since November 1992, the Slovene Police also has its own ethical code. The code includes general and basic principles, regulates mutual relationships between police officers and the citizens, institutions and authorities, and defines accountability on violating the code. The code takes into consideration the principles included in the United Nations General Declaration on Human Rights, the International Agreement on Citizen and Political Rights, the Declaration on the Protection of all People Against Torture and Other Forms of Brutal, Inhuman or Humiliating Conduct or Punishment, the Declaration on the Police, other international documents, the Constitution, laws and other regulations of the Republic of Slovenia, and represents an accomplishment to the ethical and moral standards of the police. The basic **principles of the Slovene Police ethical code** are: constitutionality, legality and accountability, compassion, protection of the reputation of the police and police officers, openness to the public in work, professionalism, expertise and independence and the protection of professional secrecy.

Mutual relationships between police officers are based on a specific hierarchical order and on mutual respect, reciprocity and solidarity, collegiality, patience, frankness, mutual trust and dignity, which indirectly or directly have an influence on professionalism, innovation, mutual dialogue and high level of professionalism of the police profession. The police ethical code was created as an expression of the desire and realisation by all police officers in their capacity as public employees, of the need to secure legal, righteous, human and polite or, in one word, ethical conduct in the performance of duties.

### **The limiting and prevention of unethical conduct in public administration**

Reference to specific principles of conduct in the past does not apply only to the police since various organised societies applied various **written or unwritten rules of conduct** in the management of citizens or in mutual relations between public civil servants, since written history. There has always been a more or less strong bond between public employees and the citizens and civil servants have normally operated as the **advocates of public good** or **public good trustees**. In case unethical conduct became a component part of public administration, this was felt, especially by the taxpayers or those for whom the public administration services were intended. Such conduct led to a **decline in civil support** for the leadership or its administration and indirectly, to the implementation of public policies without the cooperation of the citizens and, to their open protest. The result of all this is, usually, inefficiency and higher costs of policy implementation.

The democratic systems of management presuppose an **active role by the citizens** in decision making. The unethical conduct of public civil servants and other employees averts citizens from cooperating with them and with the public administration in general, since they regard it as unethical and corrupt. The ultimate result of this situation is that highly qualified individuals (experts, scientists) do not want to actively participate and work in public administration, especially not in its state administrative sub-system. Every democratic public administration or its management therefore must (Zimmerman, 1994, p. 2):

- **eliminate any possibility of personal gain** by public civil servants and other public employees through the performance of services,
- **provide appropriate education** to public workers with respect to ethical conduct,

- **prepare clear operating guidelines**, with regard to desirable and undesirable conduct,
- **introduce ethical principles of conduct** of public civil servants and other public employees in the form of a code, and
- **detect and punish** individuals who violate ethical regulations, etc.

In order to comprehensively solve ethical problems in public administration we must, all throughout, systematically consider and resolve various sets of issues and circumstances in which unethical conduct arises. In this respect we must pay attention to: **firstly**, the constantly changing relationships between elected functionaries and public civil servants; **secondly**, we must determine the boundaries of organisation authority and constantly limit the occurrence of excessive hierarchical obedience; **thirdly**, we must ensure the constant reconciliation of various interests in order to avoid frequent unnecessary conflicts; **fourthly**, we must encourage the detection of unlawful and unethical conduct, the so-called "whistle blowing"; and **lastly**, we must make sure that there is no politicising of the public administration and must prevent political influence in professional decision making about specific problems. In the absence of these basic duties and objectives which all public civil servants and especially higher administrative workers or public managers must respect, I feel that the future of ethical public administration in all democratic systems is questionable and uncertain.

## Conclusion

How can public servants ensure the ethical operation of public administration in practice? **First of all**, there is great possibility of the **formal supervision** (including legal supervision) of the conduct of public employees. Here we must emphasise, above all, the traditional role of the **judicial branch of authority** in the prosecution of unlawful conduct of public civil employees and also some contemporary forms of external control of public administration operation, for example the **institution of ombudsman**.

**Secondly**, ethical conduct can be ensured also by the management of public organisations (the so-called higher managers) through their **own ethical conduct**. By promoting ethical conduct, we can create an **ethical environment** in organisations in which ethics and morals become values. In order to establish ethical values it is not enough to make public statements in support of certain values and employ "ethically" and morally appropriate employees. In creating an ethical public administration consideration must also be given to the special nature

of the culture of organisation of a specific environment or organisation. Unfortunately, however, the majority of organisations, including public organisations, do not conduct active programmes for the promotion of ethical conduct. In public administration, generally, there is a considerable lack of various written ethical standards or codes. The rare exceptions here include the police, lawyers' and doctors' ethical codes and some other public employee ethical codes which do not generally apply, but are applicable only in a certain organisation, etc.).

And **thirdly**, the perspective of public administration ethics could, after all, also be a **general ethical code** which would apply to all administrative workers and other public employees. As a classic form of ethical principles widely applied in Europe and in the world, the police ethical code could present a good basis for debate and it would provide a model for writing ethical rules also in other public organisations or in public administration in general.

Ljubljana, 28 May 1996

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