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Conscience in public administration: More than just a chirping cricket?

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Abstract:

The policy and practice of public administration are caught between two seemingly incommensurate goals. Public servants are expected to be responsible to the oversight and control of democratically elected governments, yet, as the policy space becomes more complex, are forced to exercise more judgment and discretion in their responsibilities. Individual, collective, and professional conscience is motivated across this spectrum of challenges. This article explores the concepts of discretion and conscience in theory and practice in the Canadian context. It offers insights into how conscience can, and perhaps must, be both accommodated and supported more appropriately in the practice of 21st-century public administration and service. At root, we argue that an array of strategies and approaches may help to build relational reciprocity to a broader set of norms that are necessary for efficient and effective governance.

La politique et la pratique de l'administration publique semblent aux prises avec deux objectifs apparemment disproportionnés. Alors que les fonctionnaires sont supposés avoir la responsabilité de contrôler les gouvernements élus démocratiquement, leur marge de manoeuvre devient plus complexe, et ils sont forcés à faire preuve de plus de jugement et de devoir de réserve en ce qui concerne leurs responsabilités. Cet éventail de défis motive la conscience individuelle, collective et professionnelle. Cet article étudie les concepts de devoir de réserve et de conscience dans la théorie et la pratique du contexte politique canadien. Il permet de mieux saisir comment la conscience peut, et parfois doit être à la fois mieux prise en compte et soutenue au sein de la pratique et du service de l'administration publique du 21^e siècle. Fondamentalement, nous affirmons qu'il existe toute une gamme de stratégies et de démarches capables d'établir une réciprocité relationnelle à un ensemble élargi de normes qui sont indispensables pour assurer une gouvernance efficace et efficiente.

Full Text:

Introduction

The theory and practice of public administration have long been engaged in a dialogue about the right balance between civil servants as accountable agents responsible to the democratic system and civil servants as quasi-independent sources of authority and initiative. In short, how can we foster a leadership ideal that imbues discretion and moral decision-making through the exercise of conscience with legitimacy in a way that does not distort our democratic ideals? Our interest echoes some of the 1940s debate between Carl Friedrich and Herman Finer about the effective control of the bureaucracy and elected officials. Friedrich (1958) argued internal checks in the bureaucracy, especially professional standards and adherence to objective technological norms, would hold officials in check, while Finer (1941) asserted elected officials should be in charge of policy decisions, with only matters of technical implementation devolved to officials. Finer's approach seems to hold sway in the US, where the separation of the executive and legislative powers creates a hard boundary between legislative and policy design and implementation, with whistle-blowing the only approved outlet for private or professional conscience in administration.

It is less clear where that line is or should be in British parliamentary systems, such as Canada, where the unification of legislative and executive functions blurs the distinction between legislative and policy design and implementation. Canada has formally delegated through the Financial Administration Act (R.S.C. 1985, c. F-11) most implementation functions to civil servants, as agents of the Crown, but policy design and delivery are harder to parse. Our civil service is inextricably involved in setting the policy agenda, developing the choices and managing the decision-making process of cabinet, with the result that it is difficult to discern who does what.

A number of factors warrant further discussion of demarcation between agency and authority. The increasing complexity of policy issues, where the actors, concerns and impacts transcend the power and authority of any order of government, combined with new

public management and the de facto integration of design and delivery with third parties, all work to undercut any simplistic division of authorities between elected officials and bureaucrats. This has not gone undiscussed. In the context of Canada 2020 and the Blueprint for Public Service Renewal, there is significant debate about the skills and aptitudes needed in our public service to deliver effective and efficient programming in the 21st century. The Clerk of the Privy Council stated:

Employee engagement must become "business as usual" so that individual public servants can take ownership of the vision, be empowered to lead change, and be innovative in their everyday work. Everyone has a stake and can contribute to making the vision a reality. (<http://www.clerk.gc.ca/eng/feature.asp?pageld=400>)

Leadership is a core part of the initiative, both at the senior levels of the bureaucracy and involving active engagement and self-direction by many individual public servants embedded deep in the system. Yet the federal public service has only articulated a bundle of ill-defined "leadership" skills they want both taught and cultivated in their staff. In 2007 the Canadian Public Service Agency and the Public Service Commission jointly issued a statement of key leadership competencies, including a range of desired values and ethics, but they were largely defined by outcomes rather than practices; recently Treasury Board of Canada (2016) restated their expectations around integrity and respect, again focusing on outcomes rather than the challenge of the exercise of judgment. By common understanding, the exercise of leadership involves applying judgment to a problem or activity that does not fit a predefined process or set of responses. In this sense, the practice of leadership involves some degree of discretion, which inevitably involves the ability to make moral judgments through the exercise of conscience. The challenge is that while there is some sense of the attributes we would like individuals to have, there is little or no dialogue about how to implement and support individuals and groups to exercise their conscience in accountable, responsible and transparent ways.

This challenge has begun to be taken up in the community of scholars in schools of public policy and public administration. Not that long ago, there was little focus in scholarly programs on the actions and motivations of individuals in service. The literature and teaching treated operational decision-making as if it worked in a black box. Much of the teaching and research posits stylized civil servants (e.g., economically modeled behaviours in the context of principal-agent problems) or exemplars (e.g., found in biographies of leading figures from the past). While these efforts capture some of the key motivations at the macro and micro level, they ignore the meso or operational level where most of the hard choices are made and few formal rules or models seem to operate. On this level, the little work done focuses on how the street-level bureaucrats interpret the intents of the policy, rather than on their role in informing, shaping and making policy work (e.g., Lipsky 2010 and many others in the field of implementation).

Leading entails a complicated set of skills and attributes. A range of variables has been identified, many of which contribute to the idea that leaders imbue and exhibit judgment. One aspect of judgment implied, but seldom explicitly discussed, is personal, professional and moral conscience. Right now, the formal rules, guidelines and prevailing norms motivating public servants make little or no reference to any legitimate role for conscience in decision-making; nor do these provide any practical support for reflexive conscience. If found at all, conscience operates a bit like a chirping cricket: one can hear the plaintive call from dark corners or behind obstacles as one investigates discrete events, but as one approaches to investigate it becomes ephemeral (i.e., it falls silent, only to restart as the investigator moves away). It is time for conscience to come out of the dark and be formally recognized, nurtured and valued as a core value and practice of effective and efficient public service. Our specific concern in this article is to explore moral decision-making as a function of a conscience that is grounded in and accountable to the web of relationships in which it is situated, i.e., a relational conscience (Vischer 2010).

Public administration in the 21st century

Managing in the 21st-century public space is a challenge. To see how it actually operates and to identify the role for discretion and conscience, it is necessary to briefly unpack the system in terms of form, function and trends.

The form of public service

There is significant debate about how governance should be characterized in the British system of parliamentary democracy. We formally vest the state's power and authority in our elected representatives, and construct a de facto contract with the public service to act as agents, albeit bound by constitutional limits and legal redress through administrative, civil or criminal litigation.

The central tenet of the Westminster model is that all discretion, and the potential to exert conscience, formally resides with the cabinet and individual ministers. Smith (2006) asserted "ministerial responsibility is the hinge of the constitution." Government is responsible in and to the legislature as a unified political actor. The administration speaks formally to the House with one voice, albeit through the agency of specific ministers or parliamentary secretaries. Government stands or falls as a single entity. The doctrines of "ministerial responsibility" or "ministerial accountability" subdivides responsibility for matters not related to confidence. Errors and failures are vested with the political master of a department.

This constitutional fiction is translated into norms for the public service. The role of the minister and, by extension the public service, is conceptually both well-defined and delimited. All legal authority and responsibility is vested in the Crown, delegated to ministers and through them to duly sanctioned and appointed public servants to exercise the authority. Ministers act for the Crown and are the legal (real) persons to whom grievances are directed; the minister is the sole authoritative voice for the department and the bridge between the executive and the legislative. Administrative responsibility, while vested in ministers, is delegated to specific public servants.

This has led to a de facto doctrine whereby public servants "are not to provide a defense or justification of government policy, programs or ministerial actions ... they are to answer but not to give an 'account' because they do not possess authority on their own; they are agents of their ministers" (Aucoin and Jarvis 2005). Consequently, "public servants do not have a public voice, or identity,

distinct from their minister; they are anonymous" (Smith 2006). Under this arrangement, what Savoie (2003) called a "bargain," "public servants exchanged overt partisanship, some political rights, and a public profile in return for permanent careers ... anonymity, selection by merit.... Politicians exchanged the ability to appoint and dismiss public servants ... for professional competence and nonpartisan obedience to the government of the day" (p. 6).

Within that system, the civil service has developed a mixed culture of both deference and initiative. The quintessential characterization of this relationship is Sir Humphry Appleby's response to a Parliamentary Select Committee in the popular UK television series, *Yes, Minister*. He noted: "there is a real dilemma here ... the questions of administrative policy can cause confusion between the policy of administration and the administration of policy, especially when responsibility for the administration of the policy of administration conflicts, or overlaps with, responsibility for the policy of the administration of policy" (Lynn and Jay 1984: 336). The Private Secretary with a straight face concluded, "I'm merely a civil servant. I simply do as I am instructed by my master" (ibid).

Admittedly there is debate in the literature about how well this reflects the reality today, or whether it ever did reflect the basis for civil service (see Roy 2008 for the prosecution and D'Ombra 2007 for the defense). Nevertheless, it offers one starting point for exploring where individual discretion and conscience are expected to be located.

The function of public service

Scholars suggest the actual practice of policy and administration sits somewhere between two endpoints. At one extreme we have evidence-based decision-making, where scientific data, quantitative analysis, and social science methods (e.g., cost-benefit analysis) frame options and strictly order choices. While partisan politicians can choose other than the optimal recommendation, the public service is bound to follow the evidence. Thus, discretion among public servants is narrowed sharply. In contrast, the evidence-informed policy movement asserts that problems seldom reduce to simple cause-and-effect, ends-means frames. Instead, most policy and administrative matters are deeply contextually based, with the result that no single numeraire or objective function can capture the scope. Highly contextualized policy problems need a range and array of different quantitative and qualitative data to reflect the social, political, cultural or economic contexts, which explicitly or implicitly involves a range of normative assumptions. Defining a problem then is fundamentally a political act--discretion and conscience are inextricably linked to problem framing, analysis, deciding, implementation and evaluation. Discretion is ubiquitous in this world.

Decision-making was arguably simpler and less value-laden when government reach was narrower, but now that the state touches more than half of the economic life of Canada (and in most industrialized, rich democracies), it is no longer feasible for the partisan level of government to directly manage much. They have come to rely on a professionalized and specialized civil service. For example, although a provincial health minister is responsible for patient access, few would claim that he or she is personally developing strategies to lower emergency room wait times or making choices about who should receive what service when.

The nature of the structural bargain embodied in our system means that civil servants do most of their work out of the public eye. However, many of those public servants have come to exercise a high degree of discretion. The notion of individual and group conscience, while seldom explicitly acknowledged or sanctioned, is implicitly accepted and embodied in the concept of the mandarin that runs through the history of the public service over the past 100 years. Biographies and autobiographies of such sentinel Canadian public servants as Graham Towers, O.D. Skelton, Clifford Clark, Gordon Robertson, Lester Pearson (before he moved to politics) and a host of others tell stories of highly motivated and engaged public servants who exerted significant discretion and conscience throughout their careers. Granatstein (1982) traced the role of these key influencers in the development of the modern government apparatus. The stories highlight the extraordinary degree of discretion and personal commitment to their calling and profession.

While the substance of public service does not conform to the tight norms of the Westminster bargain, the system has tended to function relatively well through the professional mandarin in Canada, if one can trust the external assessments of the transparency, accountability and honesty of our governments (<https://www.transparency.org/>). The emergence of new management models and partnerships, characterized as new public management, has worked to undercut this model.

Notable trends in the public service

In the 21st century, a number of trends challenge the operation of government.

First, opening the system to networked governance has forced the service to become more explicit about not just the goals but also the norms and processes it will pursue as it works with external agents to implement policy. Third-party governance has forced extensive development of formal measurement and evaluation, in place of less formal norms that previously sustained intra-service work. This makes the system more structured and transparent but adds both rigidity and complexity. In theory, markets are driven by a set of norms framed around the transaction, but most exchanges are not arm's length, so that a mixture of shadow prices and other normative metrics are used to govern these relationships. Meanwhile, the collective sector exhibits a diversity of values, interests and epistemic norms, each of which involves a range of discretions (Phillips 2007). Now, instead of simply exercising discretion within the norms of the Westminster system, public servants must find ways to accommodate a wider range of world views and values.

Second, a series of political and bureaucratic scandals within executive government in Canada has motivated the legislature and executive to refine discretion and authority in the public service. The courts, the professions, values-based and epistemic groups and civic society have also intervened in the public space. One favoured approach is the articulation of standard operating procedures, such as the Hazard Analysis Critical Control Procedures (HACCP) and International Standards Organization (ISO) standards that are often merged into guidelines, protocols or other codified systems. The goal is to narrow and direct the discretion of the civil service to ensure that their actions support the priorities of the democratically elected government. The challenge is to find a balance. No one

wants public servants to exhibit such deference to authority that they abrogate all responsibility; but neither do we want rogue officials operating in opposition to the will of the government.

Third, in a multi-dimensional 24-7 information world, governments are becoming more strategic about messaging, usually centralizing management of communications in order to cultivate a brand or message. In doing so, they have centralized many functions, including the refining of information and meaning. Somewhat perversely, this also has drawn more civil servants into the often partisan role of communicating (some would assert promoting) the intents and performance of policy (Heintzman 2016). This coordination of communications stresses civil servants, both constraining them and forcing them to exercise real-time judgment and conscience.

Discretion and the exercise of conscience in administration

The deliberative work of public servants is often characterized by the necessary use of discretion, including the use of individual and collective conscience, an inescapable element of administrative decision-making and action. Leadership necessitates the use of discretion, albeit within limits.

Public servants must use their interpretative, intuitive and conscientious capacities in advice-giving and action. In this section, we: describe the illusions of simple settings, hyper-rationality and value-neutrality; explore the relationship between objective and subjective responsibilities and the interplay of rules, routine, grey zones and uncharted waters; examine the place and limits of discretion in the public service; and, finally, review six conceptual tools one might use to govern discretion, including the chirp of conscience.

Myths to put to rest

The public service and its senior officials demonstrate their character and competence through clarity of moral purpose, the intensity of their passions, and the sacredness of their pledges to public service. Public servants are expected to sustain high ideals and standards of practice for ethical leadership, moral rectitude and professionalism. Leaders need real wisdom to manage their diverse communities, multiple constituents and contending forces. They do more than merely "mind the store." The notions about what constitutes a good society are highly diverse and viewpoints on the relative importance of efficiency, equality, community and liberty are complicated and often at odds. The leader is expected to help mediate these gridlocks.

There is an animating core of ethical commitments with which public servants seek to habituate integrity in their engagement with politicians, other public servants, stakeholders and citizens. Each public sector administrator has a context and a set of specific roles where ideals meet realities; where theory is practiced; where standards and assessments for performance are conducted; where the best intentions are implemented; where resistance, reluctances, toxic behaviour and inertia are confronted; and where core commitments, such as those described, are infused and institutionalized into the cultures of the public service.

All public service is situated within context-dependent sets of roles grounded by value commitments. Of course, there are some universal circumstances, but each organizational and political environment will have its own history and its own ways of doing things. Maturation levels, readiness, thresholds of indifference, past decisions and hot buttons will vary from mandate to mandate. Experienced public administrators have their own signature features bundled into their framing of office and appointment expectations but into these differences and varied circumstances public administrators must apply their technical and adaptive capabilities to achieve the mandates and goals set by their various masters.

The degree to which public administrators live in, live up to and live out these roles has a direct and profound impact on their trustworthiness with constituents (including political masters) and the degree, trustworthiness, and quality of their contributions.

The challenge for the public service has been evolving for quite a while. More than 130 years ago, Woodrow Wilson (1887: 201) said:

There is scarcely a single duty of government which was once simple which is not now complex; government once had but a few masters; it now has scores of masters ... Whatever hold of authority state or federal governments are to take upon corporations, there must follow cares and responsibilities which will require not a little wisdom, knowledge, and experience. Such things must be studied in order to be well done ... The idea of the state and the consequent ideal of its duty are undergoing noteworthy change; and the idea of the state is the conscience of administration [emphasis added].

Public sector administration is complex because it requires negotiation, tacit knowledge, insight from experience and, as Wilson said, "wisdom." Wilson provided us with some hints that there is a transcendent, Archimedean set of superordinate values--perhaps represented symbolically by the conscience awakened by the call to administrators to embrace the ideals of the state.

Public sector administrators are called upon to be competent and fulfill responsibilities that require value-mediation, collateral systems of thinking, knowing, deciding, doing, daring and institutionalizing and this requires public administrators be axiologically and dialogically fit. Public servants need to be able to see, parse, offer advice and decide on policy issues that are messy and conflict-ridden. It is critical that public servants not only operate under certain core values but that they are able to identify and work with value conflicts and tensions. This is a daunting challenge due to the complexities of public issues and the problem of reconciling the fiction of absolute law and policy in an era of relative knowledge and a variety of legitimated ways of knowing. Public servants need to ably navigate circumstances where the moral maze presents questions with respect to doing: namely doing the right thing, good thing, proper thing, strategic thing, virtuous thing, things that others oblige and things that allow them to work, in trust, with others.

Place of discretion in public administration and its limits

Laws, rules, protocols, precedents and past practices provide incomplete direction for ongoing advice, decisions and actions. Consistency, reliability, predictability and trustworthiness result from both law-abidingness and the spirit of providing the best and most loyal service possible. However, if public administrators "simply" go by the book, then there will be a loss of service to government and those the government serves. Excellence is not minimalistic. There are clearly technical accountabilities that prescribe what constitutes a well-defined problem and how it has been and ought to be resolved. However, where issues are not clearly defined; where solutions are not known; and where experience is unhelpful then the public administrator needs to exercise discretion to figure out how to tackle the situation. Public sector professionals need flexibility, creativity, and discerning acumen for intelligent adjudication and wisdom beyond the law. The distinction between technical problems and adaptive issues is important. Technical problems are well-defined and have limited solution sets. Adaptive issues are ill-defined and the solutions are unknown or illusive. There are many degrees of freedom for interpretation and application of responsibilities categorized as objective responsibilities, but even more such freedoms and nuances associated with subjective responsibilities.

Black's Law Dictionary says that discretion is "wise conduct and management; cautious discernment; prudence." Discretion, as a word, derives from *discernere* in Latin, meaning, to separate or distinguish between. It thus means to sift and parse alternatives with the goal of providing the best possible decision or course of action.

Of course, some discretion is explicitly afforded in policy where power is conferred with the word "may," where choice is afforded in the ways and means the obligations might be fulfilled. For example, the interpretation of which rules to apply in different circumstances requires the public servant to use discretion. While a public servant is duty-bound to decide or act within the limits determined by legislative constraints and general codes, there can be a great deal of freedom in the choice of the means with these bounds. Mullan (2001: 108) helpfully charted discretion on a continuum from unstructured discretion to application of a clear legal principle. Friedrich (1958: 41) asserted, "discretion comes into play whenever no rules (or principles) can be or have been formulated, while at the same time mere whim cannot be allowed." Public administrators have discretion when faced with vague, diverse or indeterminate instructions. Hart (1983: 64) suggested discretion is the "necessary intersection between law and morals." He saw discretion as inevitable given the "indeterminacy of rules, the inability to determine or anticipate all future circumstances" (Hart 1994:128). Dworkin's (1978) doughnut-hole analogy pertains--as he suggested that discretion is simply the hole inside the donut of structures, rules and norms.

Discretion is never absolute and unfettered; it has limits to control for abuses. There are many potential downsides that come with the use of discretion, including inconsistencies, laziness, capriciousness, loss of predictability, carelessness, favouritism, biases, decision errors, policy distortions, subversion of policy intentions, decision fragmentation and vulnerability to arrogance, power, persuasion and a range of other improprieties. Discretion can produce significant difficulties with respect to policy transparency, disclosure and redress (all features of accountability). Davis (1969: 25) asserted, "discretion is a tool only when properly used; like an axe, it can be a weapon for mayhem or murder." He suggested that 9/10ths of injustice in systems stems from too much discretion--hence accountability is required for oversight of discretion. Davis cautioned that if discretion is too wide there could be arbitrariness or inequity (to say nothing of classic decision errors); but if too narrow, there is insufficient room for bringing in unique circumstances as considerations. The degree of discretion is weak in some policy-making models (e.g., classic administrative hierarchies that use mixed scanning tools) but stronger in others (e.g., incremental or garbage-can style decision systems).

Making space for conscience and other tools of discretion

Given the need to make space for tools of discretion but also to constrain

inappropriate uses, we briefly articulate six commitments that ought to govern discretion, including the chirp of personal conscience (Figure 1). We argue that space must be made for tools of discretion, including conscience--not alone, but with other rational-technical norms that account for complex realities and value-infused public roles, realities and responsibilities. This conscience is not hidden away within the depths of the individual; rather, it is in constant dialogue with both other internal tools of discretion and external members of the public servants' community. As we will explore below, discretion and conscience are not isolated but are fundamentally built on other parts of the tool kit, especially relational reciprocity, which both helps moderate and hone effectual discretion.

Commitment to professional convictions

Ideally, the public service attracts and retains people who are able to bring vision, ideals and good intentions into their work. Public servants work in diverse, multilevel contexts and possess a rich array of personal and professional backgrounds that contribute to the tapestry of expressed professional convictions. This plurality of professional convictions ought to be considered an ethical asset to the public service. These differences provide a healthy variety of expressions of professional convictions. To put it bluntly, public administrators are required to be vertebrates--that is to work with backbones. The ethically discerning public servant "just knows" and is convinced about what should and ought to be. Convictions can also be internalized and reinforced by the wisdom of experience.

Commitments to professional constraint

There are a range of positive and negative professional constraints, rules, codes and standards of conduct, behaviour and performance. Some constraints define fiduciary obligations, some delimit authority and responsibility and some provide freedoms to work within certain parameters. Legislated, organizational and professional constraints and codes are imposed on public servants, particularly those who are not directly employed by a provincial or federal ministry. Other constraints include executive limits, job descriptions, employment and performance contracts and the rules, requirements and policies of professional associations and public service organizations. The common constraints of scarce resources and legal and political mandates further limit the exercise of public sector responsibilities. Moreover, it is often impossible or unreasonable to take subjective or objective responsibility for matters

that are out of the reach of one's influence, choices or control (this is a recipe for frustration, anger, anxiety or inappropriate behaviour). Systemic and structural barriers of systems further impinge on the freedom and autonomy of public servants.

Commitment to common ethical principles

It is commonly said that public leaders fail for lack of competence, character or both. Ethics is not merely about what we say, what we intend, what is written or what has been framed into a credo or a code of constraints and obligatory practices. Rather ethics is about actions and attitudes--who we are to people, how we treat and serve people and who we are when no one seems to be looking. Ethics is about using discretion in choosing to do more than the law requires and less than the law allows. Ethics is best seen as a set of principles that guide individual and collective discretion, attitudes, choices and actions. These principles, embodied and enacted, ground the ethos of our workplaces and the delivery of service. Ethical principles are commitments of obligation, ends, motive and virtue that distinguish how we, and those with whom we serve, determine right from wrong, good from bad, proper from improper, and virtuous from vicious. Common ethical principles provide platforms for public service decisions, attitudes and actions.

Commitment to moral imagination

To re-dress the pre-eminence of the Western world-view grounded in technical, rational commitments, public administrators make space for affective and imaginative ways of being, knowing, doing and daring. Moral imagination is vital for forming visions of preferred futures, for resourceful nonlinear problem-solving and for realizing possibilities. Moral imagination facilitates retrospective appraisal and helps leaders recalibrate from narrow-mindedness, conventional constrictions, self-deception, political correctness, fantasy, lazy familiarity with ways of least resistance and socio-ethical myths. Furthermore, moral imagination releases the public service from the bondage of hyper-rational, non-adaptive, and value-neutral logics.

Commitment to the chirp of conscience

The social construction of ethical principles includes what might be called the chirping voice of conscience (some call this moral intuition). Public servants need conscience because it is essential for integral thinking, feeling, and volition. Individual or collective conscience can be the basis for directing, warranting, authorizing, initiating, carrying through or walking away. It is not enough to simply hear the cricket--one must move beyond the chirp. Conscience can and should be more than an annoying earworm. Conscience is a subtle governor of behaviours and attitudes. Conscience arbitrates criteria for success, expectations (for self and others) and underlies drives for self-, other- and organizational-improvement. Conscience is central to life interests, as well as to one's desires and goals. Personal conscience affords a plumb line for the adjudication of the inner voice. Individual, relational and collective conscience is a messenger, signaling the conflict or impending collision of principles with non-resonating practices. Conscience is gyroscope that gives moral bearings. A commitment to making space in deliberative processes for conscience is an invitation to both restraint and action.

Commitment to relational reciprocity

It is often said that excellence in public service is all about, and perhaps only about, relationships. While not the whole story, this sentiment is the underlying premise for the commitment to mutuality and deep respect for others. Relational reciprocity obliges public servants to respect the inherent dignity of each person they meet or affect through their decisions or actions, if only because they too are human. It is possible to dehumanize the services of public organizations to the point of these becoming forms of servitude to impersonal causes. In effect, people matter before all else.

Conscience in the public service

Conscience in the public service is examined and studied in a variety of ways. We first review and assess the insights from some case-study work and then move to a situational analysis of conscience in the health care system where patients and practitioners navigate end-of-life choices, arguably one of the most emotionally and ethically challenging policy domains. These case studies are included to help readers appreciate the distinction between value-laden moral decisions that engage one's conscience and other forms of decision-making that engage other faculties.

Case studies of applied conscience

One place where there has been significant debate about the use of discretion is in the application of the risk analysis framework (RAF). The RAF is often characterized as the embodiment of evidence-based policy but case analysis shows the profound role of individual initiative and conscience. Jasanoff (2004) asserted that science-based regulation places particular stresses on civil servants to construct the evidence base for policy and regulatory judgments, drawing on knowledge claims articulated in a positivist, deductive, hypothesis-driven set of empirically validated studies, which are "deconstructed" during the regulatory review process to expose areas of weakness or uncertainty and then "reconstructed" to justify the judgment. In the process, evidence and decision-making rules are not supported solely by the science. National regulatory systems typically articulate goals, processes, targets and deadlines for each stage of review but few adopt clear and transparent standard operating procedures that show the step-by-step process of assembling evidence, reviewing the evidence, making decisions and resolving disputes.

The regulatory review of Monsanto's recombinant bovine somatotropin (rbST or bovine growth hormone), intended for use in the dairy industry, highlights another challenge facing regulators (Mills 2002). Monsanto argued, supported by many academic and industry studies, that rbST would be used primarily in intensively managed dairy, where cows were already producing large quantities of milk relative to passively managed herds. In contrast, Canadian regulators required the company to undertake trials with both intensively and passively managed herds. While the trials for the intensively managed herds delivered similar results in Canada and the US, the

Canadian trials involving passively managed herds showed statistically significant increases in animal distress. After extensive debate in Canada, the Canadian Food Inspection Agency ruled that the technology imposed unacceptable harm on the animals, and the product was not approved for use by farmers. Discretion to define the context opened up significant room for discretionary, conscientious judgments.

In another case, Brunk, Haworth and Lee (1991) examined the cancellation of the registration of alachlor in Canada in 1985. The chemical, an agricultural herbicide produced by Monsanto, was registered under the Pest Control Products Act in 1969 for use on corn and soybeans. In 1982, the regulator suspended it and asked Monsanto to submit new long-term feeding trials for the chemical; the resulting studies showed that under some conditions the chemical could induce cancerous tumors in laboratory mice. The outcome hinged on the use of discretion. Each key actor--the regulator, Monsanto and a special review board--was forced to make normative choices when faced with incomplete information that could not be remedied by further scientific investigation. Inherently normative issues involved exercise of conscience and other forms of discretion (e.g., what should one assume farmers would wear to apply the chemical? would farmers use closed or open tractor cabs? should spills and other accidents be considered? should contamination of poorly constructed water wells be considered? when is an exposure scenario a 'reasonable' worst case?) and a series of conditionally normative issues (e.g., when there is not enough empirical data, which tests are most appropriate for determining exposure?) that forced decision makers to exercise judgment. Evaluation processes such as these involve often-unstated value frameworks (e.g., is safety or economics more important?) which affect how we deal with uncertainty and where to assign the burden of proof.

Ultimately, the orientation of actors in these kinds of systems depended on whether they were trying to minimize type I errors (i.e., accept a dangerous product that may cause harm) or type II errors (i.e., reject a safe and efficacious product). Personal and professional conscience is at the core of how these systems function but most case analysis tends to focus on the means-ends aspects of the decision systems, with little or no discussion of the individual and group struggles to apply their conscience in these challenging spaces.

The relational conscience

Our analysis of these cases hinges on our understanding of conscience as exercised by the public servants. Vischer (2010) asserted that discussion regarding moral judgment has been truncated because we do not have consensus on the meaning of the word "conscience." One interpretation of conscience is that it is a "black box" in which moral judgments are known only to the moral agent and cannot be explained to outsiders. By contrast, Vischer proposed that conscience be seen as "relational conscience" which is "the notion that the dictates of conscience are defined, articulated and lived out in relationship with others" (p. 3). In this context, conscience is neither developed nor exercised in isolation from other moral agents. This relational dimension makes individual members accountable for their ethical decisions and allows moral agents to articulate the reasoning behind their decisions. This focus on articulation provides the opportunity not only to analyze past ethical decisions, but also to describe reasons behind current decisions and provide a framework for making future decisions.

Consider the example of the review of rbST. If we use the black box definition of conscience then it would seem that the decision of the public servants in this case was an arbitrary judgment that could have gone either way. However, if we approach this case with a relational understanding of conscience, we have the opportunity to understand the judgments of public servants in more detail. This decision is no longer arbitrary, but instead incorporates the values that public servants are admonished to include in their decision-making (e.g., respect for persons, stewardship) along with the values they may have incorporated into their moral decision-making throughout their lives (e.g., being risk adverse or risk tolerant). The relational dimension of conscience allows us to understand the conclusion of the public service decision-making process, but also the aspects of discernment that went into making that decision.

The relational dimension of conscience identified by Vischer can be observed in most daily activities as people live and work together. It becomes particularly relevant when studying public institutions which by their very nature require collegiality between persons who do not necessarily share the same values.

Analysis of conscience in health care

Deutscher (2016) studied collaborative moral decision-making in the context of health care, which provides a unique opportunity to observe conscience in a web of relationships in which ethical decisions are made. The research was conducted with members of the Saskatoon Health Region's (SHR) palliative care team, a group of health care professionals who routinely encounter complex ethical dilemmas in their provision of end-of-life care. These public servants included a variety of professionals representing disciplines such as medicine, nursing and social work, each of whom were bound to their own personal ethical codes, by the code of ethics of their professions and by the mission of the Catholic hospital in which they served.

Palliative care is a particularly productive context in which to observe conscience because in contrast to some other clinical areas of medicine (e.g., surgery), palliative care is more holistically patient-focused and explicit in the space given for discretion. As patients near the end of life, evidence-based medicine becomes less able to inform complex decisions, which are instead often made based on personal and collective values. When the values of patients are misaligned with the values of the care team, friction can cause ethical dilemmas, and health care professionals are forced to use their discretion to ensure that the "best" care possible is provided.

As an example, consider the challenge of providing pain management for a patient who suffers from a drug addiction. Physicians may feel pulled by two competing values: alleviating pain and preventing drug abuse. In such circumstances, physicians often have to rely on their discretion because scientific data are incomplete and offer no objective way to determine the proper dosage for a particular patient. The relational dimension of conscience becomes an important tool in this situation because it encourages the physician to rely not only on his or her own moral judgments, but also on the insights of other members of the palliative care team. This may have

the effect of providing the physician with crucial patient-specific information, and/or it may help to ensure that the decision-making process happens transparently, rather than being based on the physician's own bias for or against persons with drug addictions.

In this study, the SHR's palliative care team used stories to describe how they relied on their conscience in the web of relationships in which they were enmeshed. In the stories they shared, the health care professionals described their moral decision-making in a manner that was consistent with Vischer's relational conscience. Participants drew on their own language as they described three facets of conscience: (1) that which judges right from wrong; (2) that which demands quality care; and (3) that which helps individuals to navigate complex ethical situations. These three facets were described as being inseparable, as each was required to engage the health care professionals in relationships with colleagues, patients and families.

One participant shared her story of a time when her conscience had compelled her to change her care plan for a patient:

It was a difficult disease and it was a family member who was--I think--burning out even though we were trying to get more help in there ... [She was] using phrases like, "we don't treat our animals this way." At the same time it was a client--her mother--in distress, and [I was] trying to provide meds that she needed. But also [there were] words that she was saying that I thought, "I feel like I'm giving her the tools to actually end [her mother's] life." And it was very unnerving and I felt very uncomfortable leaving that home ... I was really distressed by it. So I think I actually put her on the waiting list for the palliative care unit fairly quickly with a bit of an understanding that this was kind of my gut feeling ...

In this story, the health care professional's conscience: alerted her that something was not what it ought to be (the family was burnt out); inspired her to take action (the health care professional is the one who can ameliorate the situation through collaboration with other team members); and helped her to find the best possible course of action (moving the patient to the palliative care unit).

In addition to explaining how decisions were made, the research conducted with the palliative care team also provided insight into ways that health care professionals can be supported in the exercise of their consciences. The palliative care team approach to holistic care ensured that multiple viewpoints were heard and that no team member made moral judgments in isolation from his or her colleagues, particularly when faced with complex situations.

One physician described the importance of teamwork when caring for a patient with an opioid addiction:

I find [after getting the perspective of] the nurse who's often the one that talks on the phone with the patients and then getting that social work perspective, [I think], "okay, well, maybe I'm getting a red flag on their opioid abuse because they don't have a stable home life and can't get their prescriptions filled at the same pharmacy." And so that's going to raise a flag, for example. So really having that social worker sitting beside me as part of the team really informs those decisions right away.

In this situation, the physician has informed her conscience in collaboration with others and has reached her decision as a member of a team, not as an individual. In addition to helping her reach a positive outcome for her patient, her team has also made her decision more transparent, as her conversation with her teammate allowed her to articulate how she arrived at her moral judgment concerning the Tightness of prescribing more opioids. This would have been impossible if the health care system had not provided her team with the institutional supports (such as time and space) to develop relationships with one another.

This relational orientation of conscience helped to create what Goodpaster (2007) has called a "culture of ethical awareness" among the palliative care team members; supporting ethical decision-making among individuals and groups of people because it keeps them accountable to one another. One participant stated how she relied on her team members:

If you're struggling with a person's situation, or if you feel that there is a psychosocial piece that for some reason [you are] not able to address, to be able to identify [it is valuable] to see [how we can] support each other in the work that we do [...]

This health care public servant saw her team as a genuine help when faced with a challenging situation because of, not in spite of, their ability to help her articulate and scrutinize her own moral decision-making and its impact on the care she provided her patients.

In addition to creating a healthy working environment, Goodpaster's culture of ethical awareness prevents ethical decay, as team members presented a transparency in decision-making that would not be possible if individuals were acting in isolation. According to Goodpaster, this decay is often caused by teleopathy, an unhealthy focus on an end goal. By holding each other accountable and focusing on their patients, palliative care team members were able to sustain focus on patient well-being rather than fixating on goals such as patient flow and cost reduction. One team member explained:

There's more support [on palliative care] for putting into practice compassion and collaboration and how that [is developed]. [...] On our wall we have a big sign that says, "all about the flow," and I think patient flow and money and reinventing how to do everything [...]--it is about cost. That's the bottom line--and how to get people through. I think we miss the fact that if you have that relationship-- [...] people feel seen and heard.

As highlighted, she was able to balance multiple goals as long as she commits to forming relationships with team members and her patients. These relationships contributed to the healthy functioning of her conscience and improved the system.

Although calls for evidence-based medicine may give the illusion that all medicine is carried out in a positivistic way, we see here that medicine, like most areas of public service, is as much an art as it is a science. Like health care professionals, it is not a matter of whether public servants "should" use their consciences because they already are. Rather the focus ought to be on creating the space for discretion through relationally oriented conscience with attention to appropriate limits. The operation of conscience should not be

locked away, hidden from view and chirping madly into the darkness. It needs to be articulated, analyzed and lived out in the light of relationships.

Implications for 21st century public service

Overreliance on the black box definition of conscience, particularly in morally contentious areas of public policy, has unfortunately given conscience a bad name. The stories that typically merit public attention are stories about breaches of privacy, whistleblowing, and conscientious objection, giving the impression that the sole exercise of conscience in the public service belongs to the few who are bold enough to appoint themselves judge and jury with no attempt at articulating their moral decision-making process. However, conscience is core to the work of all those in the public service, and if we are to do justice to the value of conscience, we need to move beyond the chirping earworm of public servants using their consciences out of sight and beyond recognition. Three policy and administrative innovations might help to ensure conscience retains its relational dimension in the public service.

First, we need to explicitly address the role for discretion and conscience beyond the right to whistle blow. They need to be explicitly incorporated in competency statements for civil service and in the civil service renewal process. Recent failures of government that led to tighter controls on civil servants left unchecked may lead to teleopathy, with civil servants myopically focused on technocratic goals to the detriment of creativity and ethical awareness. Renewed emphasis on the tools of discretion and conscience is needed to help public servants create and maintain a culture that supports collaborative, ethical decision-making.

Second, the current focus on evidence-based or evidence-informed policy forcefully pushes ethical issues and processes into the margins of the policy landscape. But few decisions are uniquely objectively empirical; rather, most decisions involve a mix of subjective evidence and discretion. For public servants to excel in this ever-changing environment, efforts must be undertaken to facilitate the tools of discretion and de-emphasize the myth that policy creation and analysis is a purely objective, empirical endeavour. As scholars and practitioners, we need to elaborate how discretion and conscience can and should fit in the policy cycle.

Third, our exploration of health care offers some practical insights into how the broader public administration might operationalize relational conscience as a norm and practice of public service. Beyond acknowledging that civil servants will routinely encounter situations that have complex ethical dimensions, it is necessary to equip them with processes, places, time and resources to openly and collectively work through complex issues, and must include education on how to articulate the values and processes that are critical to moral decision-making. In a manner similar to public servants in the health care sector, bureaucracies need to engage in collaborative processes so that the individual is not left to make a moral judgment in isolation.

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Caption: Figure 1. Commitments as Tools of Discretion in the Public Sector (Adapted from Walker 2011)

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