

# **NEW ETHICAL CHALLENGES IN A CHANGING PUBLIC ADMINISTRATION**

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# NEW ETHICAL CHALLENGES IN A CHANGING PUBLIC ADMINISTRATION

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## 1. Introduction

Administration ethics is an important field of study since the mid 1970s, undoubtedly motivated by the paradigm of the *New Public Administration*<sup>2</sup> that placed the issue on the agenda of public administration. The recent paradigm of *Reinventing Government* has also an imperative position in ethical concerns. Given that, work and literature about this subject have largely expanded and its application to practice became quick while rich evidence appeared all over the world. As Cooper refers, administration ethics was not an ephemeral fashion, but it has confirmed its sustainability and its centrality to the field (Cooper 2001:1-36).

However, what is missing in this spectrum is a directed effort to study specific sets of major research questions that would be the core of administrative ethics (Cooper, 2004). Therefore, allied to the dynamization and crescent interest of ethics, the current public administration reality of constant mutation, namely in matters of new developments, raises pressing ethical topics and challenges. The example of E-Government is a clear representation of this new reality. These are ideas that we intend to define as significant research questions.

Beyond the establishment of the essential interaction between ethics and the new administration forms and consequent new ways of governance, it is crucial to demonstrate the difficulties of ethics definition, treatment and control in this reality. In order to achieve this and in this precise context, it is also vital to exemplify how it can be implemented, motivated and managed, through a new ethical approach.

One of the subsequent focal points of our discussion is based on the relationship of ethics and law. In our Portuguese framework, laws followed the alterations promoted by *New Public Management*, but the norms, regulations, values and beliefs conceived by the old

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<sup>2</sup>New Public Management henceforth referred as NPM

Public Administration were not revoked and are not suitable to the demands of the recent law. For that reason, we can describe a great number of tensions between, for instance, tradition and quality. This is a major high point of discussion, because it has direct influence on ethics.

## **2. Influence of New Public Administration Paradigms on Ethics**

The paradigms of *New Public Management* and more recently *Reinventing Government* provided a crucial mutation in the parameters and concepts of the public administration role. For that reason, not only ethics became an important area of concern, as its conception needed to adapt to the new formulations of governance and public service. Therefore, in order to define the correct interaction among these models, public administration and ethics, it is vital to provide an advance to these theories.

We are now aware that the satisfaction of citizens' needs is essential when we refer to Public Services. This is a significant subject for *Managerial School* supporters, who have been debating the ways that governments should produce and deliver public services. They pinpoint that every element that involves public production is more expensive and inefficient than those of private production (Rocha, 2000). Because of that assumption, the *Managerial School* (plainly influenced by New Economic Institutionalism) promotes a modification in the delivery of public services. Consequently, the State must constantly endorse the provision of public goods or services, while third parties can supply production. *Managerial School* approach also maintains that large public services organizations should be broken down into independent units (the *agency approach*), with enough independence to function on a relatively free basis. This school integrates two major movements, namely *New Public Management* and *Reinventing Government*.

### **2.1 New Public Management**

Globally speaking, NPM supports that *privatisation* is the adequate mechanism to establish efficiency, efficacy and quality in the delivery of public services, mainly because private practices are more qualified and accurate. In fact, as Emanuel Savas underlines "privatisation is the *New Public Management*" (Savas, 2000: 319). Kieron Walsh defines that the central characteristic of this movement is "the introduction of market mechanisms

to the running of public services organizations: the marketisation of the public service” (Walsh *et al.*, 1997: xi). This author demonstrates that the main principle in the use of privatisation mechanism in the United Kingdom was the alteration in the delivery of public services through the organizational and cultural transformation of the Public Sector. The reform purposes were to:

1. Reduce the costs of government action,
2. Reduce the number of public employees and action,
3. Change organizational public values.

Within the ethical area, this movement challenged the ancient understandings of administration, believing that administrators worked as technical professionals, without making much use of good judgment according to the desires of their political masters. The NPM denied ideas of administration as ethically neutral instrumental thinkers apart from the electorate. Accordingly, intellectual proponents of this perspective were responsible for the first noteworthy approach of public administrators’ ethical obligations and the importance of citizen participation in administrative decisions. (Cooper, 2004).

This movement gained impact with Ronald Reagan’s administration in the United States of America and Margaret Thatcher in the United Kingdom.

## ***2.2. Reinventing Government***

The movement emerges from Osborne and Gaebler’s work (Osborne, Gaebler, 1992), and becomes relevant with Bill Clinton’s administration<sup>3</sup>. RG supports that Public Administration must consider two features: mission and improving productivity. Its mission is to satisfy the needs of the customers. Improving productivity is achieved by means of a distinction between the results and the quantity of resources implied. It is unavoidable to point out results (and not only rules) and objectives (not only the resources). The customers requests must also be fulfilled, since “the purpose of a business is to create a customer” (Drucker, 1964: 85).

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<sup>3</sup> Patent in Clinton’s National Performance Review, which planned to modernize the American Public Administration (Gore, 1994)

This perspective is not drastic and radical as the previous one, primarily because it defends that in order to make the productivity progress possible in Public Administration, hierarchical structures must be flexible, and opposite to concentration and centralisation. Privatisation can be an answer if the alterations in the hierarchical structure do not have any influence on productivity. If it is not possible, delegation mechanisms can be a solution. Concerning ethical position, the authors of this movement, advocate that the use of privatisation devices does not alter the fact that the State has the responsibility as the organizer. It has to supervise and control all the process, bearing in mind the satisfaction of citizens, and the execution of efficiency, effectiveness and accountability.

### **2.3 The Present Impact of These Paradigms on Ethics**

These two movements, in spite of their clear difference in methods, believe that administrative reform is an evolutionary process (Araújo, 1999). In sum, they shaped important aspects that had consequences on nowadays ethics. The transition from the Weberian model to the present one also brought new ethical concerns. To be exact, the Government becomes a partner among others, public and private; therefore the delimitation between public and private is imprecise. New forms of public delivery are available. The activities of Government are distributed through organizations that involve numerous actors and decentralisation is expanding, achieving flexibility and responsiveness. With more and more autonomous new units and networks, it is obviously difficult to define responsibilities and to control them.

The NPM formulates an unambiguous distinction between state bureaucracy and market modes of organization. The implementation of the notion of business and competition in *managerialism* intensifies the idea of customer orientation. This idea promotes government transparency, denying the old close bureaucracy (Maguire, 1997: 24-34). The introduction of a market type mechanism signifies innovating forms like contracting out, agentification and privatisation, among others. The performance of public servants is evaluated and controlled, chiefly because the service to the public (and its quality) has become a core value in public administration. Public service users are now faced as clients or costumers. Otherwise, “While in the traditional Weberian bureaucracy the responsibility of public servants is restricted to the execution of orders given by the legitimate power, public servants now have a broad spectrum of responsibility”

(Hondeghem, 1997: 2). As Parsons highlights, “In this Weberian world there was a place for everything and everything was in its place. Civil servants knew their place and parliaments knew where things were and who was responsible for them” (Parsons, 1997: 91). In fact, public servants turn out to be more accountable, sustained by audit mechanisms. When the Weberian hierarchical forms become more elastic, it is difficult to define unbending roles.

The key words of this new reality are diversity and complexity, against the consistency and predictability of the older bureaucratic model. These postulations carry an expected increase in the diversity of *modus operandi*, procedures and actions. In the same way, this diversity acts also in the field of values (Parsons, 1997: 87-104). It is also relevant to refer that the *managerialist* notions of government are not neutral, they imply an ideology, a defined conception, and largely that, “The rapid spread of NPM practices has been their utility and acceptability to dominant political elites.” (Minogue, 1998: 33).

In effect, it seems clear that managerial reforms brought new ethical problems and doubts; however, it is undisputable that the paradigms that support these reforms have made an open space for ethics awareness and discussion possible. Actually, not only has ethical conduct become an important issue, but also the widening ideas of governance include “democratic and participative values which give greater weight to accountability than efficiency, while recognizing that citizens want government to be efficient too.”(Minogue, 1998: 32). In fact, the common problem of corruption may be a symbol of the insufficiencies of a poor public management (Minogue, 1998: 32). The new focus on ethics derives then, not only from fresh interest, but also represents a double sign: of the evolution and improvement of society and of the declining public reliance in government.

## **2.4 The Portuguese Case**

In our Portuguese framework, two historical events shaped public management reform. The first was the Revolution of 1974, which ended over 40 years of dictatorial and corporatist regime. The second was the integration as a member of the European Union in 1986. This latter membership involved a “fundamental transformation from a closed, highly controlled, inward-looking, state-oriented, oligarchical society to an open, outward-looking, citizen-oriented, democratic society that places high value on individual freedoms

and initiatives.” (OECD, 1996: 7). In effect, public management reform was a real movement in Portugal, mostly because notwithstanding the political changes and party lines, the modernization process continued, engaged by roughly the same frame of officials, without drastic changes of policies. Therefore, “dynamic continuity” constitutes the strength of the Portuguese administrative modernization” (OECD, 1996: 7-8). This “dynamic continuity” means that reformers proceeded with their mission, always learning from experience and mistake; by balancing actions; adapting to new environments or situations through new strategies and tools. One of the major results of this perspective was the evolution of reform strategies, from a global focus to selective and flexible guidelines. According to the OECD paper about Portugal, “selective radicalism” is an original feature of the strategy shift. “A selective radical approach concentrates reform efforts on a single issue or area that, if radically changed, can have a deep impact on all other issues and areas, and create a chain reaction” (OECD, 1996: 8). Therefore, in Portugal “citizen-orientation” was the source of this approach. Still, we cannot forget that it is a long-term process. As Caiden refers, “Administrative reform is difficult and fraught with problems” (Caiden, 1991: 295).

The reformation process began with the application of the “Intercalary Foment Plan” (1965-6) and the preparation of the “III Foment Plan” (1968-1973) that promoted the forming of “Working Group 14”, accountable for Administrative Reform. This group was responsible for a major delegation of competences and the proposal for the establishment of the “Secretariat for Administrative Modernisation” (23<sup>rd</sup> November 1967). Their aim was to solve the Welfare-State crisis, amplified by the enormous increase of costs in a difficult context of economical crisis. The model failed in the achievement of an equal society; effectively only the middle class took advantage of Welfare-State actions. This paradigm was also condemned by a prevalent anti-bureaucratic feeling. Therefore, “professional administration” (1945-1975) was replaced by politics and governance. The Weberian bureaucracy was not able to carry out the implementation of new public politics, and their professionals (Simon and behaviorists) did not have the conditions to execute their tasks. Thus, the environment was set up for the development of a different form of Public Administration.

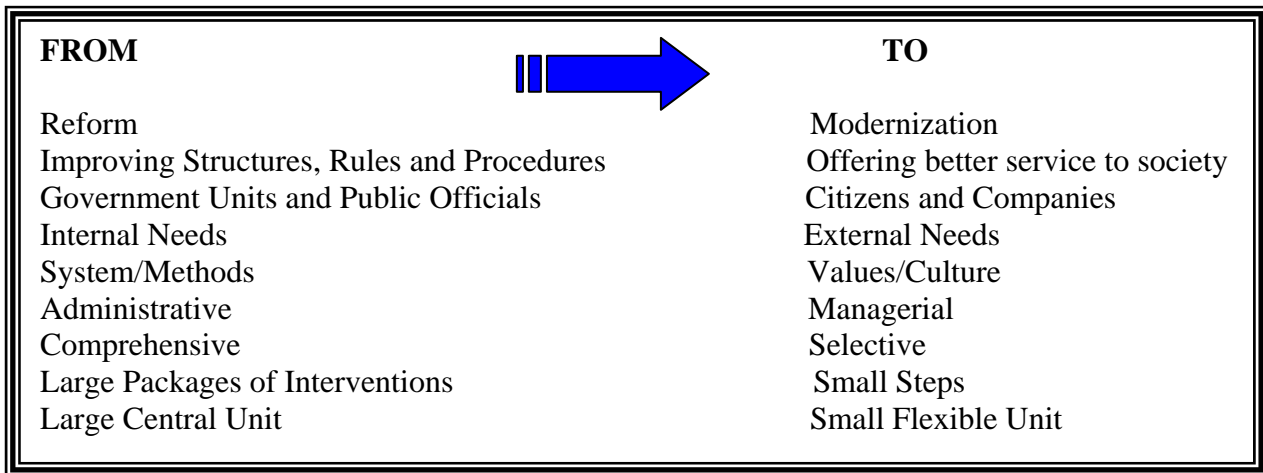
The Public Choice and Managerial Models generate contradictory principles and distinct styles of management. The differences are underlined in the following image. The

*managerialism* solution pleases politicians and professional managers to be exact because politicians can now blame other groups for public service bad functioning, and the managers can impose their professional values and interests. The outcomes represent the exponential growth of public costs, without any increase for quality and quantity of service.

The adoption of the NPM paradigm for administration reform has converted the administrative State into a managerial State. However, social policy continues to be a central State vector. In the first phase, denominated proto-managerial, the core concern was to raise efficiency inside the existing public structures. It was imperative to avoid the dysfunctions of the Weberian model. In the last phase, the concept of market was strongly introduced, becoming the base for the managerial State. The State thus abandons planning and execution, transformed into a *a priori* or *a posteriori* regulator of the actors' behavior. This approach has influenced State reform, even in areas where sovereign positions are crucial, like justice, police and prisons.

Public Choice	Managerialism
Executive Structures based on Politics	Management Structures based on the Expansion of Capacities
Centralisation of Authority in the Figure of the Politician	Decentralisation oriented by the Instrumentalization of Managements
Strategic Corporative Management	Administrative Deregulation and Minimization of Central Organs Role
Increase of control with permanent staff costs, combined with the expansion of confidence posts and reduction of the hierarchical levels. The objective is to provide the bureaucratic subordination to the political directives of the elected government.	“Edge” Strengthening through authority delegation, eased by the agency process that sustains the proximity of resources, products, clients and results for managers.

**Table 1. - Public Choice Versus Managerialism**



Adapted from OECC Paper “Putting Citizens First: Portuguese Experience in Public Management Reform” (1999)

### **Figure 2 - The Portuguese Reform Strategy Evolution**

Analyzing ethics initiatives in Portugal, the “Code of Administrative Procedure” (1991) is a crucial legal document, as one of managerialism relevant accomplishments. The Code is the result of a prerequisite expressed in the 1976 Constitution: “the processing of all administrative activity shall be the object of a special law, which will ensure the rationalization of all the means available to administrative units, and the participation of citizens in the making of decisions or deliberations which concern them”. It is a legal structure (made in a simple language and format) that emphasizes the transparency in the relationship between citizen and administration. The code revision was defined in the third article. Therefore, the alteration occurred on 31<sup>st</sup> of January 1996. The conclusions demonstrated that, the first years of code use were successful, because it was clearly accepted. Through the joint efforts of several units and groups, some pragmatism alterations were made, namely deadlines and special measures. In 1993, the “Secretariat for Administrative Modernization” published the “Ethics Charter”, which intends to describe the duties of public servants, following the major principles of the “Code of Administrative Procedure”. However, it is only a short text with the values and lines of conduct for public officials. Nowadays, the impact of this charter is quite imperceptible.

Nevertheless, combining ethics with the transition of the two models mentioned above we face a situation that is not consensual. Particularly, as reforms follow NPM procedures through the publishing of laws, while old regulations were not revoked, a situation of permanent doubt among the practitioners subsists. These circumstances raise ethical

problems, explicitly the dysfunctions of *who to follow* and *what to follow*. In fact, our public administration is directly influenced by the Nation State, where the essential value is abidance by the law, independently of it being or not directed to citizen service and satisfaction. With NPM, the strategy is altered, everything is now centralized in the citizenry; however, the cultural matrix was not changed. This issue brings inevitable tensions, e.g. between providing a quality service to the citizen or providing an economical, low cost service to the State. In the old model, the citizen required a service and the public administration was going to analyze it, in order to decide if it was possible or not to achieve. In the new condition, the Public Administration has to help the citizen to solve his/her problem or request. Consequently, the public servant may often be compromising some rule or written norm.

### **3. New Developments in Public Administration: New Ethical Challenges**

The new developments in Public Administration and governance derive from the adoption and evolution of *managerialism* central notions. In fact, downsizings, privatisations, public-private partnerships, and restructurings are modern phenomena that raise countless and complex ethical doubts.

Effectively, if normative foundations for public administration are still ambiguous and non-defined, how can we identify norms for the context of frequent developments in a changing public administration? Which are the consequences of these new formats in administration terms, of clarification of responsibilities, of managers' action and their orientation? How is their effective relationship with the citizens? In addition, what about their statute while users? Are they considered citizens or customers? Who can be held responsible for errors made by computers and technologies?

Besides these necessary reflections and answers, we live in an Era, when a crisis of values appears to be evident. Several authors confirm this illation, visible in the relativity and ephemeral mode of the events that jeopardize decisive aspects in our daily life. Wisely, John Naisbitt highlights that we are in a “multiple-choice society”, within a board of showmanship, alienation and dependency, strikingly present societal characteristics. Marcuse talks about the “one-dimensional men” that can be translated to our time of consumption, where the recognition of the individual is made by a system of objects.

Debord emphasizes an era of “generalized autism” (Debord, 1979:43) and still valid Feuerbach pronounces “This is without doubt our time...the image is preferable than the thing, the copy instead the original, the representation instead the reality, the appearance instead the being...” (Feurbach, 1904).

The Governance has to face continuously great expectations of citizens, combined with the evaluation criteria of efficiency, effectiveness, economy and value. In fact, the economic conception of public service leads us to the idea of delivering a good or a service below its cost, not forgetting quality and the essential factors named above (Bilhim, 2002-A:173). The outcomes are obviously imperative, but Public Administration “must, primarily, have the duty to observe the legality of its acts and to respect the citizens’ rights and needs” (Barata, 1998:57). Nevertheless, the ethically responsible conduct emerges as a fundamental factor of evaluation.

Public administration is now functioning as a network, served with a great number of actors. It has numerous faces, plentiful environments and positions. Therefore, we deeply believe, from our *in loco* direct experiences, that this current framework enables the possibility of full control of responsibility, correct decision-making and public servants’ performances. Less bureaucracy, less control. The diversity and complexity of the contemporary structure amplify the difficulty of ethics management. For that reason, we suggest a multidisciplinary perspective that combines different tools, described in point four.

### **3.1 The E-Government Example**

The implementation of ICT and, for example, e-government contributes with more ethical questions. It is clear that the Information Society brings issues that seem more complex in this particular area. As the OECD project underlines “the term “*e-government*” focuses on the use of new information and communication technologies (ICTs) by governments as applied to the full range of government functions” (OECD, 2001). Therefore, in the context of the Internet exponential development, the concept of cyber management and e-administration becomes evidence for updating as public agencies go progressively online. In fact, “Public Organizations and private-sector firms are reorganizing and realigning themselves to take full advantage of new information technology and the promise of the

Internet as a medium for rapid communication retrieval and dissemination.” (Menzel, 1998:445-452).

The Internet can bring positive and negative factors to public administration. Consequently, this new reality represents a serious challenge for managers. There is need to promote Internet use for employees and clients, having in mind the simplification of procedures, decision times, quality, effectiveness and efficacy of the public service. It is also imperative to establish policies for discouraging Internet abuse and corruption by the employees and public. The traditional strategies and organizational hierarchy may not be successful (and surely are not) in cyber working places. For that reason, the OECD project affirms that “In particular, the networking potential offered by the Internet and related technologies has the potential to transform the structures and operation of government.” As a result, we have to develop a more meticulous statement of acceptable and unacceptable behaviors on the World Wide Web.

The big ethical questions are rapidly defined: What can be the ethical or unethical implications of Internet? What will be the impact of e-government on public administration ethics? Who must have full access to websites? What kind of restrictions must be established? Can employees access Internet for their personal use? Can the public access the government data bases harmlessly? Can privacy be at risk? Who can be responsible for ICT errors? What policies must be implemented? What strategies must be followed? How can e-government facilitate reform?

Some studies, inclusively the one developed by OECD stresses that e-government has the potential to support good governance practices. In effect, Salvador Parrado emphasizes that: “There is a strong belief (...) that implementation of information systems brings good management *per se*.” (Parrado, 2002).

However, the Internet implies other illations, explicitly its impact on workplace and work relationships. On one hand, through e-mail or networks communication, employees can select whom they want to talk and can neglect teamwork, not sharing their knowledge or information with others. In brief, individualism and depersonalization, usually related to Internet, can involve problems in the workplace, quickly transparent to the public. On the other hand, Internet can provide a more open, participative and democratic workplace.

(Menzel, 1998:445-452). This theme needs a more profound reflection and discussion, although a few basic premises are highlighted in this paper.

#### **4. New Ethical Approach**

We can underline factors that justify the magnitude of the ethics in a contemporary public administration, more concretely:

- material and resource difficulties
- needs of a growing and multifaceted society
- critical and attentive perspective implied in citizenship
- restructuring subjects and change of the administration
- constant demand that decision processes become more thoroughly participated.

The ethics of this new millennium concerns employee and service, so it involves the absolute need of an orientation according to clear and internalized values, especially for the higher administration levels. It is crucial to have a leadership that provides the integration of these values; a strong organizational culture based on those principles, a serious evaluation/attendance and an Aristotelian process of learning and continuous recycling. This accomplishment lives in a real political will for true ethical politics, homogeneous and global. It is essential to pass from impositions of bureaucratic sense to internalized practices, consensual conducts, conception of systems and organizational structures.

In effect, the present reality requires innovative approaches and combined measures. For that reason, we suggest that a public administration ethics framing can be consummate with the following joint procedures:

- Accountability Tools
- Conduct Codes
- Monitoring Mechanisms ( e.g. internal and external questionnaires)
- Development of Supportive Structures (to encourage ethical conduct and to reward those who act morally)

- Implementation of Audit Methods at Inter-governmental level
- Professional Socialization (e.g. formation, awareness and training)
- Introduction of whistle-blowing systems (in a careful way)
- A stronger appeal to the active participation of citizens (for instance in the denunciation of bad practices)
- Definition of Leadership Responsibilities
- Assertive Communication

#### **4.1 Management of Ethics**

The process of ethics is obviously dependent on a true political will. Only this way, is there potential enough to constitute a complete ethical code in an inclusive and coordinated manner. In fact, isolated measures are worthless. Through the creation of particular structures of an ethics management, it is possible to provide, not only *a posteriori* treatment to eventual ethical occurrences, such as dilemmas, conflicts of interest, etc. It is also useful to promote the development of prospecting mechanisms and methods of ethical problems' anticipation, advantageous to endorse resolutions in a more harmonious direction.

#### **5. Ethics and Law**

This is an imperative subject, because it raises relevant ethical questions, namely in the new developments framework. Is law the ultimate ethical frontier? How can we harmonize ethics and the juridical perspective? The guarantee of law enforcement allows citizens to have reliance on the public administration and on the State. In effect, the legality is one of the main characteristics of the *Etat de Droit*, its crucial pillar. For that reason, and in a very simplistic conception, in the State genesis rests the communion of collective interests and desires, that only through the congregation of efforts and wills can be achieved. Consequently, laws can be defined as the last frontier, but not as a moral frontier. If not, and in a considerably reductive vision, law would be a simple norm that must be followed and we should all be obedient to norms, even if they were immoral or unethical.

In our Portuguese context, this relationship between law and ethics has a curious nuance, designated previously. Laws based on the NPM reforms were published; however, procedures and regulations of the old bureaucratic model were not erased. This state of affairs leads us to a situation, where employees and managers have to face an attitude of cognitive dissonance, not knowing who and what to follow.

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