"External" and "Internal" Strategies to Control Corruption: The Role of Ethics in Fostering the Integrity of the Public Administration

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ABSTRACT: The paper distinguishes between the traditional, „external" and strongly hierarchically structured ways to address corruption in the public sector that are based on sanctions and repressive measures, and the „internal", ethics-based strategies to achieve „soft" corruption control. In the course of the argument the paper briefly discusses the need for a separate professional ethics for public administration in the normative sense (as a separate set of ethical precepts for public servants), and for a sustained ethics counseling that needs to complement such normative ethics so as to make it optimally effective. The argument draws on the experiences of the large corporations and on the relationship between the introduction of ethics in the US and legal provisions that make companies less liable to damages arising from torts if they have instituted ethics guidelines and employed philosophical/ethics counselors on a permanent basis. Further, the paper draws functional parallels between the experiences of the corporate sector in the US and the use of ethics counseling in the public sector across the world, and argues in favour of the need to increasingly complement, and in some cases substitute, external controls for internal ones.

Keywords: Corruption, internalism, controls, integrity, public administration.

From Legal Positivism to Ethics

The shift from repression-based and, in a sense, legal-positivistic, method of controlling informality and corruption in the public sector to a more inclusive approach that involves a primary reference to professional ethics and public sector integrity standards holds considerable promise for the future. Corruption and the fight against corruption, specifically focusing on public sector corruption, have been the focus of institutional reforms in both developing and many developed countries for the past decade at least, yet the results so far appear meagre. The reasons are numerous, and range from a lack of genuine "political will" to address corruption to difficulties in establishing criminal culpability for many forms of corruption to "loop-wholes" in the system of criminal law with regard to the ability of prosecution to address all cases of violation of public

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interest on corruptive grounds. Most of the reasons are systemic, and most apply exclusively to the legal-positivistic approach to controlling corruption.[2]

The strategy behind the introduction of "internal", ethics-based controls in the public service is to develop a public sector ethics as an applied ethics, monitor and research the ways in which ethics standards are implemented, and ensure that professional overseers are able to provide a dynamic input in the way governments institutionalise such standards. The input will ideally be based on grassroots-informed approaches, thus giving a voice to the citizens in the process of developing public sector ethics in their countries.

A shift from the legal-positivist, criminal sanctions-based control system to one resting on ethics has at least four practical advantages for the political system from a perspective of integrity and transparency.

First, the project of founding public sector oversight on ethics presupposes the development of a comprehensive integrity strategy for the sector, which as a strategic document will have to emanate from civil society. Civil society does not only consist of non-governmental organisations, which is sometimes customarily taken to be the case, but rather represents that whole part of society that is outside the government and is not "owned" by state institutions. This means, among other things, that state universities, for example, do not represent "civil society"; rather they belong to the public sector in the broad sense. Civil society is fundamentally the source of ethics-based regulation and controls because it is structurally different from the public sector and represents the basis of legitimacy of public institutions. Thus its role in controlling the integrity of the public sector is both natural and congruent with the logic of legitimacy of institutions in a political society.[3]

Secondly, the envisaged oversight role of the civil society is a platform for developing systematic concrete monitoring of the implementation of integrity standards in the government, once the applied ethics for the public sector is developed in the prescriptive sense. At the same time, this structural context of oversight of the public sector is capable of serving as civil society's strategy to systematically impact public policy and ensure greater transparency and accountability of the government, which in itself contributes to government integrity.

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[2]Many of the issues pertaining to problems in implementing legal-positivistic reforms have been elaborated elsewhere, and will not be re-addressed here. See Aleksandar Fatić, ""Promoting stability and the rule of law in the EU borderlands", in Elzibietta Stadtmueller and Klaus Bachmann (eds), *The EU's Shifting Borders*, Routledge, London, 2011, pp. 137–148, or Dobrivoje Radovanović and Aleksandra Bulatović (eds), *Korupcija*, The Management Centre and the Institute for Criminological and Sociological Research, Belgrade, 2004.

[3] "Political society" meaning an institutionalised political system which allows for a clear delineation between the government and the civil society. This includes modern democracies, but leaves it open that a differently structured political system that does not conform to all requirements of a modern liberal democracy may be considered a political society, as long as it preserves and protects the civil society.

Thirdly, the introduction of ethics as the primary regulating standard in the public sector is likely to generate reverberating resonance in the private sector, allowing a greater integrity to arise in both and in their mutual relations. Especially in countries with weak institutions, synergies between the public and private sector present special opportunities for corruption, and the fact that legal-positivistic methods of addressing such corruption must be conducted by public sector institutions is a complicating factor for the effectiveness of such strategies. Ethics-based regulation would resolve these issues in a comprehensive manner, although it would not be able to fully substitute repressive controls.

Finally, government institutions in many countries, and especially in those covered by the EU's "Eastern" strategy, embedded in the Stabilisation and Association Process, have already expressed a readiness and an intention to embrace the integrity-model of regulating the public sector, with varying degrees of formality. For example, the Serbian Government has already declared that it would work on a new system of ethics-based standards for the public sector, while such readiness is visible in Bosnia and Herzegovina or Albania through the draft documents and initiatives to build integrity platforms emanating from the governments, without the governments' necessarily having made formal statements to such effect. The reason for such readiness is the ability of ethics-controls to save resources when compared with repressive controls, as well as to reduce the overall social conflict and antagonisation that all repressive measures inadvertently tend to contribute to. Societies that are burdened by economic hardship, social inequalities and structural poverty harbour a conflict potential that needs to be ameliorated, rather than aggravated. At the same time, if in such societies a punishing culture is promoted through the operation of public institutions, including corruption-control policy, the conflict potential will tend to rise additionally. That is why, practically speaking, integrity-based controls are politically preferable in the strategic sense.

Different treshold standards

Currently the dominant form of controls of the public sector includes criminal justice measures, which means that the threshold standard for good governance does not in the regulatory sense rise above the *minimum standard of legality*. Ethics standards are higher than those of legality, and that is the main methodological benefit of replacing the rhetoric of "legality" with that of "good goverance". While good governance is in all cases legal, not every legal policy satisfies the criteria of good governance. It is possible to act within one's legal perimeter, by using discretion based on poor judgement and to the ultimate detriment of public interest. Ethics, on the other hand, presupposes a set of more demanding substantive standards that go beyond legality, and thus guarantee a greater quality of public policy. In other words, it is more than possible to conduct the business of the public sector legally, but badly, while it is not possible to implement the ethical and other standards of "good governance" and at the same

time rule "badly". That is the main difference that calls for the introduction of substantive criteria for the assessment of behaviour within public office.

The threshold standards of ethics-based regulation differ from those of repressive regulation in at least two ways. First, the threshold standard of achievement (good governance) is higher than that of legality. Secondly, the threshold standard of exclusion (breach of a quality criterion, reproach, disciplinary action) is lower than that which pertains to criminal sanctions. In other words, it is more demanding to satisfy the performance standard of ethics than that of legality, and it is less demanding to sanction failure to do so than it is with failure to satisfy the legal standard. Although the "sanction" characteristic of ethics-based regulation is not as heavy-handed as that of criminal law — it does not involve "punishments" in the sense of fines or imprisonment, namely sanctions characterised by violence — the ethics-related sanctions are by no means insignificant. While they do not involve deprivations of liberty, life or limb, they certainly affect one's standing in one's significant community. Reproach from colleagues, assuming that the service has a coherent and cohesive corporate or institutional ethics, will hurt, often sufficiently to effect change of behaviour and/or attitude. Symbolic disciplinary action imposed by peers will strike the nerve of professional and personal pride in a well integrated member of the public service. However, if the public service is not ethically integrated and sufficiently horizontally organised, if it depends on the political whim of the ministers and their closest associates, and if all controls are repressive and "external" to the community of peers within the service, then ethics-sanctions will automatically be rendered ineffective. One needs to care about the views of one's colleagues and about one's moral standing in one's community for ethics sanctions to generate change. If one is part of a system where no importance is attached to pride and professional dignity otherwise but merely nominally, and where all controls are based on the law only, one will have no incentive to think about dignity and shame before others, much less to perceive withdrawals of trust from significant others or their negative judgements as sanctions.

For all of the above reasons, in an integrity-driven system of public administration controls are both easier and softer than in a strictly hierarchically controlled, repression-based system of oversight of public servants. At the same time, substantive ethics for the profession is a pre-requisite for the very functionality of integrity-based controls, because an environment that is factually dominated by repressive controls and does not make frequent reference to professional ethics in itself reduces the effectiveness of ethics sanctions by reducing their relevance in the relevant system of values for the profession or service. This is why the language of "legalism" in setting standards of performance is so damaging: it introduces a morally impoverishing collective climate of positivism and removes ethics and good practice standards from the immediate view of those who participate in the strictly legalistic discourse. On one level, this is a matter of emphasis, because the public service must work in accordance with the law, but at the same time, this assumption should not be made the dominant discoursive substance when performance standards and controls are at stake. The ideal situation is one where legality is simply assumed as a standard, and the real

standard that is sought is that of ethics and good practice, with controls primarily targeting that higher standard by using sanctions and regulative mechanisms appropriate to it, namely the mentioned soft sanctions arising from opinion rather than from violence. Philosophically speaking, this means that legality is a necessary, but not a sufficient condition for legitimacy and professional justifiability of actions by the public servants. The sufficient condition is ethics and standards of good practice, which require the "higher performance threshold" mentioned here.

Sanctions of opinion

Sanctions of opinion, as opposed to violent sanctions, require an environment of their own to be effective. They require a special culture in which they can flourish and generate change, in much the same way as various cultures treat violence differently. In tolerant societies with a developed ethics, people who raise their voice while talking to counter clerks in banks and various public institutions are perceived as violent, even deviant. In cultures where one needs to shout in order to be heard, where cues are regularly jumped by bullies, and where the police maintain a high uniformed profile in the streets, raising one's voice may be treated merely as a warning to re-prioritise the service so as to first cater for those who are close to losing patience. In the former culture, the aggressive customer will likely be politely asked to lower their voice and wait until being called forward, while in the latter such a person may either be served immediately or drawn into a shouting match with others.[4]

The role of the environment in making sanctions of opinion effective appears, however, to be greater than the role of individual cultural background. People from different ethic and cultural communities tend to act in similar ways when placed in the same institutional culture and made aware that the same rules apply to them all. Horisontal links that individuals establish within a professional environment determine their self-perception in their professional capacity; thus any inherited values or habits that meet with negative peer judgement in the current environment tend to be quickly retracted. Similarly, the present environment tends to over-ride the habits and values chrystallised in the past in the negative way. For example, representatives of various cooperation and

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[4] This author used to work for the Tasmanian public service, in Australia, in the course of which service many examples of the cultural difference in reactions to violence occurred. One example that directly conforms to the discussed case involved an ethnic Italian woman who started to raise her voice during a discussion with a bank clerk. She was perceived as mentally disturbed and taken for psychiatric evaluation. It turned out that the woman was merely acting in ways common in Southern Europe: raising one's voice is seen there as a way to attract attention and better service. In Australia, raising one's voice while in a bank is perceived as maladapted behaviour. Similarly, a former US Ambassador to Serbia once formulated his government's position with regard to open issues with the Serbian government in the following way: "For some reason, your government keeps repeating its position on (...), each time raising its voice, as though it is hoping to be better heard. We, on the other hand, have heard the position when it was put to us the first time, and have an opinion on it. Repeating it in a shouting tone will only antagonise our policy makers." (private discussion with Ambassador Michael Polt, Belgrade 2006).

development agencies of highly developed countries with a culture of transparency and high standards of public sector ethics, when placed in corrupt environments abroad, marked by cronyism and common kick-backs, often become corrupt themselves, unless steps are taken to maintain their own public service culture within the posts abroad. Representatives of various multinational organisations are thus often found "kicking back" favours to ministers of corrupt countries in exchange for praise of their development work being voiced at their capitals during bilateral meetings. Sometimes this relaxation of rules of behaviour is perceived as "spontaneity".[5]

Looking at the private sector

The private sector traditionally leads the way in the immplementation of good practice standards in relation to the public sector. There are at least two strong reasons for this. First, the private sector depends on private investment and is motivated by profit rather than by amorphous quests of power that often characterise the public sector. Good practice conduces to profit-making, while legality alone does not. Second, the private sector tends to be more organisationally transparent and lines of responsibility tend to be clearer than those in the public sector: the private sector seeks the advancement in private interests, while the public sector (supposedly) seeks improvement in the public or general interest. Private interest is less controversial and often more clearly discernible in concrete situations than is general interest. This is partly why the organisation of private companies tends to be "leaner", more cost-effective and decision-making processes more straightforward than those in the public sector.

Social responsibility, which is the framework for the articulation of corporate ethics for most private companies today, has pronounced instrumental value for the private sector: amid growing environmental and *sui generis* ethics concerns companies that appear "socially responsible" (driven by the community's concerns in addition to their own particular interests) are likely to fare better in the marketplace, because socially aware consumers are likely to punish companies that disparage community interests. Even for reasons of image alone, corporate ethics today is an inevitable standard for the internal regulation of behaviour in companies.

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[5] This author had an illustrative experience regarding this point in a discussion with a Canadian ex-patriot working as a chef in Serbia. At one stage, he expressed dissatisfaction with his impending return to Canada, where there is "such a lack of freedom". When asked what exactly he meant, he responded: "You are not even aware how much more freedom you have here than we do in Canada. For example, when I go back, if I go to a park, have a bear and throw the bottle in the air, just for the fun of it, I will be fined. No spontaneity is allowed there, while you still have the healthy personal freedoms in everyday life here." Setting aside the question of why one would want to throw a bottle in the air in a public park and how this constitutes freedom for all (including those who might be struck by the flying bottle), the comment makes it clear that adaptation to normatively inferior circumstances can effectively over-ride the earlier learned models and standards of behavior.

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"(A)n organisation without a code of ethics is like a proverbial meal without wine, day without sunshine, or executive without a corner office: it just doesn't seem right. In this domain, philosophical consulting is congruent with business and professional ethics of the kind that has been practiced since the 1970s."[6]

This is the superficial reason for companies to introduce ethics-compliance standards; it is related to perceptions alone. However, there is a deeper reason, as well, as many companies face their own internal ethics dilemmas: one of the most obvious is the issue of employee loyalty and the concomitant perspective of "team spirit" that many companies try to foster. There are serious pros and cons for the very idea of team spirit in the private sector, however the issue of employee loyalty and conflict of interest is a burning one for at least some industries.[7] Employees who participate in important development projects within large companies, and work on new products, such as software or weapons, are often bound by "loyalty clauses" in their contracts for varying periods after they leave the company. In other words, they are not at liberty to simply apply for a job at a competing company, and in some cases there are "gentlemen's agreements" between competing companies not to employ each other's employees. This "ethics" (and it is "ethics" because it does nor arise from an autonomous moral reason but merely as an arrangement of fair play that is imposed by a constellation of interests) arises from corporate needs that are not related to image and external perceptions of the company.[8]

The context of social responsibility as an offspring of the growing social awareness among the citizens of many countries of the various environmental and value-considerations that are impacted by corporate action has changed the hard core liberal principle that anything more noble than that which is conducive to profit can't be expected from private companies any more than bluffing can be banned in poker. Today companies are expected to comply with certain ethics criteria, although in most cases such ethics should be mentioned with quotation marks, because it does not satisfy the internality condition for genuine ethics: it does not necessarily arise from moral awareness and the internalisation of certain value that may militate against the quest of profit, but from external expectations by the community that, in the final outcome, are likely to impact profit itself. The difference is dynamic (motivational) and is key to distinguishing genuine morality from externally imposed ethics "codes of conduct".

With the growing popularity of "social responsibility" the context of private sector ethics is drawn closer to that of public sector ethics. However, in both cases ethics is likely to function as "ethics"; as public sector institutions, as the name says, develop their own "corporate" interests, they are in much the same

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[6] Lou Marinoff, *Philosophical Practice*, Academic Press, New York, 2002, p. 161.

[7] John Ladd, "Morality and the Idea of Rationality in Formal Organisations", *The Monist*, vol. 54, no. 4, 1970, pp. 488–516.

[8] Aleksandar Fatić, "Institucionalna lojalnost i problem odavanja poslovnih tajni", in Radovanović, Dobrivoje & Aleksandra Bulatović (eds), *Korupcija*, Institute for Criminological and Sociological Research & Management Centre, Belgrade, 2005, pp. 287–310.

functional situation as private companies: they seek to increase the share of the budget that is earmarked for them and to widen the scope of discretion and autonomy that their employees enjoy in relation to the rest of the public administration. Their "corporate" interest is to have a maximum of money at their disposal, accompanied by a maximum of discretionary power and organizational autonomy, rather than to provide the best service arising from a perception of duty that is founded on public interest.

This is why legislators in America have "encouraged" both public and private organizations to institute "ethics compliance" as a policy:

> "An organization that is ethics-compliant is protected by numbers: a judge may reduce the amount of 'damages' awarded against it by up to 95% — a significant amount. This is the 'ethical' carrot. By the same token, an organization that is non-compliant is threatened by numbers: a judge may increase the amount of 'damages' awarded against it by up to 400% — a likewise significant amount. This is the 'ethical' stick. If you do the math, you will quickly find that a one-million-dollar award — say, to a 'victim' who was 'offended' by a fellow employee of an organization — could be reduced to $50,000 if the organization is ethics/compliant, or increased to $4,000,000 if it isn't. Even if it costs an organization fifty or a hundred thousand dollars a year to implement and maintain a program of ethics compliance, that's a mighty cheap insurance premium for any medium-sized or large corporation. Ethics compliance is marketed mainly by management consultants (who may know little about ethics) and business ethicists (who usually know a good deal about ethics and have learned something about business)."[9]

One can reasonably assume that this type of conditioning by the law had initially targeted private companies, to make sure that, in addition to pursuing profit they would also be optimally "ethical" in the way they operate. However, with the "corporatization" of the public sector the regulation naturally extended to public institutions: if it is natural for them to develop their own particular interests and pursue them above the level of the general interest they are founded to protect, then it is equally proper for them to be subject to the same type of legislation aimed to safeguard ethics standards as private companies.

Methodology of corporate philosophical counseling in broad strokes

One of the dominant models of corporate philosophy aimed to elicit leadership greatness accompanied by organisational ethics was proposed by Peter Koestenbaum in the early 1990s.[10] Koestenbaum's "leadership diamond" includes vision, reality, ethics and courage at its vertices and builds a corporate philosophy of leadership by inter-relating the four. It is a productive model that is focused on the individual qualities of a leader and thus avoids much of the

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[9] Ibid, p. 163.
[10] Peter Koestenbaum, *Leadership: The Inner Side of Greatness*, Jossey-Bass, San Francisco, 1991.

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technical and administrative argument that arises from the nature of the division of roles in an organisation, especially in complex organisations. This model naturally lends itself particularly easily to virtue-ethics, as it rests on the idea that the qualities of a leader can transform an organisation and not only help it achieve its goals, but also shape its moral profile. Leadership as the driving force of governance has been used in training models for democratic change across the world; this type of ethics and management training is particularly well suited to a radical change in circumstances of operation or drammatic shifts in the focus of an organisation's mission. However, with public sector institutions in a democratic context the model shows considerable weaknesses, as focusing on individual leadership often precipitates nepotism, absolutism and corruption that appears to come from nowhere: a charismatic leader whose individual qualities appear to guarantee both progress and integrity for the entire system he leads ends up acting as a dictator some time down the line.

The strong sides of Kostenbaum's Leadership Diamond relate mainly to the ability of individual leaders to impose structural regulation, including codes of ethics, that will last long after they have left the organisation. This structural aspect of regulation is usually the first step in setting the tone of ethics discourse within an institution and is a precondition for educating the employees in what the corporate ethics actually prescribes in certain typified situations. Once the structural framework is set, the dynamic part of the process of rational deliberations and consideration of options becomes key to eliciting ethical behaviour.

The dynamic part of the process involves counselling work with individuals and groups within organisations, and may be pursued, in most cases, by following either the so-called "Dilemma Training", which is especially appropriate for organisations characterised by pronounced specific dilemmas in considering which action to take, or the more contemplative, complex and comprehensive "PEACE Process".

Dilemma Training

The method of dilemma training, which was developed by Henk van Luijk of Nijenrode University in the Netherlands, focuses on the assumption that people in the various professions face particular kinds of moral dilemmas, which, as a general rule, they are poorly equipped to effectively deal with. The conflicts at stake may involve a clash between private and corporate morality and or/loyalty to one's community and that to the organisation. In more legally sensitive cases, they may involve conflicts of interests, as well. The methodology to deal with conflicts designed by Luijk includes seven specific steps:

1. Articulate the core or main issue. Many conflicts are multi-layered and prior to being able to resolve them the stake holders must determine which is the basic issue that gives rise to other problems that, at times, may seem dominant.

2. Identify the stake holders in the conflict. Not all stakeholders must necessarily be obvious from the start: in institutional politics there are

often hidden or "dormant" stake holders who help fuel the conflict while seemingly not participating in it, or those whose moral principles and views act as accelerators of the conflict once it is identified by the organisation.

3. Collect information. All relevant information must be available with regard to the circumstances that generate the moral and/or strategic conflict (the two are often inter-twined) to facilitate a lasting resolution.

4. Determine exact responsibility, by establishing who is formally responsible for the situation, who has the moral dilemma, and who holds a stake in the decision.

5. Step 4 is followed by the examination of the circumstances and consequences of specific decisions for all actors in the conflict, both direct and indirect. Most productively, this phase includes the development of arguments pro and con various solutions. The more options are available at this stage, the better the chances that the dilemma will be resolved successfully.

6. Chose a decision based on a rational examination of the arguments developed in phase 5, solely by picking the solution that is supported by best arguments.

7. Justify the decision, by examining what moral consequences it produces for the decision-maker and others involved in or affected by the dilemma and the decision, as well as circumstantial delimitation of the validity of the decision: what changed circumstances would force a change in the decision, namely how stable the decision is across a variety of potentially changing facts.

The purpose of dilemma training is to develop expertise by members of the organisation in conflict resolution along the described path so that, in taxing circumstances, when the solution requires speedy action and does not allow for deliberation and postponement, the process can run smoothly with as few errors as possible.[11]

Dilemma training shares important common ground with the philosophy of "conflict resolution", which in its original form was developed to provide an alternative to legal procedures.[12] However, it is more analytic in that it stresses identifying the deep dimensions of the conflict, its proper limits, actors and inner dynamics in order to produce a genuine moral resolution, and not just a working and morally preferable alternative to criminal justice, as it usually the case with conflict-resolution.

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[11] Marinoff, ibid, p. 166.
[12] Edward de Bono, *Conflicts: A Better Way to Resolve Them*, Penguin, Harmondsworth, 1991; Dennis J.D. Sandole & Hugo van der Merwe (eds.), *Conflict Resolution Theory and Practice: Integration and Application*, Manchester University Press, Manchester, 1993.

PEACE Process

PEACE Process was introduced by Lou Marinoff as a general framework for the rational deliberation of philosophical outcomes on a broad array of dilemmas, including moral ones. Its structure consists of 5 phases, which include:

1. P (Problem): Identifying the core problem (the same as in Dilemma Training);

2. E (Emotion): Expressing one's emotional reaction to the problem in a way that allows discussion ("constructively", as Marinoff says);

3. A (Analysis): Deliberating on possible solutions. This is the key characteristic of PEACE counselling that distinguish it from psychotherapy, as the deliberation must be rational and based on logical arguments, rather than seeking to merely comfort the sufferer or help him to "move on", which is more often than not the primary emphasis of psychotherapy;

4. C (Contemplation): Thinking about the circumstances and the frame of mind that will allow the person to chose the best of the elaborated options and move on them;

5. E (Equilibrium): The stage where the problem is either solved, or no longer illicit the emotional reaction that it did in the first place.[13]

PEACE Process is a framework that readily lends itself to a variety or ethics counselling approaches, as it allows sufficient analysis of the starting issues, focused on the formulation of the core problem (which brings it seemingly close to psychotherapy), as well as an in-depth exploration of one's rationally laid out options as to how to approach the problem, which is what distinguishes it from most psychotherapy. Finally, the phase of contemplation acknowledges the circumstances and mental dispositions that must obtain in order for the person to actually become empowered to take the best decision, which is another element that firmly distinguishes PEACE Process from most types of psychological counselling. Once the decision is reached, it is a philosophically informed strategy that arises from a proper analysis of the problem and its surrounding circumstances, and is thus likely to lead to an objective change in the person's situation, making it unlikely that the negative emotion will return. Unlike with support-based (essentially comforting) methods of psychological counselling, where recidivism in the form of return of negative emotions is very high, philosophical counselling along the PEACE Process seeks not just to change one's reactions to the problem, leaving the problem as an unassailable issue out there in the external world, but also to actually address the problem as separate from one's reactions: philosophical counselling in general aims to allow the person to find the resources and map the best trajectory of solving the real issue, which, then, resolves the emotional problem as well, but only as a consequence of the core problem being adequately addressed.

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[13] Initially the PEACE Process was presented in Marinoff's best seller *Plato, not Prozak*. For a discussion see *Philosophical Practice*, p. 168.

Moral dilemmas are particularly well suited for this approach because they uniquely connect the external issue in the form of a moral norm and the internal issue in the form of a decision-making block or inhibiting emotion. In this sense, ethics is paradigmatic for problem-solving from a philosophical perspective.[14]

Conclusion

In the Remark to Paragraph 215 of his *Philosophy of Right*, Hegel states: "To hang the laws so high that no citizen could read them (as Dionysis the tyrant did) is injustice of one and the same kind as to bury them in row upon row of learned tomes."[15] Either strategy of imparting legality, formality and integrity as progressive steps of proper performance on the public administration — by imposing a legal standard that is difficult to understand and implement by public servants, or by regulating the sector in such minute legal detail that discovering the exact norm that pertains to a particular issue would require serious research — would obviously be wrong and ineffective. Yet, this is what usually happens, so that systems of public sector regulation tend to be either legally over-regulated (the latter case), or under-regulated (the former case).

In both cases, the remedy is in a transformation of perspective from legal-positivistic to humanistic and philosophical: rather than constantly talking about legality, the debate within the public sector needs to focus on ethics and propriety. On a formal level, ethics allows the lifting of the requirements of performance as it tends to be more substantively demanding than the law, while on the practical level philosophical counselling, or ethics counselling in this particular context, will allow the norm to be brought to life and implemented in concrete circumstances while at the same time benefiting the public servant's own ability to morally orient herself.

The use of philosophical counselling methods in helping the public administration manage its own "horizontal" regulation that is non-repressive, while at the same time being highly effective, may rest on one of the two modern methods briefly presented here: the Dilemma Training approach, and the PEACE Process. While they are not the only methods available to philosophical or ethics counsellors, they have considerable merit in addressing some of the most widespread ethics issues in the modern public administration, including institutional indecision, conflict of norms and interests, and a lack of deliberative argumentation in support of institutional decisions. It is the contention of this article that the use of philosophical/ethics counselling would automatically improve not only the

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[14] "Pathology" in thinking, and consequently in moral reasoning, is a different context that does not lend itself to the methods discussed above. For a philosophical view of how pathology could be seen and treated from a humanistic perspective see Binnie, James, "Philosophy of thought and the Relationship to CBT: An Existential Analysis — What's Wrong with Being a Robot?", *Philosophical Practice*, vol. 5, no. 1, March 2010, pp. 567–575.

[15] As T. M. Knox points it out, Hegel erroneously refers to Dionysius, because the practice to hang tablets with laws inscribed on them so high that they are difficult to read belonged to Caligula.

regulation of the public sector by allowing the process to become more "internal" than "external", and thus cheaper and less heavy-handed in the use of sanctions, but also the corporate spirit and culture of the public administration, which through the use of philosophical counselling would become more open to deliberation, thus more rational, and, by extension, would result in more just decisions and policies.

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