

MORALITY AND PUBLIC ADMINISTRATION

by

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ABSTRACT

In this thesis the relationship of morality to democratic public administration is examined. After a description of the role of the public administrator in the modern democratic state and a discussion of the powers of moral reasoning required by the public administrator, the relationship of morality to policy analysis is considered. It is argued that the pursuit of the public interest in domestic policy formation, implicit in democratic public administration and understood as a function of individual citizens' interests, can best be realized through adherence to classical political principles. International relations are shown to be susceptible to moral judgement, and an ethic of foreign policy formation consisting of the pursuit of the national public interest with rights as moral constraints upon policy is posited. Finally, the usefulness of codes of ethics in ensuring morally correct formation and implementation of public policy by administrators is assessed, the necessity for a morally adequate ethos of public service posited, and the question of how to foster such an ethos addressed.

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CHAPTER 1

The Nature of Public Administration in a Modern Democracy

Policy Formation and Implementation

Public administration in the modern liberal democracy may be conveniently considered as involving firstly the formation of public policy and, secondly, its implementation.¹ Both of these tasks are typically carried out by a combination of elected officials and temporary or career civil servants.

Policy formation, which is defined as the framing of legislation or non-statutory governmental policy to translate the aims of a government into action, involves both groups of actors in government, in both domestic and foreign policy. Elected officials, as heads of government or as ministers in charge of departments of government, are the key players in deciding the policy goals of a government department and in deciding which of a range of policy options is chosen and how it is to be implemented. Thus any analysis of the ethics of

¹These two functions are not in practice entirely discrete from one another: in the development of policy stipulations are made regarding the implementation of the policy. For the purposes of this thesis it is useful to make this division in the work of public administration because the former function is where the parameters of moral *analysis* of policy can be set, while the moral interest of the latter function lies primarily in the *manner* in which public officials enact policy.

domestic and foreign policy formation necessarily involves a consideration of how the political role of elected officials affects the process of policy formation. However, analyses of democratic government consistently record that members of the unelected bureaucracy have a highly influential role in the formation of public policy.

It is now widely recognised in Canadian society that public servants exercise very significant power in the political system, both in developing public policies and implementing them. As a result, public servants, especially at the middle to upper levels of the administration hierarchy, have many opportunities to make recommendations and decisions as to how the public interest can best be served.²

Senior civil servants are instrumental in supervising the gathering of information, the drawing up of policy proposals and the drafting of legislation, in advising ministers how governmental aims may best be realised by a particular policy, and in assessing the practicality of particular policies. The importance of members of the bureaucracy in the formation of policy should not be underestimated. A recently retired British permanent secretary (a rank equivalent to departmental head), addressing a 1992 conference on ethics and the public service, somewhat humorously remarked:

In polite company, we wrap up our role by using the dignified phrase 'policy advice' to describe the contributions of officials, constantly emphasising that policy is for ministers to decide. Policy-making is not a satisfactory term for describing the daily role of ministers. I suspect that it was invented by civil servants to flatter ministers into thinking that ministers' contributions are more

²Kernaghan, K. & Langford, J.W. *The Responsible Public Servant*. Institute for Research on Public Policy, Halifax, N.S. 1990. p.35.

coherent and rational than they really can be. Ministers think in terms of ideas and prejudices and headlines, rather than policies.³

This description of the relationship between elected and unelected officials has a British flavour, given the tradition there of a non-partisan bureaucracy headed by elected ministers, but it contains a substantial truth that obtains in other democracies. Some analysts argue that a deleterious effect of the influence of senior civil servants is that of bureaucratic inertia which can frustrate the introduction of commendable reforms by politicians. Whatever the rights or wrongs of the divide between elected and unelected public servants, the complexity and size of the task of policy-making in the modern state makes heavy reliance upon civil servants by the small number of elected officials unavoidable. This is true regardless of whether much of the top tier of policy advisers is replaced by an incoming administration (as in the United States) or whether ministers are often drawn from the ranks of the senior civil service (as in France and Japan). Consequently it is imperative in any discussion of how to achieve ethical policy formation that the role of the civil service is closely examined. It is with the role of the permanent bureaucracy in public administration that this thesis is chiefly concerned.

The implementation of policy decisions, while in most systems of government remaining nominally the responsibility of the minister, is also handled primarily by the permanent civil service. At this level there is, as in policy formation, often considerable scope

³Cubbon, B. "The Duty of the Professional", *Ethics and Public Service* (ed. Chapman, R.A.). Edinburgh, 1992. p.9.

for the employment of discretion by the public servant over the details and larger aspects of implementation. In the fifth chapter I shall examine in detail what may be done to try to ensure that the implementation of public policy by a bureaucracy is carried out in a morally satisfactory fashion.

In chapter two I shall explore what kind of moral reasoning is appropriate to be employed in the analysis of public policy by public administrators, noting the different kinds of practical and political constraints that operate upon the process of policy formation. Little attention has been paid by moral philosophers concerned with the ethics of government to analysis of the requisite skills of moral reasoning that are appropriate for public administrators, despite administrators' large contribution to the formation of governmental policy⁴. Such analysis is as important as that of the principles of public life such as justice, fairness or freedom (of which many stimulating philosophical treatments exist), if it is desired to see moral progress in government.

⁴Although there are countless philosophical discussions about the nature of moral reasoning in general, and a significant number about moral reasoning in public life, these are less commonly connected with any empirical study of how public administrators reason morally in practice, and what failures of moral reasoning such analysis can highlight. [For examples of such empirical study see Frederickson, H.G. (ed.) *Ethics and Public Administration*. New York, 1993]. One exception to this is the considerable literature pertaining to the moral adequacy of cost-benefit analysis, which is employed in practice as an evaluative tool by policy-makers.

The content of moral progress in this context has two major components. Firstly, it is a necessary condition for the fair and efficient practice of government that corruption be minimized. Routine open or covert bribe-taking by public officials is unfair, because it restricts the access of some citizens to services to which they are entitled since they are unable to come up with the necessary bribe. That alone makes it morally undesirable. It is also usually inefficient because it makes for obstructive practices by officials at all levels and contributes to the underground economy.

Secondly, without a reflective capacity on the part of policy-makers to identify the moral implications and contribution to the public interest of a policy, the possibility of manifestly unjust or expensive and useless projects is made more likely. In his study of the work of the Bureau of Reclamation in the management of Western American water resources Marc Reisner argues convincingly that bureaucratic control has perpetuated great economic and environmental disutility through a misunderstanding of the public interest exacerbated by the inexorable logic of administrative regulation which, once started upon a bad policy, perpetuates it through its own bureaucratic momentum.⁵ Where a bureaucracy is well-entrenched in a society, it may indeed have more concern for its own perpetuation and reward than the needs of the public it is supposed to serve. A recent *Economist* survey of Asia notes that

⁵Reisner, M. *Cadillac Desert: The American West and Its Disappearing Water*. New York, 1986. Passim, and especially pp.272-316, 495-514.

still-defensive Indian bureaucrats use their considerable blocking powers to thwart government policy and keep [foreign investors] out...India's public sector unions are so strong that they continue to ensure that their lazy members command two or three times the country's average manufacturing wage.⁶

In general, effective public administration implies the upholding of certain basic moral standards, in particular justice considered as impartial concern for the interests of citizens, which means eliminating corruption, and the conscientious and efficient pursuit of the public interest. Without these moral qualities, public administration will necessarily be woefully inadequate in achieving its intended goals.

In this chapter I shall firstly analyze what assumptions can be made about the role of public administrators in a modern democracy; secondly, address the debate over the scope of morality in public administration; and thirdly, examine the concept of 'the public interest', and its validity as the goal of public administration.

The Administrator in Democratic Government

In this section I shall argue that in the philosophical study of public administration it is desirable to concentrate on the normal functioning of government rather than on 'hard cases',

⁶"Survey: Asia", *The Economist*, October 30th, 1993. p.12.

and examine some presuppositions which may be made about the administrator's role in a democracy.

There is a considerable body of philosophical literature, much of it written in the past few decades, dealing with the role of public officials with respect to particular areas of public policy. But much of it deals with a relatively circumscribed set of policy issues; the most notable of which is that of war. It is easy to see why this is so. The role of the Nazi bureaucrats is disturbing and illustrative, and the Vietnam war stimulated a considerable number of papers not only on the justness of the war, but on the role of the policy-makers in Washington, especially (obviously) by American philosophers⁷. Moreover, the creation and conduct of war policy is of course important in many ways, primarily because of the suffering wars cause, and the vast resources they consume. There has been far less detailed philosophical work done, however, on the more humdrum aspects of public administration. Much of the work of government is routine activity such as the maintenance of public services, the raising of revenue by taxation, and the dealing with of public grievances and disputes. But there has been a concentration in the philosophical literature upon dramatic ethical issues of public service such as 'whistle-blowing' and conflicts of interest, often divorced from the context of the structure and everyday running of a bureaucracy.

⁷See, for example, Nagel, T. "War and Massacre", *Philosophy and Public Affairs* 1 (1972): 123-144; Walzer, M. *Just and Unjust Wars*. New York, 1977.

To take another example of the same phenomenon: there is an abundance of valuable philosophical discussion of the ethical aspects of health care - such as euthanasia, abortion and informed consent - but there has been far less philosophical treatment of the ethics of rationing health care in a field where ever more costly treatments and increasingly stringent budgetary constraints make this the most difficult and time-consuming task of health care policy-makers in advanced democracies today.⁸ The first problem with this concentration on the dramatic is that conclusions may be drawn which are unrealistic because they ignore salient features of the system of government. Secondly, the lack of a philosophical critique of the whole system of policy formation and implementation tends to follow from a concentration on hard cases. And thirdly, as was pointed out by Sir Michael Quinlan in a discussion of the formulation of a code of conduct for the British civil service, it may lead to well-intended but ultimately unhelpful recommendations:

Hard cases make bad law; catering to the far-fetched or the very rare can import features of much greater and more probable disadvantage than the hypothesis guarded against.⁹

⁸A concern to redress this imbalance is indicated by the recent appearance of articles such as: Jecker, N.S. & Pearlman, R.A., "An Ethical Framework for Rationing Health Care", *Journal of Medicine and Philosophy* 17 (1992): 79-96; Nelson, R.M. & Drought, T., "Justice and the Moral Acceptability of Rationing Health Care: The Oregon Experiment", *Journal of Medicine and Philosophy* 17 (1992): 97-117; and Veatch, R.M., "Rationing: Why Justice Requires Multiple Insurance Plans", *National Forum* 73 (1993): 22-32.

⁹Quinlan, M. "Ethics in the Public Service", *FDA [First Division Association] News*. September, 1990, p.5. Quoted in McDonald, O. *The Future of Whitehall*. London, 1990. p.117.

Much of the most interesting analysis of and recommendations for the achievement of ethical public policy formation and implementation are to be found in professional journals of public administration, and in texts of political science. It is encouraging to see that this comparative philosophical neglect is currently some way to being remedied, partly as a result in recent years of a renewed interest in applied ethics and greater inter-disciplinary collaboration in the study of the ethics of public service¹⁰. My own approach in this study of the morality of government is to concentrate upon the everyday role of the public administrator in a democracy rather than upon his role in wartime or in an extreme domestic crisis. The demands placed upon the administrator at such times are generally atypical; what is justifiable or desirable in a crisis may be very different from what would normally be considered so. Public life, after all, mostly involves routine decision-making about the maintenance of public institutions. It is no less worthy of philosophical consideration for that: everyday decisions are those which affect our lives with the greatest frequency and constancy. Too great a concentration upon the moral dimensions of crises in government ignores much that is of great moral interest and concern, even if it is not very dramatic.

I should note at this point that there is a potential danger in approaching the morality of public administration from the perspective of the moral concerns raised by the professional role of public administrators, namely, that this precludes discussion of whether the profession

¹⁰Excellent examples of which are to be found in the *Hastings Centre Reports*.

of public administration is necessary or desirable in its present form (or in any other). I shall take no particular stand upon what the desirable size for a bureaucracy might be, nor whether aspects of what is traditionally considered its work might be eliminated or carried out in radically different ways, other than to note that efficiency and effectiveness are the criteria by which such questions should be decided. It is quite possible that technological advances may render redundant sizeable elements of the modern apparatus of the state. The replacement of welfare benefit offices and their staffs by the use of 'benefit machines' similar to automatic cash dispensers at banks is only one possibility that has been mooted. Nevertheless, it would seem likely that the function of those administrators who form policy and implement it in one form or another will be here for the foreseeable future. The reform of public bureaucracies may in the near future take exciting and novel forms, especially in the technologically advanced nations, but at some stage public administration will come back to the decisions of groups of public servants, elected and unelected.

In a modern democracy, public administrators are in the employ of the state and are generally expected to embody certain characteristics in their role. Firstly, they are usually considered to be concerned in some broad sense with safeguarding the public interest. This is brought out in the reflections upon the senior administrator's role by Sir Bernard Ingham, himself an administrator for some years before becoming Mrs. Thatcher's Press Secretary:

If an administrator is not a guardian of integrity he is nothing. As such he is properly the elite. As an administrator I also discovered why, apart from his background and training, he thinks he is the elite: it is because he has to be the

elite. It is because he has to sort through and make a recommendation on the often conflicting, inconclusive and perhaps timid and bottom-protecting advice from lawyers, economists, statisticians, scientists and any other specialist you can name.¹¹

The administrator safeguards the public interest by upholding the integrity of the processes of government and by selecting the policy which is most beneficial to the public by conscientiously sifting through often conflicting recommendations from various sources. I shall go on to explore in more detail the concept of the public interest. Here it is sufficient to note that regardless of how the notion is exactly defined, it is commonly understood to indicate at the very least the basic aim the administrator is supposed to have. She does not work for herself in government, as a businessperson may legitimately work for herself in the private sphere. She of course has legitimate career ambitions, and hopes for adequate financial recompense for her labours, but she is forbidden to personally profit from the business she transacts on behalf of the government. The making of any such personal profit is deemed corrupt. The reason for this is obvious: she draws her salary from the public purse, and the conditions for her doing so include her upholding public institutions and to the best of her ability ensuring that she carries out her work in the interests (explicit or implicit) of her ultimate paymaster, the public. This definition may seem simplistic, and it would be so were it to be taken as the final word on the derivation and extent of the bureaucrat's obligations in her work, because other factors (such as loyalty to one's superiors, desire to see departmental

¹¹Ingham, B. *Kill the Messenger*. London, 1991. p.157.

policy preferences realised, and personal prejudices) are also influential. In particular, individual loyalty to the organization of which the individual is a part is a phenomenon common to both public and private institutions. But it remains true that given the purpose of public administration in a democracy, to be a public servant is to be first and foremost in the service of the public. This expectation of the individual public servant's primary responsibility means that she should seek as far as it is in her power to do so that the policies with which she is concerned be framed so as to be part of the parcel of governmental policies which, if well-designed and executed properly and fairly, will benefit the public.

There is also an expectation that public administrators are less affected by party political pressures than are their elected superiors. As noted above, senior civil servants are expected to offer impartial advice to their ministers about the advisability and desirability of policy proposals. This is not to say that public administrators are heedless of the political implications of policy. They are employed to help implement the policies of the elected political party, and so (regardless of personal political sympathies if permanent members of a bureaucracy) in this sense they follow a predetermined party political course. In formulating policy they must also clearly be politically aware to the extent of taking heed of what public opinion is likely to bear with respect to some proposed course of action. Any policy proposal which is neglectful of this will most likely be unworkable firstly, because it is unlikely that elected officials will, all other things being equal, choose to implement it for fear of an adverse reaction at the polls; and secondly, because it may provoke too great a degree of non-

compliance in the public at large. (This latter phenomenon of possible non-compliance is an important consideration when posing moral standards to which policy should conform: a moral standard that is too demanding - such as Peter Singer's utilitarian ethic - is unlikely to be practical as an heuristic for public policy formation.)

It should be noted that the political neutrality of public administrators is not part of the constitution of every democratic state. In Britain and in Canada this is the case, but not in the United States, and in France ministers gather around themselves a small *cabinet* of officials who give advice on political matters. The notion of neutrality is better viewed as a continuum between two poles of separation from and identification with the political party constituting the current government, along which are arranged at different points different national traditions of administration and indeed often different elements of one nation's civil service. This is because a complete dichotomy between administration and politics is not always possible in practice - even when it may be considered the constitutional ideal in some nations. The birthplace of the ideal, Britain, has recently seen renewed discussion about the reality of the separation of the civil service from the ruling government resulting from public scrutiny of how certain policy decisions were arrived at and the type of work in the service of government with which senior civil servants have been engaged. The importance of the issue of political neutrality lies not only in the taxonomy of decision-making in a particular government machine, but also because the extent of the separation of administration and politics is inextricably linked with the question of how values, political, moral and personal,

are incorporated into the decision-making process. It is part of the long-running debate over whether it is possible or desirable to have 'value-free' public administration.

The Place of Values in Public Administration

Under the general influence of positivistic methodological approaches to the social sciences and the particular influence of Max Weber's analysis of public administration, much of twentieth-century theorizing about public administration has advocated an approach to policy formation devoid of moral values. One of the main reasons advanced for this has been the supposed subjectivity of moral values, which it is said renders them impossible to incorporate into the analysis of policy, which should be concerned with hard facts. This criticism, directed at a kind of woolly feeling that some policy 'doesn't feel right' is quite proper: when a policy is wide-ranging it will almost inevitably produce some winners and some losers, at least in the short term, and it is important for the policy-maker to try and maintain a degree of objectivity in his analysis. And the point that it is extremely difficult to incorporate all reasonable moral values into the analysis of a policy is quite valid. There are practical limitations upon the moral evaluation of specific policies, just as there are limitations upon predicting the effects of the enactment of a policy, deriving mainly from the difficulty of obtaining all the necessary empirical data. But the criticism from subjectivity is seen to have less force now than formerly. One factor in this change is the decline in the popularity of logical positivism from the giddy heights of the 1940's and 1950's in Anglo-American moral philosophy, and the

corresponding return to respectability of an understanding of morality in which moral justification is characterized as giving a reason why something is considered morally good or bad. On this view, moral judgement is distinguished from the expression of personal taste precisely by this requirement, and moral justification of a particular course of action in government is required to be adequately supported by relevant empirical data and by valid argument.

Perhaps more important has been the dawning realization that policy analysis, and the social sciences in general, are not arenas of thought that are or can be sterile of all values except rationality. The most popular methodology, cost-benefit analysis, is now recognized to contain a certain implicit viewpoint about social values¹². Even Weber, in his description of "the genuine official", who is free from "politics" and engages in "impartial administration", approves the upholding of certain societal values by the official:

Modern bureaucracy in the interest of integrity has developed a high sense of status honour; without this sense the danger of an awful corruption and a vulgar Philistinism threatens fatally. And without such integrity, even the purely technical functions of the state apparatus would be endangered.¹³

¹²"Cost-benefit analysis...embodies an implicit (but by no means self-evident) conception of what...public policy...ought to be about...CBA involves adopting the 'conceptual lenses' of economics in a way which essentially prejudices a number of important ethical and political questions." "Risks versus Rights: Economic Power and Economic Analysis in Environmental Politics", Schrecker, T. *Business Ethics in Canada* (eds. Poff, D. & Waluchow, W.). Scarborough, Ont., 1987. p.266.

¹³Weber, M. "Politics as a Vocation", *From Max Weber: Essays in Sociology* (trans. & ed. Gerth, H.H. & Mills, C.W.). New York, 1958. p.88.

There exists the complement of the set of "purely technical functions" of the state. Even if corruption could be seen (not very plausibly, I think) as simply an inefficient way of conducting government business rather than a moral wrong, the avoidance of Philistinism goes beyond efficiency. Weber's analysis elsewhere in the essay quoted above also suggests that public administrators implicitly uphold certain social values by defending and participating in the established status quo of social regulation. This is a point frequently made in Marxist analyses of public life, and by others who would have the system turned upside down. Given the subject matter, then, policy analysis and public administration are not in fact nor could they be devoid of moral values, and consequently it is absurd to act as if they are or ought to be.

More fundamentally, the assertion that an ethical basis for the formation of public policy is unnecessary is belied by the fact that in the modern democratic state the manner in which decisions concerning public life are arrived at is a matter of genuine concern to the citizens of the state. It is a feature of Western states (and, as the last set of elections in Russia indicate, in more recently established democracies also) that there is an trend of increasing dissatisfaction with government. This is evinced by increasingly unfavourable popularity ratings for administrations and political leaders over the past few decades, and the rise of political parties the central plank of whose platform is the reform of the process of government itself - a feature of the most recent Canadian federal elections. If one can judge from the expressions of public opinion relayed by the news media, part of this trend is

constituted by a concern for the ethics of public life, directed at the probity of public officials and the morality of public policy decisions. People will generally be disturbed and angry if it is felt, for example, that public officials are lining their own pockets at the public's expense, or are legislating to the manifest detriment of society. The grounds of moral criticism of public policy may be various, and the specific concerns of individual citizens are likely to be differently focused, but it is still true that the citizens of a democratic state have a genuine concern for the existence and constitution of the moral basis of decision-making by public officials. This is not surprising, given that such decisions often have far-reaching ramifications for citizens' economic well-being, their prospects in life, and their security. The public's concern over the moral values of a government is generally engaged by such matters as the fairness of policies, and the general 'moral tenor' of society; although it is worth noting that most of the time, opinion polls in nations which are part of the Organization for Economic Cooperation and Development show that the efficient running of the economy and a reduction in unemployment are the greatest concerns of most nations' populations, reflecting perhaps the view most people have of the government's principal role - at least when no other crisis is at hand. Reports in the media of 'moral outrage' at the conduct of government are as likely to refer to a sexual scandal in politics as a concern for distributive justice. But in both the public and in the media, it is clear that there is a concern, galvanised by the well-publicised existence of social problems and the exposure of morally compromised governmental practices, for the morality of policy formation and implementation by government.

Perhaps the most telling blow to the advocacy of value-free administration came in Adolf Eichmann's chilling description of his role in enacting the policy of the Final Solution as "sustained obedience to high political authority".¹⁴ Although the collapse of advanced democracies into dictatorships produces special conditions for public administrators the remedies for which are generally inappropriate as guides to the normal running of government, it is to be hoped that a set of values may be fostered in a bureaucracy that will pull public servants up short long before they find themselves engaged in the horrific varieties of public administration that German bureaucrats enacted during the period of the Third Reich. This leads to the question of what is to come under the heading of 'the public interest', and the role of the public administrator in acting in accordance with it.

Acting in the Public Interest

What does it mean to act in the public interest? The phrase is widely used in public life: a recent notorious example is its citation by British tabloid newspaper editors to justify the publication of secretly taken photographs of prominent figures in public life without the consent of those photographed. The often ambiguous use that is made of the term led J.E. Hodgetts to describe the concept as

¹⁴Quoted in Downie, R.S. *Government Action and Morality*. London, 1964. p.74.

slippery, mercurial and possessed of the qualities of the chameleon; it is akin to the Holy Grail, in that its relevance for political life may reside in the pursuit and anticipation rather than in the actual grasping or attainment of the reality it is supposed to represent.¹⁵

I believe that it can be given meaningful, if general, content in the context of public administration in a liberal democracy.

There may reasonably be said to be a presupposition of concern for the general welfare of the public on the part of public officials. While it is true that a government led by elected representatives will sometimes cater specially to the needs and wishes of a certain section of the electorate, the government also has a responsibility to promote the good of the country as a whole. Certainly, any democratic administration has the fundamental aim of its own re-election, and it may be a fault of certain electoral systems that government partiality to portions of the electorate is a means to attain that end. It does seem likely, however, that in any democratic system if an administration is perceived to be grossly negligent of the welfare of large sections of the population it is less likely to survive. This suggests that the possibility of governmental partiality is not a fatal objection to the presupposition of governmental concern for the good of the population as a whole.

¹⁵Quoted in Kernaghan, K. & Langford, J.W., *The Responsible Public Servant*. Institute for Research on Public Policy, Halifax, N.S., 1990.

It is commonplace after an election victory for the victorious party leader to affirm that his or her government will seek to govern in the best interests of all the citizens of the state, and not merely those who voted that party into power. I am not ruling out cynicism about this being the sole motivation of the governing body; I merely want to claim that it is normal for a democratic government to be concerned with framing legislation that is advantageous to the citizens of the governed state. This is not to derive an 'ought' from an 'is': acting in the public interest is to be understood as implicit in liberal democratic government, rather as using one's feet rather than one's hands is implicit in playing soccer. As Burke put it: "Government is a contrivance of human wisdom to provide for human wants".¹⁶ Citizens have interests (of varying kinds and strengths) about how issues are to be resolved and about how needs should be met. Brian Barry argued that widespread use of the term "the public interest" indicates a concern for what constitutes a legitimate policy decision:

"the public interest" points to a fairly clearly definable range of considerations in support of a policy and if it is a very popular concept at the moment...this shows...that (for better or worse) these considerations are highly valued by many people.¹⁷

He goes on to identify one's interests as "the opportunities to get what one wants", which leads to what would seem the most plausible foundational definition of the public interest: that

¹⁶Burke, E. *Reflections on the French Revolution*. Quoted in McDonald, O. *The Future of Whitehall*. London, 1992. p.vii.

¹⁷Barry, B.M. "The Public Interest", *Proceedings of the Aristotelian Society (Supplementary)* 38 (1964): 1-18. p.1.

is, the public interest construed as a function of individual interests. No exhaustive definition of the function can be given since issues of distribution and conflicting interests intervene, and because not all individual interests are equally important with respect to a particular policy.¹⁸ But it points toward a calculus of individual interests which although not exact, can offer preliminary guidance in deciding which of an array of policies is most in the public interest.

In giving content to the concept of acting in the public interest, given that the government is promoting a good, the matter of how 'thick' a conception of the good that it seeks to promote must be addressed. Does acting in the public interest demand governmental neutrality towards varying conceptions of the good? Ronald Dworkin in his paper "Liberalism"¹⁹ argues that a defining characteristic of a liberal rather than a conservative government is an unwillingness to legislate on matters that may be considered in the realm of private conceptions of the good. By this he has in mind such concerns as sexual practice, personal hobbies and interests, artistic expression and the like. Given the nature of the democratic state, it would seem that acting in the public interest does not stipulate whether a government be either conservative or liberal in prosecuting that aim. The sphere of

¹⁸See pp.45-46.

¹⁹Dworkin, R. "Liberalism", *Public and Private Morality* (ed. Hampshire, S.). Cambridge, 1978. pp.113-143.

competence of government varies depending upon such factors as national traditions and political doctrines about how extensive the role of the government should be in providing for and regulating the lives of the citizens of the state, as well as the practical limitations upon the implementation of policy. The mechanism of the franchise provides a means within the state for citizens to express their wishes about which areas of life should be subject to legislation. If it is objected that this leaves unresolved the danger of a tyranny of the majority, it may be replied that extreme, narrow conceptions of the nature of the good are likely to be diluted by more moderate views. Also, the wide range of private goods that are held by individual citizens make it unlikely that any one, exhaustively defined conception of the good will achieve a workable expression in government. The caveat to this is that it would appear to be a necessary condition of this state of affairs that the democratic state not be facing extreme internal or external pressures, as witnessed by the phenomenon of extremist political parties making headway when a democracy is in crisis.

In practice, the sphere of competence of democratic governments tends to be primarily concerned with issues traditionally considered as matters of public rather than private life. It is not necessary or desirable for a government to make legislative stipulations for every aspect of life, nor is this likely to be feasible, given the practical difficulties of enforcement. Neither is it likely to be in the public interest, given the various conceptions of the good which exist within a population, and the strong value most individuals place upon having the freedom to pursue their own interests as far as they are able. Although no precisely outlined single

statement of the good to be aimed at in policy formation can be given, since there exist variations from state to state, it would seem that it is more likely to be a 'thin' rather than 'thick' one, concerned with the promotion of public goods and the necessary conditions for citizens to follow their own conception of the good.

Public administrators must still interpret what is in the public interest in policy formation and implementation. Although it is reasonable to take the concept of acting in the public interest as providing for the interests of the public with respect to a thin conception of the good, the question of the distribution of benefits must still be decided upon. For the public administrator, the problem of the distribution of benefits (where a benefit is not possessed by all in equal measure) is primarily a practical one. The content of the concept of distributive justice the administrator works with is generally determined by the political complexion of the ruling party. The administrator must try to formulate policy which puts into practice fairly and efficiently what the governing party stipulates in this respect. But this does not answer the question of the legitimacy of detracting from the interests of some section of the population in favour of the interests of another section. Later I shall argue that a respect for certain basic human rights can serve as a workable moral constraint upon the trade-offs of interests implicit in the pursuit of the public interest.

It may be noted in connection with the debate over the place of moral values that if acting in the public interest is taken as the primary responsibility of the public administrator,

then moral values are inextricably linked to the practice of public administration. That they are required to act in the public interest of course does not imply that public administrators are morally more commendable than their fellow citizens. Rather, the social role they play in the formation of policy is such that it presupposes a concern for their fellow citizens' welfare in a limited, impersonal, way. This feature of the public administrator's moral responsibility to safeguard the public interest makes her moral reasoning in carrying out her job significantly different from her moral reasoning in private life. The partiality towards family and friends that may reasonably be considered desirable in private life is labelled nepotism if it interferes with the administrator's work. The emotional sympathy that is often considered part of the virtue of benevolence need not be present in the pursuit of the public interest: in this realm good results rather than a large heart are the touchstone of success. Indeed, a certain dispassion in the practice of public administration is probably conducive to maintaining the objectivity required to assess a policy's putative contribution to the public interest, although an understanding of human frailty and suffering is necessary too. The appropriateness and quality of the administrator's powers of moral reasoning is crucial for morally good government, since it is often the administrator who must judge, within the parameters of the policy goals set out by the ruling political party, the contribution to the public interest of the various detailed policy proposals. I turn, therefore, to the nature of the moral reasoning that the administrator needs to employ in policy formation in order that the public interest be served.

CHAPTER 2

Moral Reasoning and Public Administration

What is the nature of the moral reasoning that public administrators should be capable of exercising in the course of carrying out their duties? I have already noted how certain moral qualities, namely a regard for framing policies that are in the public interest rather than purely in the interest of the policy-maker, and the avoidance of corruption, are integral elements of the work of public administration in a democracy.

In this chapter I shall argue that public administrators need to be capable of moral reflection on the policies with which they are involved, in order to evaluate a policy's potential or actual contribution to the public interest. This entails understanding the moral principles which a policy explicitly or implicitly embodies. I shall go on to argue that consideration of certain moral principles is integral to framing morally justifiable policies and that respect for these principles can help ensure that policy is made in the public interest.

Morally Reflective Public Administration

There are a wide range of roles in public service, and the moral problems requiring solution by officials at different levels of government are unlikely to be uniform. What is thus required

is the encouragement of a mode of ethical analysis and problem-solving that is sufficiently broad to encompass these variations.

In the literature, most attention has been paid to those officials involved in public policy formation and in charge of the implementation of government programmes, presumably because these officials make the decisions which have the widest ramifications both within government and in society at large. An additional good reason to concentrate on this group of officials, who generally populate the higher reaches of public service, is that it is well-documented that the ethical behaviour of those at the top of an organization sets the moral tone of the whole organization. This is not to diminish the importance of morally correct behaviour on the part of public officials at lower levels of government service. If an official at the counter allocating driving licences shows favouritism in allocating licences to his improperly qualified friends, this will have a more immediate effect upon road safety than many policy decisions taken higher up the departmental chain of command. Gogol's short story "The Overcoat" poignantly and powerfully dramatises the catastrophic effects that the callousness of a single public official can engender.²⁰ But if operating procedures and standards are laxly formulated and implemented at the upper levels of management, this will over time have far more deleterious consequences than occasional infractions at lower levels.

²⁰Gogol, N. *"The Overcoat" and Other Short Stories*. New York, 1992. pp.94-100.

Considerable discussion of the nature of the moral reasoning it is desirable for the public administrator to possess has arisen as a result of the introduction into the curricula of schools of public administration of courses intended to acquaint prospective administrators with the ethical aspects of their role. It is with the education of those who are destined to fill positions of management in public service that Mark Lilla is chiefly concerned in his 1981 article "Ethos, 'ethics,' and public service". He makes a sustained attack upon the form that the moral education of administrators has taken in recent times, concentrating particularly on the "ethical component" of the curricula of schools of public administration. He states that

students preparing for public service today are not receiving what can be called moral education, something akin to religious education which inculcates virtuous habits; they are learning a rather peculiar sort of academic discourse which allows them to make sophisticated excuses for their actions without preparing them to act responsibly in a democracy.²¹

Part of the reason for this, Lilla argues, is that as attention in society turned to the ethics of public servants, there was a scramble to introduce an ethical element into the training of officials, and

in the great theatre that is academe, public policy schools yelled "Is there an ethicist in the house?" and in the back row the philosophers enthusiastically responded "You bet!"...The child of this odd marriage can only be called a new form of medieval casuistry. The term that is used, though, is applied ethics.²²

²¹Lilla, M.T. "Ethos, 'ethics', and public service", *The Public Interest* 63 (1981): 3-17. p.4.

²²Ibid. p.11.

Lilla's polemic is directed at a particular kind of moral philosophy - but one which has been highly influential in the Anglo-American tradition - positivistic in tone and analytic in method. His argument is that this essentially cerebral approach, divorced from practice and offering no normative guidance, is woefully inadequate because it does nothing to instil patterns of moral thought and action in public servants. But the inculcation of such patterns is what is most acutely required since this is what leads to morally good government, which, after all, is surely the aim of any programme of moral education of public servants. As Aristotle put it:

The citizen must do what is necessary and useful - but still more what is noble. Such should be the goal of our education, both for those who are still children and also for those of other ages who need education.²³

Lilla's argument seems valid to this extent: enrolling public administrators in "Applied Ethics 101" is not sufficient to ensure that those administrators seek to create morally adequate policies. Lilla argues that an inculcation of the values of a "democratic ethos" is to be desired rather than familiarity with moral theory. He is right to point out the worthlessness of a moral education that is not translated into the context of public service and which does not help public administrators overcome the obstacles to acting morally when they may be under pressure not to do so. But this is to say more about the conditions which are more likely to ensure the implementation of the morally correct policy than about how to morally evaluate a particular policy. Although a bureaucracy characterised by an ethos of seeking to

²³ Aristotle. *Politics*, 1333b (trans. Freeman, K.). Quoted in Freeman, K. (trans. & ed.) *Fighting Words from the Greeks for Today's Struggle*. Boston, 1952. p.37.

act in the public interest is more likely to help achieve that end in policy formation and implementation, this does not address the problem of deciding what those policies in practice will be.

Moreover, it is not the case that a moral theoretical understanding of issues is unnecessary for policy analysis. At some point in comparing the moral worth of particular policy options the reasoning involved in the comparison must be theoretical, in the sense that the underlying reasons for why one policy option may be judged morally superior to others must be given. The comparative discussion of the moral worth of a group of policies will bring out what moral principles are being premised as desirable, and how well in theory and in practice a particular policy option conforms to the desired moral principles. Without theoretical reasoning in this sense, rational moral judgement of a policy will be non-existent.

It is for the development of the reflective ability necessary for such moral evaluation of policy that Lewis Mainzer has recently argued in his paper "Vulgar Ethics for Public Administration". What can be offered, both in schools of government and, one can reasonably infer, to already serving public officials, is training in what he calls "vulgar ethics":

modes of reflection accessible to ordinary persons in our society concerning the imperfectly formulated guides to conduct, which are, in circumstances

conducive to moral reflection, understood to be valid higher claims on our conduct.²⁴

This would seem to involve not so much teaching public officials what a Kantian, a rule-utilitarian and W.D. Ross would do in some particular moral dilemma (as applied ethics courses often used to stop at), but rather inculcating a sensitive awareness of the moral difficulties connected with decision making in the public sphere, and a sense of what would appear to be morally appropriate behaviour. And in fact much of the applied ethics taught to professional bodies now corresponds to this. A contextualized, case-driven teaching methodology is now far more widespread. This approach is literally casuistical, but not in the pejorative sense of the word.

Mainzer's aim is modest - not to turn out experts in the history of moral theory, but rather to instil a sympathetic understanding of the moral issues raised by particular policies and by the process and actions of government. The educators need not be from the domain of professional moral philosophy, although they may be. They can be those teaching within schools of administration and those with experience of government service. Their goal, Mainzer concludes, is of this nature:

Like teaching children music, we, the mere journeyworkers, may rarely develop genius, but we may regularly encourage sensitivity to moral style.²⁵

²⁴Mainzer, L.C. "Vulgar Ethics for Public Administration", *Administration and Society* 23 (1991). p.11.

²⁵Ibid. p.13.

This modest aim seems worthwhile, and it seems likely that a contextual methodology of moral education will be useful in this respect. Unless a person can understand the ethical implications of a particular course of action, he cannot very well be expected to be an effective moral agent. And unless the public administrator can assess the ethical dimensions of policy formation and implementation, he will not consistently help to develop morally sound policies. It seems clear that the most useful moral education will be one where the courses of action that are evaluated are those which are of the type open to public servants in dealing with the moral problems they face in the course of their work. More research (along the lines of that done by James Gaa and Lawrence Poneman in the field of professional accounting) is needed to evaluate what sort of moral education produces the best results, in the sense of producing public servants who are sensitive to the ethical implications of the actions of government with which they are involved.

The discussion of the moral education of public administrators is important because it necessarily involves an examination of the kind of moral reasoning that is appropriate in public administration. Moral education is only one way, however, by which sensitivity to moral concerns may be fostered. Adequate mechanisms of accountability, the scrutiny of the press and public, and consultative procedures to allow the representation of vulnerable groups in society can all help to improve moral sensitivity by ensuring that paying attention to moral concerns is a matter of unavoidable practice. It will still be necessary for public administrators to have the requisite powers of moral reasoning in order to act in the public interest, and

moral education is likely to be helpful in this regard. The other mechanisms listed above can encourage the practice of moral reasoning and function as a corrective when the administrator's moral reasoning is at fault.

Deciding Which Principles Are Relevant

The obvious point to raise now is what the desirable principles for the public administrator to seek to have embodied in policy might be. It may be noted at the outset that an adequate ethic for policy formation must deal adequately with the actualities of life in a modern state. To serve as moral guidelines for policy formation, moral principles need not be chosen which are intended to apply to the whole of moral life. The set of moral principles relevant to public policy formation cannot be expected to capture all the relevant considerations of inter-personal and environmental relationships that may be reasonably considered to be part of moral life. In this section and in the following chapter I shall develop the understanding of acting in the public interest introduced earlier as the attempt to realize individual interests to the greatest extent possible, but with respect for certain general rights as a moral constraint upon the principle of maximization. This understanding of the public interest can encapsulate the various moral values of legitimacy, justice, equality of concern, liberty, and welfare that have a bearing upon the formation and implementation of policy. Acting in the public interest on this understanding becomes a way of translating the individual interests of citizens and their concern about how government operates by upholding these values, and allows for the

possibility of different definitions of the content of moral values being given by different governing parties, such as an emphasis by a right of centre government on the value of negative liberty or a concentration on the idea of positive liberty by one of the left. Public administrators must pay heed to what is commonly understood by appeals to principles embodying these moral values, but they cannot and indeed should not seek to give them the detailed formulations which are appropriate for the moral philosopher, since the unelected administrator is an upholder of values in a democracy, not a creator.

For example, given the contentiousness of taxation policy, this would seem to be a prime case of a field, as noted in the previous chapter in connection with the notion of the public interest, where it is not the task of the public administrator to seek to define the loaded concept of distributive justice. It is the task of the elected government to set the goals of taxation policy. Where administrators can play the most useful role is in evaluating the consequences, intended and unintended, of policy proposals, in realizing those goals, and in seeking to have whatever system of taxation that is put in place administered with strict fairness. For the unelected administrator to seek to have enacted his own understanding of the most just distribution, under the heading of the pursuit of the public interest, would be to overstep his role and to subvert a fundamental aspect of democratic government. To do so would be, even if *prima facie* on his best understanding of the issue in the public interest, in fact contrary to the public interest because in the long run it is most likely to lead to an erosion in confidence in the executive branch of the state. In practice, the administrator's

principal difficulty in the moral evaluation of policy options is more often the difficulty of gathering all the necessary information and predicting the policy's efficacy than precisely formulating a moral principle.

The relevance of the moral values which different principles embody depends on which area of policy is being considered. In the administration of the legal system, the principle of justice considered as equality of treatment is a vital component of policy, and any policy which abrogates the principle is morally flawed. But in the allocation of state-owned housing it may be perfectly proper to discriminate between applicants on a waiting list on the grounds of more pressing need in a way quite inappropriate for litigants. The administrator needs to have the capacity of discernment in order to see which moral principles are appropriate to a particular area of policy, and the ability to decide which policy option best conforms to the relevant principles. Stephen Toulmin describes well the requisite ability of moral reasoning in his discussion of practical reasoning in ethics. It is, he states,

a matter of judgement, of weighing different considerations against one another...a task less for the clever arguer than for the *anthropos megalopsychos*.²⁶

Deciding which moral principles are the most relevant is only one part of the administrator's process of moral reasoning, however. There are constraints upon the formulation of the morally most desirable policy. Administration is necessarily the art of the

²⁶Toulmin, S. "The Tyranny of Principles", *The Hastings Centre Report* 6 (1981): 31-39. p.37.

possible: budgetary, staffing, cultural and party political constraints inevitably lead to compromise. What may on paper be admirable, if it ignores the realities of the situation it is intended to address, will remain on paper or not work in practice. The existence of these constraints means that a second element in the moral evaluation of policy must be present: the ability to discern among moral concerns raised by a policy which are the most important, those which it is essential and not just desirable to address. For example, take the compulsory purchase of private homes in order to build a new city hospital, or a defence establishment. It would generally be agreed that it is morally undesirable that a government be allowed to forcibly evict people from their homes, with or without recompense. It would be preferable that compulsory purchase orders never be enacted. But a greater moral concern, such as a badly-needed improvement of health care facilities or the security of the nation can legitimately override the former moral concern. The administrator must decide, given the circumstances of the case, whether or not this is justified.

Absolute Moral Boundaries For Public Administrators

Are there principles which can admit of no compromise for the administrator? The question is important: if the ruling government is of an extremist nature, members of the permanent bureaucracy may find themselves called upon to work on policies that are obviously morally reprehensible. This century provides numerous examples: the forced treatment of political prisoners in psychiatric hospitals in the Soviet Union and the administration of Nazi

concentration camps are but two. Given that where this has happened it has also typically been preceded by the abrogation of a genuinely democratic system of government, a first line of no compromise for the public administrator would seem to be a refusal to participate in policies intended to significantly undermine the constitutional foundation of democracy in his country. Not only does such a regime lose democratic legitimacy which in turn makes illegitimate the position of the unelected administrator, but obviously immoral policies are likely to follow with little or no chance of public protest and no opportunity for the electorate to remove the governing party by means of an election.

If he has no choice but to serve in such an administration, a second point of departure would seem to be involvement with a governmental policy of intentional violations of citizens' rights to life and to freedom from imprisonment, where there is clearly no warrant for such violations. It may be possible for a morally upright administrator to continue in his work, seeking to mitigate the excesses of an extremist regime. The difficulty is to know whether he can do more good in it or out of it. But given the well-documented tendency for smaller moral compromises to lead to what, if only in hindsight, can be seen to be participation in moral calumny, these two moral "cut-off points" can usefully be treated as absolute moral boundaries for the administrator in a liberal democracy.

Incorporating Principles In Policy Analysis

Thus far, I have argued that the administrator must be capable of reflecting upon the moral principles underlying a policy option, identifying which are relevant to a particular area of policy, and introduced the idea that one principle's greater importance may allow the neglect of another if the circumstances make this morally justifiable. I have also stated that two principles, of upholding the democratic process and the rights to life and freedom from imprisonment are non-negotiable moral constraints. I shall now go on to examine in greater detail how moral principles may be incorporated into policy analysis, and note the principal obstacles to their being taken seriously by administrators.

In the everyday running of the country's institutions and the solving of perceived problems of local and national life, Charles Anderson argues that the classical principles of authority, justice and efficiency must be taken into account in a rational justification of a policy decision:

a defensible policy judgment must meet certain formal standards of rational choice - it must have regard for such problems as the transitivity of values and forced choice - but it must have other qualities as well. By virtue of the fact that these are policy judgements, certain political values must be taken into account. It is not that these values can be justified in any ultimate sense...Rather, the argument is that certain criteria of choice are inherent in the activity of politics itself, that they are part of what we mean by "making

a political judgement" or as Wittgenstein might have put it, that they are part of politics as a "form of life."²⁷

Anderson goes on to say that principles function as "criteria of 'metapolitics' - standards for judging the adequacy of any system of political judgement." Thus they identify the aspects of a policy judgment that require justification, rather than exist as norms of conduct. They are the "logical characteristics of any form of political judgment".²⁸ This goes against the claim of positivist analysis that values cannot logically function in rational policy analysis other than as the subjective preferences of the policy-maker. Anderson's concern is with the logical status of principles in policy analysis: consideration of principles is a necessary part of the justification of any policy. The administrator on this model can take a consideration of these principles as a necessary element of any evaluation of a policy, because they are necessary components of the justification of policy in a democracy.

Taking heed of these principles is conducive to the public interest because moral justification of a policy is designed to meet citizens' moral concerns, understood as their interests in how policy is conducted and what is its content. These principles cannot be avoided by the policy-maker if she is to propose a morally justifiable policy because they variously indicate the conditions necessary for the policy to be conducive to the public

²⁷Anderson, C.W. "The Place of Principles in Policy Analysis", *American Political Science Review* 73 (1979): 711-723. p.716.

²⁸Ibid. p.716.

interest. Anderson's principles of authority, justice and efficiency are intended to capture the basic moral concerns raised by public policy formation. They are not exhaustive definitions of the grounds of moral policy formation, but indicate fundamental elements of the moral analysis of policy. The principle of authority enjoins that the exercise of power be rightful: "this implies that good reasons can be given for the act of policy-making, that an entitlement can be established to decide on the public behalf and a concomitant obligation to abide by such decisions."²⁹ The principle of justice means that "any policy evaluation must include a justification of the categories of universal or differential treatment to be established".³⁰ The principle of efficiency entails choosing the best means to achieve a stipulated goal of policy.

As may be seen, Anderson's principles allow for different shades of meaning to be given to the moral goals of policy formation. The principles of authority, justice and efficiency so described allow for various moral values, for example welfare and liberty, to be a part of the justification of a policy. Subsidiary moral principles may be invoked as part of the analysis of whether or not a particular exercise of power is justified. The administrator does not have to take an ideological stance upon the content of the principles. Indeed, as noted above, this is undesirable. But furnished with (as Mainzer puts it) a "vulgar understanding" of the

²⁹Ibid. p.717.

³⁰Ibid, p.719.

principles of authority, justice and efficiency, the area of moral concern is delineated, and the necessary criteria for moral justification of policy given.

As noted earlier, a democratic government cannot be seen to consistently neglect the pursuit of the public interest if it hopes to remain in power. Consequently, although consideration *per se* of moral principles is not sufficient for the formation of morally ideal policy, given the already noted constraints upon policy formation, this minimum of moral analysis would seem to be morally useful because if the content of a policy can be seen to belie the justificatory invocation of a principle, the content must be changed (or an obfuscation of the facts attempted in the presentation of the policy to parliament and the electorate). At the very least, possible moral improvements will be discussed, and assuming good will on the part of the policy-makers, this should lead to a better policy. In this way, the consideration of moral principles in policy analysis produces the possibility of morally better policy in practice.

It remains to note the principle obstacles to ethical evaluation of policy in a bureaucracy. Following Anderson, I have argued that the consideration of basic moral principles is part and parcel of policy justification. There is evidence of a growing interest in moral evaluation in policy analysis in the professional journals, philosophy and in the profession itself. In practice, however, even when moral evaluation is considered intellectually sound, it meets obstacles to being practised by policy-makers. These are firstly that moral

discussion is too impractical and abstract to be of practical use. Against this stands most importantly the fact that it is implicit in the political process. It is also worth noting that what might appear to be purely academic moral philosophy can have a profound effect upon policy. Douglas Amy points out that the Hastings Centre's work in the 1970's in defining death now forms the basis of the legal definition in over twenty American states.³¹

A second problem, and one which is far more difficult to resolve, is the conflict between serious ethical analysis of policy and the internal politics of a government bureaucracy. These institutions are strongly hierarchical. Amy quotes one study which states:

research has shown that analysts who try to raise serious questions about basic agency policy are very quickly perceived as threats to their superiors.³²

What this suggests is that sympathy towards the value of the moral evaluation of policy depends largely upon the ethos of the bureaucratic organization, from the top down. I shall examine the importance of the fostering of a morally adequate ethos of public service in the fifth chapter. It is time now to explore the relationship of morality to the formation of domestic and foreign policy.

³¹Amy, D.J. "Why Policy Analysis and Ethics are Incompatible", *Journal of Policy Analysis and Management* 3 (1984): 573-591. p.578.

³²Meltsner, A. *Policy Analysis in the Bureaucracy*. Berkeley, 1979. p.272. Quoted in Amy, D.J. Ibid. p.580.

CHAPTER 3

Morality and Domestic Policy

The reason that moral principles are implicit in the justification of any policy derives from the purpose of policy formation in the democratic state. In formulating the domestic agenda, the administration is supposed to act in the public interest by identifying policy issues and problems in the state that it is in the interests of citizens in the state to have addressed or resolved. Taking account of moral principles is to take account of citizens' concerns about the content and conduct of policy. In this section I shall consider how a comparison of individual interests can practically be employed as an evaluative tool in policy analysis for the purposes of furthering the public interest. I shall argue that the nature of the decision-making process in the public domain, with its necessary trade-offs of individual interests, suggests that a calculus of individual interests can plausibly be considered to be foundational to the process of comparative policy analysis, but taking care not to contravene certain human rights which bear upon the area of policy being dealt with is a necessary auxiliary component in the moral evaluation of policy. This is because in many cases, due to the difficulties connected with the initial evaluation of interests, a respect for general rights which stem from the moral principles outlined in the previous chapter is often a rougher but more easily identifiable guide to the public interest, especially in morally troublesome areas of policy. Thus the trade-off of interests is only

one part of determining what is in the public interest: it would be reckless to posit a utilitarian ethic of public life where everything is up for grabs. A respect for certain general rights of individual citizens indicated by the moral principles of authority and justice is a trumping mechanism that it is prudential to maintain in evaluating what is in the public interest.

Preferences as Expressions of Individual Interests

A calculus of interests is a means by which to achieve the end of acting to enhance the welfare of the public which was seen in the first chapter to be integral to the role of the public administrator in a democracy. For a weighing up of individual interests to be of practical value, what must be shown is that the nature and relative importance of individual citizens' interests can be identified in a manner sufficiently coherent to be of use to the policy-maker. How effective is an analysis of policy options which attempts to identify the policy which realizes the most pressing and greatest number of individual interests connected with the policy area which is being addressed in the least costly way? A calculus of individual interests requires information about citizens' interests and must be sufficiently flexible to apply to the different areas of life in the state regarding which policy is to be made.

The attraction of a calculus of preferences is that at first sight it seems to provide a relatively clear way of fulfilling these conditions. Resting on the plausible premise that people know what their interests are, it takes the expression of preferences (perhaps qualified as

rational to distinguish the preferences of the sociopath) as indicative of the individual interests to be taken account of in legislation. Preferences are usually taken to be indicated directly by the canvassing of opinion and indirectly through behaviour. Preference theory has the advantage that it embodies in its formulation one of the pillars that supports the idea of the democratic state - that the expression of citizens' preferences through the ballot box is a legitimate means of ordering government. Forming policy by taking into account the expressions of citizens' preferences is also to some extent less paternalistic than relying solely on policy-makers to blithely make assumptions about what is in their fellow citizens' interests, although prioritization of and arbitration between preferences would seem often to remain essentially paternalistic processes.

The main difficulties for the policy-maker here are firstly, the ordering of individual preferences and arbitration between conflicting preferences; secondly, the collation of preferences in sufficient number and detail to be susceptible to analysis; and thirdly, the fact that many people who have a strong interest in seeing some problem resolved (such as unemployment) are unqualified to give their preference about what form that resolution should take.

On a particular issue, if there is virtual unanimity among the concerned parties on the best means to resolve it, it is relatively clear that the public interest will be served by acting upon that set of preferences. However, such issues are the exception rather than the rule.

Policy-making more often involves an arbitration between conflicting preferences. To take a similar example to that cited in the previous chapter: it is often necessary in the construction of public infrastructure, such as railway lines or roads, for a government to execute compulsory purchase orders on occupied private homes and to encroach upon undeveloped countryside which may be picturesque or environmentally sensitive. Suppose - a large supposition given that lobby groups' voices are far louder than individual citizens' - that it was possible to gather the preferences of all those affected by the building of a new railway line designed to relieve commuting congestion. It will still be necessary to factor all the relevant preferences in some way, taking into account the type and weight of the interests of each individual who has expressed a preference. The citizen of the state who may occasionally wish to visit an area of undeveloped landscape through which the line is destined to pass has a different kind of interest to that of the citizen whose home is set to be demolished, and both again from the commuter whose journey to work is made easier. There are also the interests of residents of the area in virtue of the expected economic merits or demerits of the project, of those working for the construction companies who might expect to be employed in building it, and so on. Given the nature of the differing weights that need to be given to the preferences of different parties, it is difficult to see how the preferences can be reconciled into a complete calculus to give a definite answer as to what policy option to choose. This is not to say that preferences are irrelevant to coming to a decision about what policy option will be in the public interest; but it is to note that resolving conflicting preferences will be an approximate procedure. The difficulty of gathering all the relevant expressions of preferences

requires that those preferences which the administrator is aware of not be considered apart from other indications of citizens' interests, especially of those who have not had the opportunity to register their opinion.

Given too the vast number of different issues that require detailed legislation, the holding of even partial referenda on each and every issue would be unworkable as a means of government. This does not mean that a referendum on a particular issue is unfeasible or useless as an indication of citizens' preferences. Certain states, for example Switzerland, have regular recourse to this mechanism of decision. What it does imply is that preferences alone, due to the limitations upon their canvassing and ordering, are too narrow a way of measuring the public interest to allow for a calculus of preferences alone to be workable as an ethic for public policy formation. It is more realistic to consider preferences expressed over a particular policy issue as one source of information about the likely contribution of policy options to citizens' welfare.

The difficulty of ordering preferences is part of the general problem of making interpersonal comparisons of welfare at all. Arrow's impossibility theorem assumes that such comparisons are impossible. Attempts to refute this have been various; but those which have posited the possibility of a complete calculus of utility, preferences or interests inevitably run up against the difficulty of exhaustively determining, eliciting and evaluating all the relevant information. This has been pointed out so often that it has become a textbook objection to any

utilitarian attempt to systematically prioritize individuals' welfare. In a discussion of utilitarian attempts to produce a workable calculus, Russell Hardin points out that without interpersonal comparability

utilitarianism can do no more than recommend ranking any outcome over all those to which it is Pareto superior...This is a more devastating outcome than it may at first appear to be. Reduction of our criterion to the Pareto criterion may mean it usually gives us no advice.³³

Hardin argues that there is a pressing need for utilitarian theorists to make "realistic sense of the notion of human welfare". He considers the quest for a complete calculus of utility as unrealistic and anachronistic. The worry here is that a retreat from a complete cardinal calculus may decrease the credibility of any attempt to make sense of the conflicting and differing interests of individuals in order to evaluate the relative merits of policy options. It does seem to be the case that the limitations upon a calculus of interests mean that policy formation will often be of necessity a matter of educated guesswork, both because the necessary information about citizens' preferences is not always available, and because predicting the empirical effects of policy upon people's lives is inexact.

An additional reason why the collation of preferences is insufficient to determine what is in the public interest is that in many aspects of governmental action expert advice plays a large role in decision-making. On certain issues, only a small section of the population has the

³³Hardin, R. *Morality Within the Limits of Reason*. Chicago, 1983. p.172.

ability to sensibly say how they would wish their interests to be advanced. Out of work economists might have a considered opinion about how to have unemployment levels reduced, but their fellow unemployed would simply prefer to be in work: they do not have a marked preference for a particular macroeconomic policy. This necessity for experts is unavoidable, but there is always the risk that the advice of a limited group of specialists may have an inbuilt bias towards one particular conception of the public interest.

Defence procurement is a field where the interest of most people in not being invaded and perhaps protecting national interests abroad must be translated into decisions about the amount and type of weaponry purchased and employed. At this level of necessary technical expertise, the gathering of citizens' preferences is only likely to be useful on very basic elements of policy - for example, whether or not the state should possess nuclear weapons. The legislative process and the content of public expenditure must be open to public scrutiny, but much of the detailed decision-making is inevitably delegated to those in public administration. As Richard Brandt remarks in another context:

Suppose the instructions from the Internal Revenue Service contained only one rule: Pay the amount of tax which on your evidence would maximize expectable welfare.³⁴

The individual citizen does not have access to the same amount of information that the public official may reasonably be expected to have, and so in areas where that information is

³⁴Brandt, R.B. *A Theory of the Good and the Right*. Oxford, 1979. p.273.

necessary for the creation of good policy, he is handicapped. This is not so much a statement in favour of the Platonic dictum that the wise shall lead and rule, and the ignorant shall follow, as a contingent feature of advances in technology and the amount of information necessary for making good policy decisions. Defence procurement and taxation are only two of the many functions of government where decision-making by an administrative and technical elite seems to be unavoidable. Political control to prevent a skewed understanding of the public interest by that elite is necessary, as is care on the part of administrators not to get locked into a bureaucratic procedural logic which subverts the aim of acting in the public interest. Henry Kissinger describes how the appalling tragedy of the Great War resulted in large measure from the logic of national military planners whose mobilization plans, ostensibly constructed to preserve national interests, meant that once the path to war was embarked upon it was virtually impossible to turn back.

Military chiefs had vastly compounded the peril [of full-scale war] by adding strategic plans which compressed the time available for decision-making. Since the military plans depended on speed and the diplomatic machinery was geared to its traditional leisurely pace, it became impossible to disentangle the crisis under intense time pressure. To make matters worse, the military planners had not adequately explained the implications of their handiwork to their political colleagues...Military planning had, in effect, become autonomous.³⁵

³⁵Kissinger, H. *Diplomacy*. New York, 1994. p.201-202.

Economic Policy Formation

Although policy evaluation cannot avoid trying to prioritize individual interests in order to pursue the public interest, a more easily perceived means of testing when a policy is morally undesirable is necessary. The difficulties of making economic policy in the public interest further bears this out. In the field of economic policy, the most extensive comparison between different strengths of individual interests that can justifiably be claimed as useful for the formation of policy may well be an approximate one, distinguishing along Rawlsian lines between broad bands of economic well-being. The systems of taxation in developed nations lend some intuitive support to the coherence of the idea of the greater utility in certain circumstances of a unit amount of economic resources to the poor rather than the rich. Approximated comparisons of this sort are relevant to the evaluation of policies such as the provision of social security and the regulation of economic affairs in the state in general. Given the complexity of a developed economy, however, and the intricate and diverse causes and effects at play within it, the measurement of the economic benefits of a particular policy option is subject to limitations of accuracy and efficiency probably more acute than in any other area of policy. Trying to create policies which prevent any citizen being forced to endure absolute poverty is a clear case of acting in the public interest because such policies are intended to provide for the most basic and pressing kind of individual interest. But as the controversies that currently rage over welfare reform in many of the industrialized

democracies testify, even when the basic policy goals are agreed upon, the best means by which to achieve these goals is not at all obvious.

It is worth noting, too, that measures of economic welfare will not be sufficient as an indicator of the public interest in many instances. In the United Kingdom, for example, revenues accrued from the taxation of tobacco in the fiscal year 1992-3 were considerably in excess of the estimated cost of treating smoking-related diseases in the (socialized) health service. Given too the money saved by smokers' early deaths in the payment of state pensions, from the point of view of the public purse, the promotion of cigarette smoking by government would appear to promote economic welfare, providing money to spend on other public programmes. This highly simplified analysis, regardless of a challenge on economic grounds, ignores the fact that there are other factors to be taken into account in the promotion of citizens' interests such as health, freedom to behave in private as one wishes, and so on. Thus the policy-maker needs to take into account more than purely economic interests in working out what constitutes the public interest in a particular area of policy. Permitting the sale of violent entertainment products may make good economic sense but other social costs, premised upon citizens' interests in the sort of society they wish to live in, will need to be part of the analysis. Or alternatively, an institution which does not maximize economic interests may be deemed indispensable for the maintenance of the quality of life in some way, such as a system of public transport in a rural area. What all this means is that the calculus of

individual interests in public administration is considerably less exact than purely economic cost-benefit analysis.

The usefulness of the calculus as an heuristic for policy formation is limited by the problems discussed above: the use of preferences, economic indications of welfare and suppositions about citizens' interests to differentiate between policy options is an inexact process. In the context of the modern, industrialized state, the public official does not have perfectly complete and reliable information with which to determine policy. This is true on whatever basis policy is decided upon, especially when there is a conflict of interests. But it is a particularly strong objection to the employment of cost-benefit analysis as the sole criterion for what is desirable in public life. Given the necessity for rational policy-making and the presupposition of seeking the welfare of the citizens of the state, a calculus of interests can still serve as a credible comparative tool of analysis in trying to sort out the best way to resolve some problem in the state, provided that it is recognised that the content of individual interests and levels of economic welfare can only be roughly specified and measured by a combination of the expression of preferences and the likely benefits, in the considered opinion of policy-makers, of the policy.

Rights as Moral Constraints on the Calculus of Interests

An analysis of individual interests is an initial method for determining the respective merits of policy alternatives. But it is prudent to have a second element in the moral analysis of policy if morally flawed policy is to be avoided. The attraction of the methodology of trying to follow certain basic rules in public administration does not just stem from the phenomenon of stated principles having a lasting appeal over a Benthamite calculus which attempts to include all factors in a decision without attaching *a priori* moral importance to any of them. There are good reasons for advocating a respect for certain moral norms regardless of how desirable a policy appears to be on the basis of its enhancement of individual interests. Such respect is a "morally efficient" tool of policy formation. I use this phrase because for the public administrator, identifying violations of basic moral principles is much easier than a calculation of the tangible and intangible costs and benefits of a policy. Given the potential for inaccuracy in the latter, and the considerable power of government to affect citizens' most fundamental interests, avoidance of gross violations of basic moral principles is a morally conservative but highly prudential decision-making mechanism. From the set of classical moral principles of policy formation those of justice and authority indicate certain features that should not appear in any policy. Stemming from the principles of justice and authority, certain general rights which should absolutely not to be violated would be the rights to life, procedural justice, freedom from undeserved imprisonment, freedom from the illegitimate seizure of property by the government, and in general freedom from unjustified governmental

interference in the pursuit of individual interests. Violations of these rights are clear cases of injustice or the wrongful exercise of governmental power. These rights may or may not be explicitly enshrined in the law of the land; even if they are not that does not stop their potential violation being identified in the process of policy analysis. They do not indicate the positive role of public administration: this is accounted for by the promotion of individual interests in the pursuit of the public interest. The principle of pursuit of the public interest considered as maximally realizing individual interests is the starting point for comparative policy analysis. Respect for these basic general rights stops the crushing of individuals' most fundamental interests in the cause of maximization.

In some circumstances, respect for these rights, it can be argued, is necessary for the pursuit of the public interest understood as maximizing individual interests. Violations of procedural justice are cases of this kind. It would seem (to use the familiar example) that the violation of justice caused by the sheriff permitting the lynching the innocent man to prevent a riot killing hundreds is unlikely ever to be in the public interest. This is because public life is highly dependent upon widespread compliance with the rule of law, and if citizens of a state begin to suspect that public officials are prepared to deviate in such a serious manner from the stipulations of procedural justice, the whole fabric of public life may be threatened. As Mill puts it,

Justice is a name for certain classes of moral rules which concern the essentials of human well-being more nearly, and are therefore of more absolute obligation, than any other rules for the guidance of life.³⁶

This being so, it would seem to be imperative that no policy involving violations of procedural justice akin to the lynching example be permitted. A similar stipulation may be made about other legal rights respect for which is fundamental to individual citizens' interests.

The public administrator's moral responsibility to seek to create legislation in the public interest, then, can be fulfilled by the formulation of a calculus of individual interests, indicated partly by stated preferences and partly by an assessment of how policy will impact upon individuals lives. Respect for fundamental human rights is a clearly identifiable constraint upon maximally realizing other individual interests in the state.

³⁶Mill, J.S. *Utilitarianism*. London, 1907. p.98.

CHAPTER 4

Morality and Foreign Policy

It is often argued that a different relationship of morality to policy formation exists in the domestic and foreign spheres. In this chapter I shall consider the extent to which this is true. I shall examine what it means for a state to develop foreign policies in the best interests of the citizens of that state. I shall argue that there may reasonably be said to be moral constraints upon policies designed to be in the interests of citizens of the state, that moral judgement of the conduct of states is not *a priori* meaningless, and indeed that in practice the conduct of diplomacy and policy-making and the nature of certain international institutions indicate quite the opposite. I shall go on to consider the credibility of the United Nations Universal Declaration of Human Rights as a standard by which to make moral judgements of governmental conduct and as a means of defining moral constraints on the formation of foreign policy by the state.

Realist Paradigms and the Formation of Policy

For the sake of conceptual clarity it is necessary at the outset to distinguish two senses of self-interested foreign policy-making that are often confusingly conflated. The first is that of forming foreign policy which, as part of governmental action as a whole, is designed to

benefit citizens of the state. The second is that of making foreign policy which maximizes the interests of citizens of the state, with maximization conceived of as allowing any amount of destruction of the interests of citizens of other states. The first sense permits the existence of moral constraints upon the pursuit of self-interest; the second allows no such constraints. The existence of the first basis for policy-making is indisputable: as noted earlier, in a democracy any administration which seems to the electorate to be wilfully forming policy that consistently detracts from the welfare of the electorate is unlikely to survive in office for very long. (In the case of undemocratic governments, it is equally apparent that the regime will generally act to benefit members of the state, the difference being that this is likely to be a more select group than that in a democracy.)

This general truth does not, however, imply the truth of the second thesis. This second sense, that of the unrestrained maximization of national interest, it is sometimes argued, is the dominant feature of relations in the international sphere. What appear to be moral constraints upon the pursuit of self-interest, such as the keeping of treaties when it is not obviously advantageous to do so, or the rejection of expansionist territorial policies, are only the consequences of limited power or weakness. Moreover, since it is argued that the relations between states are of this type because states exist in a Hobbesian state of nature with the absence of any sovereign ensuring a state of perpetual war, a corresponding normative conclusion is also sometimes drawn. This is that it is only rational for the policy-maker to plan the conduct of the state with a view to preserving the interests of his state without paying the

heed to moral constraints that would usually form part of his considerations in the formation of domestic policy.

Even a cursory reading of history or the day's newspapers makes it clear that there have been and are individuals within states who hold to this view, and individual states which have espoused the principle of the absolute aggrandizement of national power, paying little or no heed to the wishes or rights of the citizens of foreign states which have been part of or have stood in the way of that ambition. But it is equally clear that such a maxim for the conduct of foreign policy has not been universally espoused. Against this, it is sometimes said that what *appears* to have been morally constrained behaviour (such as the failure of the United States to completely destroy or enslave the population and infrastructure of Japan at the close of the Second World War), or even altruistic actions (such as Scandinavian nations' foreign aid contributions or Canadian peace-keeping activities) are actually policies of disguised self-interest. In one sense this may be true, because policies which produce friendly relations between states are likely to benefit both parties in the long run through an absence of war and an increase in economic and cultural exchanges. And at the very least, there are often mixed motives for the framing of the policies outlined above. As I shall suggest later, the process of foreign policy formation in the modern state makes this almost inevitable. It *is* empirically false to say that governments always act to maximize national power. But if the criterion of behaviour is to do what is in the public interest, the maximization of national power over other states may in fact not be in the interests of citizens of the state itself. This

judgement stems from the observation that militarily imperialistic states in modern times have been characterised by excessively powerful and repressive governments in the domestic arena, and because the pursuit and defence of empire impose large human and financial costs upon the citizens of the imperial state.

Not all realist thought has argued that there is simply no place for moral judgement in the international sphere. David Gauthier has argued that the morality of international affairs is based, in a manner similar to that of individuals, on the foundation of rational self-interested cooperation. This is a plausible hypothesis for the existence and operation of such international mechanisms as the General Agreement on Tariffs and Trades or the Law of the Sea. And it seems reasonable to suppose that much of the conduct of states with respect to each other may arise from this basis. It was not from a respect for one another's systems of government that the United States and the Soviet Union began arms reduction talks but from a mutual desire to avoid nuclear war and to limit a grievously expensive arms race. The cooperative dividend that derives from states behaving decently towards one another is clearly an important motivation (perhaps the most important) for agreements by states to abide by basic moral standards in their conduct towards one another. This neo-realist portrait of the basis of international morality is much more plausible, and admits to a far greater extent the possibility of moral progress in international life than do traditional realist models.

An auxiliary element in some traditional realist arguments is the assertion that cultural relativity makes moral judgement of foreign policy impossible, since there are no moral principles that hold universally among nations. It is said that there are too many different conceptions of the good life for there to be a rational moral evaluation of different nations' conduct in pursuing the dominant conception of the good life of their own nation. It should be noted at the outset that since few defenders of political realism would be content with the assertion that there can be no moral judgement of the content of domestic policy within the state, it must be assumed that within the state there exists a sufficiently homogeneous culture to permit moral evaluation, and that the large differences between moral beliefs within one state - compare the Amish farmer and the militant atheist - are of a far less significant order than the cultural differences between, say, Iran and France. But even leaving this dubious distinction aside, and admitting important differences in the dominant conception of the good life between many nations, cultural relativism is not a compelling argument for the thesis that moral judgement is impossible in international life.

There is evidence provided by the existence of modern international institutions that suggests that there is some common moral currency to be had. Not without reservations of various sorts, virtually every nation is a signatory of the United Nations Universal Declaration of Human Rights. There exist treaties governing the treatment of diplomatic staff, the Law

of the Sea, the exploration of space and Antarctica, and the treatment of refugees.³⁷ Of course not every nation takes exactly the same view of the importance of certain rights, as recently witnessed in the annual attempt by the United States government to get China to clean up its human rights record in return for a continuation of her Most Favoured Nation trading status. And it would be naïve to see the great part of human history as one of sustained agreement among nations about what constitutes the minimum of morally decent behaviour by a government. Moral judgement about governments' foreign policies will generally be of necessity coarse-grained, and concentrate upon fundamentals rather than niceties; but that is an important start. The fact that some states sometimes flout the standards does not mean that it is irrational to condemn them for doing so. The fact that most governments pay attention to United Nations reports on their record of human rights observance suggests the Declaration of Human Rights is a credible basis for judging what is minimally decent behaviour by states towards each other, and by governments towards their own citizens.

The period of almost universal acceptance of political realism among writers and thinkers on international affairs seems to have come to an end. John Norton Moore, an academic jurist who has served as an adviser to several American administrations on foreign policy matters, has recently written that it is necessary

to recall and discard some earlier common myopia concerning the role of morality and law in foreign policy...it should be recalled that an earlier

³⁷See Brownlie, I. (ed.) *Basic Documents in International Law* (3rd edn.). Oxford, 1983.

generation of realpolitik foreign affairs experts focused almost exclusively on power, or the balance of power, as the determinant in foreign policy...Today we know that this view was wrong in many different ways. First...for foreign affairs - of all mankind's activities - to be freed from moral or legal appraisal has never been remotely sensible...Second, this view neglected the critical role that ideas, including morality and law, played in influencing the behaviour of nations as well as that of the people forming those nations...I would argue, as would others I know who have focused on the issue, that, most recently, the movement toward the internationalization of minimum guarantees of human rights, and particularly the manifestations of this movement within the Helsinki Process, almost certainly had more to do with the movement towards democratization in the Soviet Union than did the entire history of arms control efforts with the Soviet Union.³⁸

This suggests that not only has theorizing about foreign policy been inadequate through a misunderstanding of the importance of normative considerations in influencing the conduct of states, but that it has also closed off avenues of thought which could lead to positive moral progress in that conduct.

Towards Ethical Foreign Policy Formation

To reject the realist thesis that moral judgement does not properly belong in international affairs is not to espouse moralism or an excessively idealistic view of the prospects for world peace and increased prosperity of the world's nations. As has been noted by many historians, the path to the Second World War was littered with good intentions and idealistic hopes of

³⁸Moore, J.N. "Morality and the Rule of Law in the Foreign Policy of the Democracies", *International Institutions at Work* (eds. Taylor, P. & Groom, A.J.R.). London, 1988. pp. 128-129.

peace. Henry Kissinger, comparing the dominant philosophies of foreign policy in the United States and Great Britain, states that

Britain has rarely proclaimed moral absolutes...Philosophically she remains Hobbesian: she expects the worst and is rarely disappointed. In moral matters Britain has traditionally practised a convenient form of ethical egoism, believing that what was good for Britain was best for the rest. This requires a certain historical self-confidence, not to say nerve, to carry it off. But she always practised it with an innate moderation and civilized humaneness such that her presumption was frequently justified. In the nineteenth century, British policy was a - perhaps *the* - principal factor in a European system that kept the peace for ninety-nine years without a major war.³⁹

Moralism in international affairs can be dangerous, leading to windows of opportunity for unscrupulous governments. Kissinger draws attention to how - very imperfectly, no doubt - British foreign policy sought to maintain a realistic appraisal of European and world affairs combined with some heed being paid to moral decency. This seems to be something like the balance that foreign policy-makers might usefully aim at. Adequate cognizance must be taken of the need to guard against allowing stronger nations to dominate or oppress weaker neighbours; and of the temptation to many governments to flout basic standards of moral decency. But equally the aim of fostering moral progress in the relations between states should not be ignored.

³⁹Kissinger, H. *Observations: Selected Speeches and Essays 1982-1984*. Boston, 1985. p.5.

It will certainly often be difficult to make foreign policy that can achieve the latter goal. Lord Carrington, a former British Foreign Secretary and Director-General of the North Atlantic Treaty Organization, defends his own pragmatic approach to policy formation thus:

I have found all my life that the gulf between what is theoretically desirable and what is practically obtainable is so wide that it is sensible to concentrate almost exclusively upon the latter. Certain courses of action can, of course, be wrong in principle: one rejects them. Others are right in principle: one considers them. Choices are, however, generally confined to few alternatives, and they are normally fewer than most observers pretend.⁴⁰

It may be at times necessary to condone or at least not interfere with the actions of morally repugnant regimes where a greater good may be served. An important case where this is true is the danger of pressing the Chinese government to relax its authoritarian control of life in that nation when this is instrumental to achieving a very necessary stabilization in the population level.

Moral Compromise: Population Control in China

The global human population has had a virtually zero growth rate for by far the greatest proportion of our history on earth. Ten thousand years ago it is estimated that world population was around five million. By the middle of the present millennium it had reached around a quarter of a billion. The true explosion in the number of human beings is a recent

⁴⁰Carrington. *Reflect on Things Past: The Memoirs of Lord Carrington*. London, 1988. pp.373-374.

phenomenon, which has become most marked in the second half of the twentieth century. In 1993 the number of people on earth stands at around 5.6 billion, and is increasing at a rate of 1.7%. The most optimistic assessment by United Nations demographers is that with a significant decrease in birth rates in the near future, population will continue to increase for another century, stabilizing at around ten billion. It is not at all clear that birth rates are in fact declining at a sufficiently fast pace to achieve that level.

The problem of population is not that growth in the number of human beings worldwide is wrong *per se*. Rather, it is that given the planet's finite resources, an ever-increasing population must inevitably lead to tragedies of mass starvation, conflict and environmental degradation as more and more people chase fewer and fewer resources. If one rules out the possibility of colonizing space on a grand scale - an unlikely prospect in the near future - then for reasons of living space alone, it is clearly impossible that the population can expand indefinitely.

It is also apparent that maintenance of what would generally be considered a decent quality of environment in which to live is bound to be imperiled by a continued increase in numbers at the present rate. Degradation of the environment by such means as deforestation and aquatic pollution is apparent all over the world, and is often in large measure a consequence of a burgeoning population, particularly in less developed nations. Were every person to enjoy a standard of living comparable to that which most people possess in Western

nations even at present global population levels, the effects would in all likelihood be environmentally catastrophic. The improvement in standard of living being pursued by "quick and dirty" industrialization and urban development in China (and, among others, in India and Indonesia) is likely to prove environmentally costly in any event, and this cost is hugely increased by the continued growth in these nations' populations. Also, although thus far global food production has kept pace with an increasing population, there must come a critical juncture at which it can no longer do so, given limits of efficiency in production, urban encroachment upon arable land and the sheer number of mouths to feed.

With some interruptions (in the 'Great Leap Forward' of 1958-61, for example) the Chinese government at every level has since 1956 been employed in a vigorous educational programme of family planning, along with a concerted propaganda campaign to persuade citizens of the virtue of reducing the number of children that they have. Until the 1970's, China practised essentially voluntary family planning. The government noted, however, that if the average family size in the early 1970's of over three children was maintained, the population, then at around 850 million, would reach more than four billion by the year 2070. In view of this alarming prospect, the 'one-child' policy was implemented in 1978.

The policy stipulates that each family is permitted to have only one child. Permission from the family planning arm of local government is required to marry and to have a child. In 1980 a new marriage law was adopted which stipulates that the legal minimum age for

marriage is twenty for women and twenty-two for men. It is backed up by the ready availability of contraception, sterilization and abortion through the state health service. If couples keep to the limit of one child, the mother will receive paid maternity leave and the family various other benefits including priority for housing or land allocation. The child is also benefitted in its lifetime with medical care, priority for a school and university place, and the promise of a favourable job allocation.

If the limit is flouted, these benefits are withdrawn, and children born outside the plan do not qualify for state or collective health schemes. There are fines for extra births in many areas, and in rural areas, per capita allowances for grain and farmland are often withdrawn. Some regions impose a deduction of on average ten per cent of salary for a period of seven to fourteen years for exceeding the one child limit. Since economic incentives for individual factories and collective farms are tied to success in family planning, pressure to conform is often great. Family planning officials, factory bosses and fellow workers may exert sustained and forceful pressure on recalcitrant individuals to conform. It should be noted, however, that there are considerable regional variations in the way in which the policy is implemented and in the levels of birth rate. In rural areas in particular, permission is often given for couples to have two children due to the circumstances of peasant farmers.

The policy has effected a spectacular decline in birth rate, from 34 per 1000 in 1970 to 19 per 1000 today. China is likely to exceed its target of 1.2 billion people in the year 2000,

but not by nearly as much as was feared before the one-child policy was implemented. The decline in global birth rates in the developing world over the last two decades is almost wholly attributable to the reduction in China's rate.⁴¹ A recent newspaper report⁴² stated that it is estimated that 111 boys are born for every 100 girls born in China today. Female infanticide would appear to be the chief cause.

There are several elements of moral compromise in supporting China's authoritarian method of population control. Firstly, there is obviously a restriction of personal liberty in an area of life where most people would feel the government should not interfere. The difficulty in making a moral judgement in this matter is that the values of freedom to choose one's number of offspring and of giving equal treatment to children regardless of which size family they are born into are not obviously commensurable with the value of the state of affairs of a sustainable population level. It does seem *prima facie* morally unacceptable to penalise children born in excess of the permitted limit: the child has no choice into which family it is born. An appeal may be made to the doctrine of the lesser of two evils in providing moral justification for a policy such as China's. It does seem true that where less severe policies do not work adequately, and the potential crisis is severe, support for a more coercive policy may attain moral legitimacy in virtue of the extremity of the circumstances. This is to recognise

⁴¹Xixhe, P. *Demographic Transition in China*. Oxford, 1991. p.24.

⁴²*The Sunday Times*. London, 2nd January, 1994. p.25.

that the moral evaluation of policy must incorporate an understanding of the extent of the problem in a particular state, and what will actually be effective as a course of action to resolve it.

It is clear that China's political system is a large factor in the achievement of China's reduction in population growth. A comparison of China's relative success in slowing its growth rate to that of other developing states suggests that there may be a case for supporting regimes which pursue policies that are morally distasteful to democratic states, because these regimes have markedly greater success in reducing their population than less well organised and less coercive governments. This, one would hope, would be a temporary policy, effective until population growth has slowed down. Support of morally questionable governments would of course not be a new experience for some first world states; at least here a morally legitimate end is in view. Indeed, in the case of China, it could be argued that the country be rewarded in the form of trading concessions and support from Western states, given the indirect benefits citizens in the West gain from the success of the one-child policy.

A parallel may be drawn between the Chinese case and the cooperation of the Western Allies with the Stalinist Soviet Union in the defeat of Hitler. Britain had little choice in the matter, such was the danger to the nation from Germany, but it is plain from reading Winston Churchill's *History of the Second World War* that his and other people's repugnance of Stalin's government was in no way diminished by this state of affairs. The pressing nature of global

problems such as overpopulation and environmental degradation, or those acute difficulties that beset the governments of many developing nations in ensuring a reasonable standard of living for their people, or the threat to a nation posed by war mean that a pragmatic approach to policy-making is often necessary. But it is equally vital that policy-makers seek to make decisions of the highest possible moral character, and ones which may foster genuine moral progress in the world. If this aim sounds too lofty, it is worth remembering that moral concern for various groups in society has expanded slowly but surely. Two hundred years ago it would in many places have been considered hopelessly idealistic to extend the moral franchise to slaves, and the notion of institutional devices to try and ensure equality of treatment of the sexes generally greeted as bizarre. The attempt to create a worldwide community of moral concern should not be dismissed out of hand simply because it is so difficult to do.

The Process of Foreign Policy Formation

Thus far, I have argued that moral judgement is not absurd in international affairs, and that in certain circumstances morally compromised policy is justifiable, even when the policy-makers' goal is for moral progress in the relations between states. In this section I will examine the moral concerns raised by the different aspects of the process of foreign policy formation in the state.

James Rosenau has identified and grouped the variables that affect the formation of foreign policy into five broad categories: idiosyncratic, role, bureaucratic, national and systemic.⁴³ Idiosyncratic variables are those constituted by the personal characteristics and temperaments of those in charge of foreign policy. Especially where one individual has a large measure of influence on the conduct of foreign policy, such as in a dictatorship, or in times of crisis such as a major war, these characteristics can have a major role in determining policy decisions. One can see this factor at play in the direction of the conduct of British war strategy by Churchill, or in the influence of Charles de Gaulle on French foreign policy in the post-war years. The obvious moral is that a country in a critical situation or with a presidential office that affords its occupier considerable influence on policy ought to take care in determining that potential candidates have the right sort of personal characteristics to exert a healthy influence on policy. Public administrators cannot reform a constitution; but where one individual determines much of policy, a trusted senior administrator can have a lot of influence upon the conduct of policy, and it in this way that he can try to ensure the public interest is served.

Role variables are those determined by the demands of a particular office of state or function of government: expected patterns of behaviour for a president, a diplomat or a civil servant. As noted earlier, these may be quite different from the sort of conduct the individual

⁴³Rosenau, J.N. *Scientific Study of Foreign Policy*. New York, 1971.

occupying a particular role would emulate in other aspects of his life. Bismarck is reported to have said, "What a scoundrel a minister would be if, in his own private life, he did half the things he has a duty to do to be true to his oath of office." This distinction between private and public life is not necessarily morally troublesome. The eighteenth century pun, that, "An ambassador is an honest man, lying abroad for the good of his country", may reflect no more than the necessity for secrecy if negotiations between states are to proceed successfully.

Bureaucratic variables pertain to the structures of governmental institutions as these affect the formation of policy. 'Horse-trading' between branches of government in the pursuit of departmental policy preferences and prestige is a well-documented phenomenon. The procedures for consultation over and assessment of policy can have variously negative or positive effects upon its outcome and implementation. Bureaucratic mechanisms may appear to be morally neutral, but in reality often they are not, and as I shall argue in the next chapter, the existence of a morally adequate ethos of public service is vital if a bureaucracy is to fulfil its moral responsibilities adequately.

National variables are such things as geography, economic interests, historical consciousness and other factors that may readily be seen to influence a nation's concerns and emphases in the framing of foreign policy. Systemic variables are those features of the international system of relations between states that impinge upon the individual state's formation of foreign policy. As Brian Hocking argues in a recent study of modern foreign

policy formation,⁴⁴ domestic and foreign policy-making are not entirely separate arenas: foreign policy-makers must take into account national interest groups and lower levels of government both in their own state and in the states with which they are dealing. He cites the German Länders' threat to the federal government not to implement the provisions of the Maastricht Treaty, and the fact that any country wishing to influence American foreign policy on a particular issue must take heed of the concerns of individual members of Congress. Catering to this feature of international life will be a necessary component to making foreign policy in the public interest.

It is often difficult to untangle all the interests and players that contribute to the formation of a particular foreign policy decision. To achieve morally decent policies, the best hope would seem to be an ongoing attempt to improve the ethical climate of the various institutional forces at work, and the encouragement of ethical awareness of the implications of particular policy proposals on the part of the players involved at the various stages of formation and implementation. The scrutiny of a free press and academy is likely to be useful in this respect, as well as a careful safeguarding of the process of democratic accountability for the politicians who make the final decisions about foreign policy. One notable instance of the latter mechanism's operation is given in Churchill's account of the prelude to the Second World War. He recounts how, in response to a parliamentary question of Churchill's, Stanley

⁴⁴Hocking, B. *Localizing Foreign Policy: Non-Central Governments and Multi-Layered Diplomacy*. New York, 1993.

Baldwin, the Prime Minister, admitted with, in his own words, "appalling frankness", that the policy of his government at the 1933 Geneva Disarmament Conference had been determined primarily by an unfavourable by-election result. Baldwin asked Parliament:

Suppose I had gone to the country and said that Germany was rearming, and that we must rearm, does anybody think that this pacifist democracy would have rallied to that cry at that moment? I cannot think of anything that would have made the loss of the election from my point of view more certain.⁴⁵

This example also brings out the way in which foreign policy, particularly in a democracy, is heavily dependent upon the perception politicians have of what public opinion is able to bear, of what can be justified to its own nationals as in the public interest.

How far beyond the goal of pursuing the national public interest is any government likely to consider moral concern to legitimately run? Arguments about the lack of credibility or the undesirability of international institutions capable of enforcing international law should be distinguished from the question of how far it is reasonable to expect a government or a people to consider the interests of that part of humanity outwith its own borders. It seems clear that there are naturally occurring concentric spheres of concern radiating from the individual, including family, friends, acquaintances, the members of one's community and one's country, and that the level of concern the individual feels is generally proportional to contiguity. It is probably natural that a greater concern is usually felt for one's fellow citizens

⁴⁵Quoted in Churchill, W.S. *The Gathering Storm. History of the Second World War*. (vol. 1). Cambridge, Boston, 1948. p.216.

than for those of other states. Recognition of this is of course not to necessarily endorse nationalism as a political philosophy. Indeed, it would no doubt be morally ideal if a similar level of concern were felt by each person for every other person. Given that this is not the case though, and given the additional difficulty of intervening on behalf of those outwith the scope of usual governmental provision, and for reasons of greater emotional sympathy for "charity at home", it seems reasonable to assume that governments will be primarily concerned with the welfare and rights of their own citizens. But this does not mean that a government is entitled to act without reasonable regard for the welfare and rights of citizens of foreign states, any more than giving priority to the welfare of one's children entitles one to show no consideration in one's treatment of everyone else. It is to be hoped that as time goes on, international cooperation to try and ensure that the level of basic moral regard for citizens of foreign states increases is successful. A maxim of pursuing the national public interest with moral constraints upon the treatment of the citizens of foreign states would seem to be a realistic and morally decent (if not ideal) goal for foreign policy formation.

Human Rights and International Morality

The key question which remains to be addressed is what could serve as a indicator of these moral constraints on the formation of foreign policy. The appeal of the United Nations Universal Declaration of Human Rights lies in the fact that it is sufficiently specific to be meaningful, and sufficiently general to apply to the population of any nation. The

philosophical basis it is taken to derive from would seem less important - even for philosophers - than the obtaining of international agreement on what is involved in the decent treatment of citizens by governments. The idea of the codification of a set of natural rights may indeed be nonsense on stilts; but this does not prevent its being head and shoulders above its rivals. It should be noted, however, that the formulation of the United Nations Declaration was not without difficulties.

As Andrew Williams points out in a survey of the evolution of the Declaration and its implementation, there is an as yet unconcluded debate over how to resolve the tension inherent in the document between the claims of the collective and the rights of the individual.

He notes that in

discussions about the idea of genocide as a crime against individual lives or against a broader ideal of group aspiration, the U.N. working group defining 'apartheid' favoured the former when it interpreted the term 'genocide' as meaning 'any act calculated to destroy the individual or to prevent him from participating fully in national life.' This is a somewhat wide definition that many would find unacceptable. Likewise, in discussing how to eradicate the crime of genocide a delegate admitted that 'sincere difficulties of opinion exist as to whether this problem is best dealt with by education and by constant vigilance or by the influence of legislation.'⁴⁶

Thus there is not absolute agreement about how the 'basket' of individual and collective rights should be constituted, and even less so over the prioritization of individual and collective

⁴⁶Williams, A. "The United Nations and Human Rights", *International Institutions at Work* (eds. Taylor, P. & Groom, A.J.R.). London, 1988. pp.115-116.

rights. The problems connected with the implementation of the Declaration are no less problematic. United Nations Commissions are not permitted to infringe upon national sovereignty and consequently the body concerned with implementing the Declaration is largely confined to reporting perceived abuses of human rights in individual states, as other non-governmental organizations (such as Amnesty International) also do.

The problems of definition and implementation should not be underrated. Neither, though, should they be exaggerated. The opprobrium of a negative report from the Commission is courted by few governments. As Williams notes, the fact that the Polish government felt obliged to send a report after being castigated by the Committee for Human Rights for its crushing of Solidarity

demonstrates the defensive attitude of the government in question and its felt need to embellish its tarnished image. In a truly power politics world [*sic*], why should it have bothered?⁴⁷

Reports of flagrant abuses of human rights by member states' governments can lead to wider U.N. action, most notably with respect to South Africa. Although situations such as those which presently obtain in Bosnia-Herzegovina and Rwanda are not encouraging as examples of decisive intervention by the United Nations, these problems are not a good reason to advocate the abandonment of the work of the U.N. bodies involved in seeking to improve the observance of human rights. There are encouraging signs too:

⁴⁷Ibid. p.125.

since the late 1980s many states have undergone changes which have enhanced their citizens' human rights. Governments in the former Soviet Union, Eastern Europe, Argentina, Paraguay, Chile, Ethiopia and South Africa are decidedly less oppressive than hitherto. One of the reasons for the pace and extent of reforms has been the speed with which hopes can be transmitted via the news media. International relations are no longer the preserve of governments; people also interrelate. And once improvements are enforced by popular pressure in one country, despair fades before confident expectation in others. For, as Victor Hugo recognised: "An invasion of armies can be resisted, but not an idea whose time has come."⁴⁸

This optimistic statement correlates interestingly with Kant's assertion in *Perpetual Peace*:

the connections, more or less near, which have taken place among the nations of the earth, having been carried to that point, that a violation of rights, committed in one place, is felt throughout the whole, the idea of a cosmopolitan right can no longer pass for a fantastic conception of right; but is the last step of perfection necessary to the tacit code of civil and public right; these systems at length conducting toward a public right of men in general, and toward a perpetual peace.⁴⁹

It may well be that the remarkably forward-looking vision of Kant is closer to fruition today, despite the great problems confronting humanity, than ever before.⁵⁰

⁴⁸Heater, D. & Berridge, G.R. *An Introduction to International Politics*. London, 1993. p.102.

⁴⁹Kant, I. *Perpetual Peace* (1796 translation). New York, 1939. pp.26-27.

⁵⁰As Dr. Peter Danielson pointed out to the author, Michael Doyle's historical study of liberal democracies and the instigation of international war plausibly suggests that states with a liberal democratic government have seldom instigated a war with another such state. See Doyle, M.W. "Kant, Liberal Legacies, and Foreign Affairs" (Part One), *Philosophy and Public Affairs* 12 (1983): 205-235.

To sum up, I conclude that moral judgment may reasonably be made of the conduct of states; and that foreign policy should be formed to reflect the best interests of the citizens of the state, but with moral constraints. The best candidate as an international moral standard, it would seem, both to judge the conduct of governments towards their own citizens and as a definition of moral constraints upon the foreign policy of the state is that of respect for human rights. This standard can be employed by public administrators in the formation of morally acceptable foreign policy.

CHAPTER 5

Codes of Ethics and the Ethos of Public Service

My purpose in this chapter is to critically evaluate one of the principal mechanisms that has been brought to bear with increasing frequency in recent decades at all levels of democratic government to try and ensure that government is ethical. This is the introduction of codes of ethics for public servants. I shall argue that although they can be useful in promoting ethical behaviour under certain conditions, the fostering of an adequate ethos of public service, characterized by the practice of certain virtues, is the most fruitful means of ensuring that public servants behave morally, because such an ethos is necessarily embedded in everyday practice and can thus become an integral part of a bureaucratic culture.

Codes of Ethics in Operation

In his introduction to a valuable recent collection of research into the morality of government servants⁵¹, H. G. Frederickson notes that the "ethics movement", by which he means the increase in concern within government, academe and the public at large to ensure ethical

⁵¹Frederickson, H.G. (ed.). *Ethics and Public Administration*. New York, 1993. pp.3-5.

behaviour in government has primarily been driven by concerns over corruption. But he points out that this is a small part of what might reasonably be considered as within the realm of the ethics of public service. Moreover, there is little equivocation about corruption in government. It is generally clearly recognizable as public officials making illegitimate gains at the public's expense. Empirical study suggests that citizens of different economic classes, educational levels, in public and private employment have by and large similar moral standards regarding what constitutes corrupt behaviour by government officials.⁵² The elimination of corruption, as noted earlier, is a necessary condition for morally adequate government, but it is not a sufficient condition.

It is noticeable, however, that the introduction of codes of ethics in many U.S. states (and in other democracies) has often been prompted by corruption scandals of various kinds. This has often led to a lopsided concentration on corruption in many codes, with the paradoxical result of the mere existence of a code being taken as the way to get moral government, when the code does not touch upon important aspects of moral behaviour in public service.

J.P. Dobel notes in the same collection that

⁵²Malec, K.L. "Public Attitudes Towards Corruption: Twenty-five Years of Research", *Ethics and Public Administration*. pp.13-27.

Thirty-six states have passed ethics codes and established commissions or agencies to oversee ethics issues...Countless cities and counties have also established ethics codes and boards...Eighty percent of major American corporations have adopted Codes of Ethics.⁵³

But he goes on to say that

ethics codes are on the verge of becoming a panacea for problems they cannot solve. This could contribute to the cynicism and distrust they are supposed to address.⁵⁴

This phenomenon sometimes arises out of a failure to properly back up the implementation of a code by employee orientation and education, or a lack of enforcement of the code's provisions with adequate vigour. More fundamentally, if the culture of a bureaucracy which the code is intended to make more ethical remains unchanged, a code of ethics hastily imposed as a cure-all for an organisation's ethical problems will most likely fail due to resentment and lack of co-operation from the members of that organisation, the morality of whose behaviour it is intended to improve.

This seems to be especially true if the code of ethics is passed in response to a corruption scandal. In a specific study of the implementation of a code of ethics in King

⁵³Dobel, J.P. "The Realpolitik of Ethics Codes: An Implementation Approach to Public Ethics", *Ethics and Public Administration*. p.158.

⁵⁴Ibid. p.158.

County, Washington⁵⁵, the author (who served for a time on the board responsible for overseeing the implementation of the code) relates how the code was passed in the late 1960's in response to a long-running scandal over the misappropriation of government resources by public officials. The code began abruptly with a prohibition on the use of city-owned vehicles and property for one's personal use. Thereafter followed a long list of other prohibitions. There was no attempt to create a sense of what should be the positive moral aspects of public service - such as acting in the public interest or treating users of government services with courtesy and fairness. Apparently largely because of the highly negative tone in which it was couched, the code of ethics encountered apathy or resistance from most public servants. The Ethics Board which was supposed to implement it held only one major hearing in the course of seventeen years. In response to these problems, the code was revised in 1989 after consultation, with a positive preamble and an attempt to outline what is morally desirable behaviour and not merely what constitutes corruption.

The problem here was that in order to restore public confidence, the code of ethics was introduced to show that nothing was rotten in King County. Part of the reason it failed to do this was due to failures of implementation. But a more basic reason it could not succeed is that, even had it been effectively policed, it could at most reassure the public that some sorts of corrupt behaviour had been prohibited. Whole areas of moral concern connected with

⁵⁵Ibid. pp.163-173.

the role of the public service were not covered. It is true that the introduction of a code of ethics can be useful in restoring a sense of legitimacy to government in the eyes of the governed by visibly preventing corruption. To really be effective, however, more is required. What a code must do is affect a morally lax bureaucratic culture in such a way that it becomes an impetus for a better ethos of public service. It must change and help forge a sense of identity for the organisation. Part of the way in which it can do this is by providing a forum of judgment in which citizens can question the morality of government practices.

A code succeeds best if it affects the agency culture and its standards become embedded in bureaucratic practice. Government officials can use the clear standards or prohibitions to protect themselves and professionalize relations with political actors and vendors, as well as to deflect attempts to influence them unduly.⁵⁶

In recognition of the need to both state in sufficient detail ethical practice to allow a code to serve as a useful guideline, and to cover the whole range of ethical behaviour it might be hoped public servants should aim towards, a useful distinction may be drawn between codes of ethics and codes of conduct. The former are primarily aspirational, outlining the general ethical standards that public servants ought to conform to. The latter deal in detail with the ethical acceptability of particular forms of behaviour. A code of ethics can also delineate the general principles of public service from which the detailed provisions of the code of conduct can be derived. If a code of conduct is drawn up in sufficient detail, with a wide enough range of concerns and with sensitivity to the realities of the jobs public officials

⁵⁶Ibid. p.159.

are expected to perform, it can serve a useful function as a means of specifying moral practices and giving both public servants and the public a guide to what are the moral norms they may appeal to in their relations with the other. In conjunction with a code of ethics, a more moral bureaucratic culture may as a result be fostered. In particular, where a code is formed through widespread consultation among public officials and other concerned parties, the process of consultation is itself often a valuable contribution to fostering a sense of the organisation's moral identity and improving the bureaucratic ethos.

Any code, however well drawn up and well-intentioned, cannot by itself ensure good moral government. Carol Lewis, in a survey of the functioning of codes of ethics in various U.S. states concludes that

there is no empirical evidence to support an ethics deterrence theory; down that road lies futility. Even the best code will not substitute for good government or good people.⁵⁷

I shall now go on to outline how the development of an adequate ethos of public service can help to ensure moral government.

⁵⁷Lewis, C. "Ethics Codes and Ethics Agencies", *Ethics and Public Administration*. p.154.

An Ethos, Not Just Ethics

Thus far, I have argued that a code of ethics can be morally useful if it fosters an ethical identity for a government agency and becomes an integral part of its culture. Something more is needed, however, if public life is to be characterized by good moral government with civil servants acting in an ethically acceptable and indeed commendable manner.

What is required is an ethos of public service, characterised by virtues that when practised by public servants will best ensure that government is moral. The notion of an ethos is derived from Aristotelian moral philosophy and is defined as a characteristic concern with the moral way of life and those virtues which are necessary for its realization. An ethos of public service in a democratic government will be characterized by virtues that promote what is seen to be morally desirable public life. Following MacIntyre and the application of his theory of the virtues by Terry Cooper to public administration⁵⁸, the appropriate virtues for public service may be specified by identifying the internal goods that are sought to be realised through the agency of government. These goods include justice, freedom, accountability, political equality and others. As has already been seen, there is room for debate as to the exact content that each of these goods will take in a particular society. And it is at this level that theoretical moral and political philosophy has a useful role to play. But the fact that these

⁵⁸Cooper, T.L. "Hierarchy, Virtue, and the Practice of Public Administration: A Perspective for Normative Ethics", *Public Administration Review* 47 (1987): 320-328.

concepts are not exhaustively defined does not render them meaningless: they are identifiable as morally desirable ends which public servants may reasonably be expected to pursue in the course of their work in government.

The concept of a virtue has been defined with slightly different emphases by philosophers (and others) who find the concept a useful one. The central Aristotelian idea of a virtue is generally incorporated by each, however. A virtue is an inclination or disposition to act in a certain way. This disposition is not just a conditioned, reflex response but involves thought: one must identify the appropriate virtues and their application to a particular situation by use of *phronesis*, or practical reason. Virtues are traits of character. The virtues of the public servant are those traits of character that make possible the realization of the various goods it is the responsibility of the government body to promote. When one considers the obligation of public administrators to promote the public interest, the virtues that are required are benevolence, rationality, courage, fairmindedness and prudence. A government organisation whose employees consistently display the virtues appropriate to the pursuit of the public goods for which they have responsibility will have an ethos of public service. As traits of character, they can help overcome the obstacles to acting morally in public administration, particularly the fear of going out on a limb for what one judges to be the morally correct course of action.

The Benefits of an Adequate Ethos of Public Service

What are the advantages of promoting an ethos? Firstly and straightforwardly, if the appropriate virtues are being consistently practised by public officials, then the public interest will be that much more likely to be served. The promotion of virtues in public servants is indissolubly connected with morally good government and there is not the divorce of theory and practice that appears in other normative moral theoretical approaches to the ordering of affairs in government.

Secondly, the promotion and practice of the virtues of good government gives the government agency a moral character, which is self-reinforcing and into which new members, that is, newly recruited public servants, can be initiated, with which they can identify, and in which they can take pride. The example of their superiors in public administration can give a practical and concrete moral education to these new recruits. A case par excellence is the influence, commented on by numerous analysts, that Sir Edward Bridges had upon the British Civil Service (which he eventually headed). In his biography of Bridges, Richard Chapman states that his research revealed that while Bridges

undoubtedly contributed much to the ethos and traditions of the civil service, it is the impression he made on those who worked with him and his lasting contribution to the administrative culture, especially through indicating what

was or was not proper behaviour, that made so deep an impression on this particular researcher.⁵⁹

It would seem reasonable to assume that the most authoritative assertions about the moral requirements of public administration undoubtedly come after first hand experience of public administrative work. As Aristotle noted,

a young man is not a proper hearer of lectures on political science; for he is inexperienced in the actions that occur in life, but its discussions start from these and are about these.⁶⁰

The example of experienced and morally upright elder colleagues must constitute the most important means for the inculcation of the requisite virtues of public administration.

Thirdly, these virtues are rooted in the actual practice of government. They are dispositions to act which come to bear upon the day to day business of public service and through practice become an integral part of a bureaucracy's way of conducting itself and dealing with its business. Patterns of character are not only developed within the individual public servant by constant practice, but are reinforced by the habitual conduct of his peers and superiors.

⁵⁹Chapman, R.A. *Ethics in the British Civil Service*. London, 1988. p.xix.

⁶⁰Aristotle. *Nichomachean Ethics*, 1095a. *The Works of Aristotle Translated Under the Editorship of W.D. Ross*. (trans. Ross, W.D. & Smith, J.A.). Oxford, 1908.

How are these advantages exemplified in practice? One notable historical example is evident in a comparison of the behaviour of Danish and German bureaucrats in the Second World War. Germany annexed Denmark in 1940 without a significant military struggle and the Danish civil service remained largely intact, albeit serving under a German military government. Both German and Danish civil servants who had been in public service prior to the rise of National Socialism were required to implement the policy of the Final Solution.

In Germany, this was done with an almost uniform lack of protest, with few civil servants requesting a transfer into departments unconnected with the policy, the very least form of moral protest that one might expect. In Denmark, however, the Germans faced almost total refusal to comply with the dictates regarding the Jews from the Danish civil service (which in 1943 effectively ran the country.) The reason for this difference appears to have been that while few German civil servants were willing to jeopardise their careers by transferring out of affected departments (and that was the worst form of reprisal they were likely to face), the Danish civil service was differently motivated. As Hart and Frederickson conclude in their study,

[The Danish Civil Servants'] professional careers were secondary to their primary professional obligation: the guarantee of the rights of all.⁶¹

⁶¹Frederickson, H.G. & Hart, D.K. "The Public Service and the Patriotism of Benevolence", *Public Administration Review* 45 (1985). p.549.

The ethos of the Danish civil service was such that the virtues of benevolence and justice were held in higher regard than in the far more careerist ethos of the German civil service. Consequently, when the hardest of moral choices fell upon each and both services responded in character, the morally superior ethos achieved indisputable good, and the morally inadequate facilitated monstrous evil.

A highly interesting feature of this case comes out in the evidence presented by Hannah Arendt in her survey of the implementation throughout Europe of the Final Solution⁶². This is that elements of the German military command overseeing the government of Denmark, after working for some time with the Danish civil service, appear to have become sympathetic to the Danish civil servants' attempts to save their nation's Jews and protested accordingly to the High Command in Berlin; a unique occurrence in the occupied territories in the war. This suggests that the Danish ethos of public service affected positively those who came into contact with it.

⁶²Arendt, H. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York, 1963. pp.171-175.

Developing an Ethos of Public Service

How may an ethos of public service be fostered? It would appear that a necessary preliminary condition is a tradition of regard for civilised, humane and rational conduct of national affairs in the country at large, of the sort that Walter Lipman characterised in *The Public Philosophy*.

Free institutions and democracy were conceived and established by men who adhered to a public philosophy. Though there have been many schools in this philosophy, there are fundamental principles common to all of them: that, in Cicero's words, "law is the bond of civil society", and that all men, governors and governed, are always under, are never above laws; that these laws can be developed and refined by rational discussion, and that the highest laws are those which all rational men of good will, when fully informed, will tend to agree.⁶³

In this respect, a people will get the government they deserve, for in one sense public servants are not a special breed but are rather simply citizens who happen to be employed by the government. At the extreme, a nation in which violence, greed and corruption are generally rife is unlikely to have an ethos of public service that is morally desirable. The question of how one would go about developing a morally adequate ethos of public service in countries where such a state of affairs prevails is a difficult one to resolve, because it is dependent upon wider national political and cultural norms. Infant democracies may benefit from the advice of public servants on secondment from longer established civil services which have a good record for effective and fair public administration. Staffing the senior levels of the public

⁶³Lipman, W. *The Public Philosophy*. Boston, 1955. p.160.

service with individuals who have a reputation for integrity and intelligence will also be valuable.

Some hints may also be found by examining how the character of the civil services of particular national democracies have come about. In a comparison of the ethics of civil servants in Great Britain and North America, Keith Callard notes that in the British civil service, ethical behaviour has traditionally been ensured less through ethical codification than through the ethos of the organisation. He points out that around the time of the Northcote-Trevelyan report and subsequent reforms, the civil service

became much more conscious of its corporate existence and its collective personality...Civil Servants came to recognise their group interests and to develop common standards of morality and common measures of good and bad administrative work. Such standards extend far beyond legality and illegality, honesty and corruption.⁶⁴

A government Board of Enquiry into the civil service, Callard reports, concluded that

the Civil Service, like every other profession, has its unwritten code of ethics and conduct for which the most effective sanction lies in the public opinion of the service itself.⁶⁵

The point here is that a bureaucracy can develop a characteristic ethos in the same way that any other organisation can. Some aspects of its character are morally irrelevant, and are not

⁶⁴Callard, K. "On the Ethics of Civil Servants in Great Britain and North America", *Public Policy* 4 (1953). p.138.

⁶⁵Cmd. 3037/1928 *Report of the Board of Enquiry appointed by the Prime Minister to investigate certain Statements affecting Civil Servants*. Quoted in Callard, p.139.

an essential part of the ethos of public service that is the concern of this chapter. The implementation of a well thought out code of ethics can be instrumental in the creation of an ethos of public service. Enculturation of employees into a well-identified bureaucratic culture in which the virtues of public service are consistently practised is the most important means of ensuring morally acceptable government. When this ethos prevails, there will be a concern to further the public interest in policy formation and to see that the implementation of policy is carried out in a morally correct manner. In the final analysis, then, the fostering of an ethos of public service is dependent on the character of those within the public service.

CHAPTER 6

Summary of Conclusions

From a consideration of the normal role of the public administrator in the modern democratic state, it emerged that the public administrator has the primary responsibility of impartially seeking to advance the public interest. Public administration was seen, contrary to positivism, to embody moral values and the moral basis of government action to be a matter of great importance, given the power of government and the potential for its abuse. The avoidance of corruption was advanced as a necessary condition for moral public administration. The public interest, understood as a function of individual citizens' interests, was seen to most likely consist of a thin conception of the good.

The necessary powers of moral reasoning on the part of public administrators were seen to consist in an ability to evaluate the principles behind a policy, and its putative contribution to the public interest. The administrator, it was argued, must be able to discern the relevant and most important moral principles with respect to a particular area of policy. Seeking to form policy that takes account of the classical principles of authority, justice and efficiency will help ensure that policy furthers the public interest, and at least ensure that it is not morally unacceptable. Two moral principles, of upholding the democratic constitution

and of respect for citizens' rights to life and freedom from unjustified imprisonment should be treated as absolute moral boundaries for the administrator.

The analysis of the contribution to the public interest of domestic policy was seen to involve maximally realizing citizens' interests in different policy areas. The difficulties, especially in economic policy formation, involved in formulating a calculus of individual interests were noted. The use of expressions of preferences and other indications of individual interests were recognized as approximate although still necessary indications of a policy's putative contribution to the public interest. It was argued that it is prudent to maintain a respect for certain general rights derived from the principles of justice and authority as moral constraints on the principle of maximizing interests.

Foreign policy formation was seen to be somewhat different in character to domestic policy formation but to also be susceptible to moral evaluation. An ethic of pursuit of the national public interest with respect for the rights of citizens of other states was argued for. Moral compromise is sometimes necessary in dealing with other states, support for China's policy of population control being a case in point. The United Nations Universal Declaration of Human Rights is an adequate if imperfect basis for the judgement of the conduct of governments towards the citizens of their own and other states.

The necessity for an adequate ethos of public service, characterized by the practice of certain virtues, was seen to be necessary for morally commendable policy formation and implementation in public administration. Codes of ethics and conduct, properly formulated and implemented, are potentially valuable in helping foster a bureaucracy's ethical identity, and in creating a better ethical climate in government. The case of the conduct of Danish and German bureaucrats in the Second World War furnished a historical example of the value of an adequate ethos of public service. Benefits of such an ethos include its being embedded in the practice of public administration, its being communicable to new recruits by the example of their superiors, and its self-reinforcing character. The development of an adequate ethos of public service was seen to be dependent in part on the political and social culture of a nation, but possible by good example and an agreement upon the standards expected in the practice of public administration.

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