BUILDING ETHICS INTO INSTITUTIONS

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Summary

Society is not made up of simply a group of individuals interacting and contracting with each other. While the well-being of individuals is the raison d'être of a liberal democratic society, we are a society of institutions and many of the problems we face are institutional problems. These problems are not confined to, but are particularly acute for, public sector institutions. An important part of the solution to such problems lies in making those institutions more ethical. This involves developing both a conception of ethics as an institutional phenomenon as well as an individual one—to say what it might be for an institution to be ethical and, hence, what "institutional ethics" might be.

1. Introduction

While awareness of ethics issues in the major organizations of modern society has grown in recent years, our primary perception of ethics is, and always has been it seems,

centered on individuals. Both the questions we ask about ethics and the answers we propose are essentially individual. If it could be encapsulated in a single statement, we could say reasonably that for most people ethics attempts to answer the question "How should I live my life." Even if asked in the plural "How should we live our lives" it is most often seen as a question for human beings about how each of us should live our lives rather than about how we live as groups.

The solutions to ethical problems are generally expressed as rules, maxims, and guides or, in organizational contexts, as codes. These codes may be backed by legislation enforcing or criminalizing the most serious breaches, and may define a person's conduct in either of two ways. Aspirational codes define how individuals should live and/or work together, according to ideal standards that they ought to strive toward. Punitive codes, on the other hand, define actions and activities that ought to be avoided. The exhortations to the former or the sanctions against the latter are expected to be internalized by ethical individuals.

The emphasis on individuals and ignoring of institutions is a feature of work on public sector ethics with few exceptions. The root of the problem lies in the first major American contribution to public sector ethics, Stephen Bailey's influential 1964 essay "Ethics in the public service." Bailey's choice of emphasis, the individual administrator, greatly influenced the path of public ethics. This focus tends to detract from the organizational context in which administrators exercise discretion and generate value paths for others in the group.

This overemphasis on individual ethics is common to all areas of applied ethics. Initially, the field of inquiry called applied ethics was developed in the United States, where, arguably, individualist approaches have always been dominant. While ethicists with an interest in the public sector might be expected to be more sensitive to the institutional dimensions of their subject, public sector ethicists at that time merely followed the same paths as their colleagues by continuing to focus on individuals.

This tendency toward an individualist analysis has been reinforced by much contemporary ideology, both in seeing society as an amalgamation of individuals and in emphasizing individual responsibility in many areas of law (in the care of dependents, in contractual and tortious liability, and in criminal responsibility). The individualist approach is also seen in the predictable responses to social problems and institutional corruption. Blame is commonly directed towards individual perpetrators, encouraging a scapegoat mentality whose purpose is to address public demands that justice be done. This betrays an assumption that responsibility for wrongdoing lies in particular individuals who behaved foolishly, illegally, and/or unethically. The problem is perceived as a flaw in individual conduct and the solutions in terms of ethical standard setting or legal regulation that describes the conduct to be avoided and prescribes sanctions for those who do not take heed.

In this article, I argue that society is not made up simply of a group of individuals interacting and contracting with each other. While continuing to emphasize that the well-being of individuals is (or should be) the raison d'être of a liberal democratic society, I argue that we are nevertheless a society of institutions and many of the

problems we face are institutional problems. These problems are not confined to, but are particularly acute for, public sector institutions. An important part of the solution to such problems lies in making those institutions more ethical. This involves developing both a conception of ethics as an institutional phenomenon and an individual one—to say what it might be for an institution to be ethical and hence what institutional ethics might be. Section three, therefore, discusses what it means to institutionalize ethics—to build ethics into an institution.

This emphasis on institutions requires some background explication of the nature of organizations. Section four provides the main body of the article, and discusses how our conception of what an organization or institution is makes a huge difference to how we address ethical problems within them. However, rather than choosing a particular organizational theory as a foundation for discussion, each theory provides some insight that contributes to the overall perception of ethics in organizations. The role of organizational culture is also discussed in this section, and it is observed how much a culture affects the ability of an ethics regime to do its work. Section five discusses how successful legal codes are in sustaining and supporting institutional values as part of the organizational culture, and, finally, section six provides some tentative conclusions about the direction in which institutions must proceed if they are to create the kind of organizational environment that is capable of sustaining an ethics regime.

2. From Individual Ethics to Institutional Ethics

2.1. A Society of Institutions

The centrality of individuals in our ideas about society and ethics may seem understandable in the light of liberal ideas about the importance of individuals and their rights forged during the Enlightenment that now dominate contemporary economic, political, and moral debate. They can be found in Locke and his conception of society and polity as the creation of free individuals contracting with one another to create institutions entrusted with the advancement of their welfare. They are found in the American Declaration of Independence in the creation of new institutions where old ones had breached the people's trust, or merely failed to generate continued support. They are found in the liberal ideal of a market of freely contracting individuals. They are also found in the idea of individual rights, in the utilitarian concern for individual welfare, and in the concern for autonomy. While principally guided by the Enlightenment, such individualist ideas are grounded in much earlier Christian principles of individual moral responsibility, not to mention Reformation beliefs concerning the relationship between individuals and their God.

However, if we take one step back this conception seems odd. Human beings are social animals, descended from social primates without interruption. In other words, human beings have always lived in social groupings but those social groupings have been changed, added to, and given organized form by deliberate action. The resulting organizations and institutions often turned out contrary to the intentions of those who created them, due to unintended consequences and attempts by others to reinterpret, reform, or simply capture them. Institutions grew and prospered to the point where they began to be consciously created, because people began to recognize that pooling the

skills, knowledge, and power of various individuals often allows more to be achieved than through individual efforts. This much has been obvious from the collective survival techniques of our hunter gatherer forbears, to the observations of Ronald Coase, whose theory of the firm postulated that business organizations ought to be created where it is more efficient to organize work than contract for it.

Organizations and institutions have made the progress of human society possible—harnessing both the creativeness of individuals and the enormous power of their cooperative ventures. However, the power of institutions can be turned to diverse ends, unworthy as well as worthy. Any organization may attract entryists who could use that power in new and different ways and for new and different ends. To some extent, this is a weakness, limiting the effectiveness of the institution. However, it can also be seen as a source of potential strength. The different ends to which an institution may be turned provide the life, the dynamism of the institution. They make it possible to outgrow the limited and frequently misguided vision (if any) of those who established them. The problem is that institutions may attract those who wish to exercise power purely for their own good, or in pursuit of ideas that are abhorrent to most individuals. Thus, institutions not only make human development, indeed history itself, possible; they also provide the darkest hours of that history. They have oppressed members as well as outsiders and forced them to serve the ends of those who control those institutions.

The Enlightenment challenged such notions—emphasizing, celebrating, and justifying the role of the individual in law, politics, and economics. In economics, Enlightenment philosophers such as Adam Smith highlighted the potential of markets to increase human well-being by allowing individuals to trade to their own advantage. In law, they gave us the concept of human rights, as well as the notion of the rule of law, where laws would be predictable and allow conscientious citizens legal space in which to play out the game of life. In politics, they emphasized individual sovereignty. In ethics, Bentham saw the only criterion for judging action in the extent to which it maximized the pleasures and minimized the pains of individual human beings. Kant's criterion was whether the action could be the subject of a universal rule that could be adopted by all individuals. Rawls built on these various conceptions by seeing each as different means of demonstrating "equal concern and respect" for individual human beings. For Rawls, society and state were the result of a contract between individual citizens for their benefit, forming institutions that could be discarded by citizens if they did not subsequently fulfill their *telos*. In all cases, institutions were to serve individuals rather than individuals to serve institutions.

The individualism of these ideals has been given even greater prominence in the English-speaking world with the political triumphs of Margaret Thatcher and Ronald Reagan. However, the revival of these ideas in their strongest and possibly least sophisticated forms has not improved the life of ordinary citizens in English-speaking countries, many of which have been spoiled by market fetishism. The reason is that the strength of these ideals also constitutes their greatest weakness. Individuals may be the point of, the justification for, the raison d'être of human society, but society cannot be described or understood merely in terms of individuals. Despite all the rhetoric, we live our lives largely in (and, to a significant extent, through) the institutions in which we grow up, work, play, and procreate. They are what made human progress possible and

provide the social life that is essential to our natures as social beings. Institutions continue to dominate virtually every area of social life and simultaneously sustain and infuriate us by providing the best and the worst experiences of our daily lives. The problems, and the opportunities, of modern life are provided by institutions. Indeed, modern life as we know it is possible only with institutions. So there is no point in idealizing about a society of individuals. We cannot ignore our social nature, the benefits that social interaction can bring, or the evils that it can generate. We must reform our institutions and make them work. Our goal must be to avoid the harm while seizing the benefits that only institutions can provide—making institutions operate to enhance rather than diminish the lives of the individuals they are supposed to serve. This is true of the institutions of government, business, religion, and family.

The Enlightenment message is misread if it is seen as atomizing society into self-regarding individuals. The message is that the institutions through which we live our lives as social beings should be justified to the extent they serve those social beings rather than the social beings being subordinated to them. The point is to try to get institutions to live up to their promise rather than down to their evil possibilities. In order to do this we must consider the values that our institutions should aim to achieve and the means for making it more likely that they will do so Because of the centrality to our society of institutions, we must be wary of purely individualistic explanations. As indicated earlier, there is a tendency to see ethical problems in terms of the failings of individuals and to look for solutions in either legal regulation that applies sanctions to wrongdoers or ethical standard setting to show individuals the way. However, in a society of institutions, the problems are often rooted in those institutions in which we work. They may throw up ethical dilemmas or ethical temptations, they may generate cultures supportive of unethical behavior, or the structures of incentives and disincentives may unintentionally favor unethical behavior.

2.2. "Insufficient Saints"

This is not to blame institutions for the failings of individuals in order to excuse them for not taking responsibility for their own actions. As will be seen later, individuals have a very important role in any ethics regime designed to improve the ethical standards of an institution. However, blaming the individuals is a far greater cop out because it denies that we need to do something about the institutional causes. Even if ethics is seen purely in terms of what individuals should do, institutions are important because they provide ethical tests and temptations for individuals to address. The more such ethical challenges are overcome, the more ethical the individuals and the greater the credit for having withstood those challenges. Indeed, it might even be thought that high standards of ethics could be established only by continually addressing and meeting ethical challenges. (Accordingly, we admit that the reform of institutions to reduce the ethical challenges provided by the ethical dilemmas and temptations they generate would produce fewer saints.)

There are insufficient saints to run a modern bureaucracy. Saints are in short supply— and we have better uses for them elsewhere. It is better to design institutions that do not require saints to run them. It is better to develop virtuous institutions where conformists can be virtuous than evil institutions where only saints will be virtuous. Indeed, I have

previously emphasized the importance of institutional failings in generating ethical crises and that the solution to problems of individual conduct requires a coordinated approach to ethical standard setting, legal regulation, and institutional design.

2.3. Ethics and Institutions

The institutional basis of our society, and the institutional causes of many problems that we see as ethical, introduces two very important dimensions to ethics. First, ethics is at least in part about institutions and it is therefore vital that we recognize and promote institutional ethics. Second, to improve the ethics of institutions, ethics has to be built into them—ethics has to be institutionalized. The rest of this article will be spent in exploring the possibilities generated by these two ideas.

2.4. Institutional Ethics

If improving conduct is about institutions as well as about individuals, what is the nature of institutional ethics? In what sense are institutions ethical and what are the basic values and principles of institutional ethics? There are many ways of conceiving ethics. But, as we have seen, one of the most attractive and all encompassing sees it as our attempts to answer questions like "How should I live my life?" and "What am I good for?" Institutional ethics may be seen as asking similar questions about institutions. This should not seem too much of a surprise. If we want to consider how we live our lives as humans, ethics is as much about how institutions operate as it is about individuals. Indeed, it may even be valid to say that it is first and foremost about institutions. Many of the traditional problems of ethics concern social cooperation and can be played out only in the organizations through which social cooperation is pursued. Thus to some extent, considering questions about institutional ethics involves a reinterpretation of questions of social cooperation and interaction arising within individual ethics.

Of course, the questions change character when asked about an institution. The answers are different, too—about the way we should live our lives within institutions, and how we should collectively act within them. In one sense, the institution is, itself, an answer to an ethical question about how we should live our lives as social beings seeking to form groups that further our ethical flourishing. Many institutions may not have been created as conscious answers to ethical questions. They were created, or merely grew up, in response to other questions, challenges and/or opportunities that presented themselves. These questions, challenges, and opportunities may well have had an ethical dimension—or at least be capable of reinterpretation as ethical questions about the way we should live our lives as social beings in cooperation with each other. But whatever the origins of institutions, the Enlightenment has posed an ethical question about whether they serve the people of the community or communities where they operate and whom they supposedly serve. If institutions are to serve individuals rather than the other way around, then the institutions must justify their continued existence in terms of the way they serve human flourishing inside as well as outside the relevant communities.

We are not unused to justifying public-sector institutions. Indeed, demands for such justification are incessant in the climate of deregulation, corporatization, privatization,

and libertarian animosity towards the state. While much of the rhetoric can and should be rejected (not least for its hypocrisy in failing to deal with the threats of so-called private-sector institutions whose growing power can be at least as great a threat to individual flourishing as the shrinking organs of the state), there should be no reluctance to justify the public-sector institutions in which we work. If we do not believe that their existence is justified by the way they serve human flourishing of individual citizens then we have no business retaining our positions. Most of us believe in the value of what we are doing (or at least trying to do) and are more than prepared to justify it. As argued elsewhere, those justifications can provide the answer to the core ethical question about the institution and the core values of the institution's ethics (see *Institutional Ethics*).

2.5. Justification—Linking Law, Ethics, and Institutional Reform

It has been argued that improving the conduct of public servants and the performance of public sector agencies requires a combination of ethical standard setting, legal regulation, and institutional reform—each of which is occasionally used to improve conduct and performance but each of which is likely to fail if not supported by the others. Further, the justification of the institution provides a vital link that allows the coordination of the three so that they are mutually supportive rather than contradictory. First, the justification of the institution provides the basis for the legislation and regulation that is to apply to the institution. It also provides a clear purpose that can assist in the interpretation of that law. Secondly, the justification provides the normative basis for the institution's ethics—the values to be served by our conduct. It sets out the positive standards by which administrators should judge themselves and be judged by their peers, standards that can serve to indicate why certain kinds of activity are unethical. Finally, the justification provides a standard for criticism and redesigning our government institutions. The justification does not merely tell us to aim for efficiency but the ends to be achieved efficiently. Making government organizations live up to that justification provides the key challenge for modern public-sector management.

2.6. The Centrality of Institutional Ethics

So conceived, institutional ethics is not a peripheral matter but goes to the heart of an institution. Institutional ethics conceived as "how we live our social lives within this institution" or the "justification for our institutional existence" is hardly the marginal or peripheral affair it seems to become. Ethics must be incorporated into government and our thinking. People should think ethically rather than merely instrumentally. This is not so far from what we do. It is just not as explicit. We are probably ethical in most of what we do because we do try to avoid cognitive dissonance. However, we separate it and the dangers are of serious clashes.

We already argue in terms of values—either economic ones or policy promises. Some explicitly link to an ideal about the purposes of government. How something is presented may be seen as a matter for advertising agencies. However, there have been some astonishing failures by the cynics. Policy would be better if linked consciously to the purposes of government that you have identified in your justification for seeking election. I would be very surprised if it did not help sell the policies.

There will be tensions between the various values justifying government—even those that are pushed by a single party in an election. This could be seen as a way out for governments to be able to use ethics to talk their game. However, it will help all to locate proposed action within their own value set and those projected to the public. If it is sincere it will not appear pious posturing and sophistry but an act of integrity.

Ethics so conceived cannot be introduced as an afterthought. It must be built into the operations and decision making of the institution—what we call institutionalized. Ethics must be part of decision making rather than a side constraint to be considered afterwards. Yet in most organizations, key decisions about policy, structure, etc. are made and then potential ethical issues are considered. This is a recipe for marginalization and ethical minimalization as ethical precepts will inevitably be reinterpreted to permit the decision that has already been taken. The means by which ethics may be institutionalized is the subject of the rest of this article.

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Bibliography

Bailey S. (1964). Ethics in the public service. *Public Administration Review* **24**, 234. [Bailey emphasized the individual administrator.]

Katz D. and Kahn R. (1966). *The Social Psychology of Organizations*, 498 pp. New York: Wiley. [In this book, Katz and Kahn took an open systems approach to organizations.]

Luthans F., comp. (1977). *Contemporary Readings in Organizational Behavior*, 2nd ed., 424 pp. New York: McGraw-Hill. [This is a good collection of readings from the time.]

Pugh D.S., ed. (1984). *Organization Theory: Selected Readings*, 2nd ed., new ed., 447 pp. Harmondsworth, U.K.: Penguin. [This is another excellent collection of readings.]

Robbins S.P. and Barnwell N. (1994). *Organisation Theory in Australia*, 2nd ed., 513 pp. New York: Prentice Hall. [Robbins and Barnwell set out their cultural approach to organization theory in this volume.]

Robbins S.P. and Barnwell N. (1998). *Organisation Theory: Concepts and Cases*, 517 pp. New York: Prentice Hall. [This is a very useful text and casebook in organization theory.]

Sampford C. (1994). Institutionalising public sector ethics. *Ethics for the Public Sector: Education and Training* (ed. N. Preston), pp. 14–34. Sydney: Federation Press. [This essay sets out the author's approach to public sector ethics and applies a general approach to implementing values based reform in the public sector.]

Sampford C. (1994). Law, ethics and institutional design: finding philosophy, displacing ideology. *Griffith Law Review* **3**(1), 1–38. [This essay sets out a theory about theories and argues that most long-running theories offer important insights and that we should seek to synthesize those insights rather than reject theories because those insights have been oversold.]

Sexton W.P., comp. (1970). *Organization Theories*, 433 pp. Columbus, Ohio: Merrill. [This work provides a good overview of the range of organization theories at the time.]

Biographical Sketch

Charles Sampford graduated from politics, philosophy, and law at Melbourne University, Australia, and continued on to complete a Ph.D. in legal philosophy at Oxford University in 1984. After working in the Melbourne Law School and the Philosophy Department, he became the foundation dean of law at Griffith University, Australia, in 1991. In 1999 he was appointed foundation director of the Key Centre for Ethics, Law, Justice and Governance. Professor Sampford has written over 60 articles and chapters in Australian and foreign journals and collections ranging through law, legal education, and applied ethics and has completed 16 books and edited collections. He has also successfully tended over AUD$10 million in grants, consultancies, and awards for research work he has led. Foreign fellowships include visiting senior research fellow at St. John's College, Oxford (1997) and a Fulbright senior fellowship to Harvard University (2000). In 2001, he was elected president of the International Institute of Public Ethics. Professor Sampford has been consulted by business and government. His international advisory roles include the Lord Chancellor's Committee on Legal Education and Professional Conduct, the Nolan Committee on Standards in Public Life, the World Bank (advising the Indonesian government on governance reforms), and the World Council of Churches (ethical issues in climate change treaties). He is currently a member of the U.S. Council for Foreign Relations International Task Force for Responding to Threats to Democracy.