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Towards Value-Based Professional Ethics in Public Administration

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Abstract

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The postmodern administration redefines its role as ‘instance of mediation’ between the citizen and politics. Public administration has a double purpose; maintaining a political position of axiological neutrality, while showing the citizen transparency and encouragement to participate in all stages of the public decision, from adopting and implementing to its evaluation.

In this paper, we will argue the importance of a public administration centred on ethical values. Public good, alongside justice, can be considered a constitutive ethical value of any type of public administration, and the values of equity transparency and responsibility, as ethical operational values of a contemporary public administration system. The constitutive values make necessary the emergence and functioning of a system of social institutions – in this case, those related to public administration. The ethical operational values are those values that manage the functioning of an institutional system and establish its limitations. We bring a series of arguments for replacing the distinction between intrinsic and extrinsic values with a distinction between constitutive and operational values, in the context of social-constructionist ethics development in public administration.

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Keywords: Public administration; constitutive ethical values; operational ethical values.



1. Introduction

The modern state translates its own rationality as bureaucracy. Far from being a source of delay in postponing the administrative decision, the functional bureaucracy is based on the idea of expertise, order and continuity in managing the public affairs. The political factor has an impact on the direction of public policies, but the administrative official is asked to implement these policies, have a continuous communication with the citizen, and ensure the functioning of public services in a fair and continuous manner. The public servant is perceived, and sometimes perceives himself, as the person whose liability is institutional, rather than personal.

For Max Weber (1978), legal-rational and impersonal bureaucracy is the modern way of organization, which translates, at the level of public administration, the principles of the functioning of the state of right and its democratic essence. The work of public servants ensures the administrative capacity of the state so that, the functioning of the bureaucratic system and the efficiency of the state of right in fulfilling their own functions, has a strict and direct correlation. Bureaucracy, when functional, ensures the efficiency of public services, their rationality and predictability. The personal power is replaced by the institutional one, who wishes to be abstract and indifferent to the person who temporarily occupies a specific public position. The normative system regulates the liberty of decision and the limits of decision-making competence, with regard to each administrative position, regardless of its form. For Weber (1978), the characteristics of functional bureaucracy are limited to the labour division, the impersonal rules and the hierarchy (Sandu, 2015a).

Efficiency, transparency and responsibility are ethical values, generally accepted as being compulsory for the functioning public administration to have a rational and predictable character and to transform the structures of administration into efficient instruments in the functioning of the state of right. In the democratic state and the state of right, the role of public administration is to transpose the political vision of the party or majoritarian parties into instruments of governance, and therefore into social order. Post-modern administration redefines its role as an 'instance of mediation' between the citizen and politics. Public administration has a double purpose; maintaining a political position of axiological neutrality, while showing the citizen transparency and encouragement to participate in all stages of the public decision from adopting and implementing it to its evaluation.

In this paper we will argue the importance of a public administration centred on ethical values. Public good, alongside justice, can be considered constitutive ethical values of any type of public administration, and the values of equity, transparency and responsibility as ethical operational values of a contemporary public administration system. The constitutive values make necessary the emergence and functioning of a system of social institutions – in this case those connected to public administration. The operational ethical values are those values that manage the functioning of an institutional system and establish its limitations. We bring a series of arguments for replacing the axiological distinction between intrinsic and extrinsic values with a distinction between constitutive and operational values in the context of social-constructionist ethics development in a public administration.

2. Towards values-centred ethics in public administration -constitutive and operational values

Morality is reported when establishing a desirable behaviour in a number of areas such as: *good, evil, duty, justice, injustice*, and when defining a series of principles, standards, rules and norms, whose compliance is based on the consciousness of the individual and public opinion.

The current paper is built from the perspective of a system of relativist ethics, the moral truth being considered a social construct, resulting from negotiation of the interpretations of desirable behaviours accepted in a particular society at a certain historical moment. In the systems of Universalist ethics, the moral codes claim to guide the conduct of the individual, based on unique and immutable principles, either of divine origin, or based on an a priori reasoning. In Bernard's vision (2011), morality in a normative sense is referred to a universal guide to behaviour, which will be plausible and adapted to the particular conditions in which it is to be applied. In our vision, the moral truth neither has a universal nature nor is it imposed in a transcendental manner, but has a rational basis and is accepted consensually.

The favourite area of contemporary deontology is the professional. In the professional area, the constructions of minimal standards rationally derive from the status and role of the professional in a particular field. The deontological norms should originate from an ethical value, which are transposed into a moral law. The Kantian model provides such a value, namely human dignity which is translated into the moral principle as the second formulation of the categorical imperative, which claims to treat a human being as purpose and never as means. Achieving this imperative requires the capacity of the individual to rationally establish behaviour so that their own moral norm stands as a moral law for others.

Kant (1993; 2015) also shows how to implement ethical values, namely expressing the autonomy – the decisional one on a rational basis – of the individual, as a form of developing his own good will and moral reasoning. The construction of current professional deontologies should target precisely the identification of constitutive values that underlie the emergence of that profession or organization, as well as that of the operational values which underlie the functioning of such organizations (Sandu, Caras (Frunza), 2014). The constitutive and operational values should be operationalized into ethical principles of professional practice that must be met, for the practice to be efficient and, at the same time, moral.

3. Ethical values and ethical principles - a few conceptual qualifications

Any establishment of rules is based on the defence of values and its transformation from an act of culture into a social act. Value is a quasi-transcendental structure which apodictically imposes on the consciousness, meaning before reasoning.. Another Understanding of the origin of the value can be the constructionist view, according to which ethical truth is a social and communicational construct, generated as a negotiation of the interpretations between actors (moral agents). In ethical constructionism we no longer talk about moral natural law, of natural law in general, but of moral pact. This is somehow similar to the theory of social contract (Sandu, 2015a). Kluckhohn and Strodtbeck (1961) consider that the values are complex principles (but certainly patterned) which result

from the interaction of three analytically distinct elements of the evaluative process: cognitive, affective and directive, which give order and direction to the constant flow of human acts and thoughts as they relate to the solution of common human problems. Many of the definitions of values, such as the one offered by Kluckhohn and Strodtbeck (1961), consider them as principles of a high degree of complexity. Other approaches (Baron, Spranca, 1997) consider that the values are deontological rules and prescriptions referring to action or inaction. This overlap between values, principles and prescriptions generally occurs, especially when the legislator unites into one principle, two or more values. This is also the case with the Code of Conduct of the public servant in Romania, which brings together honesty and fairness in a principle, according to which exercising the public function and the work-related attributions should be done in good faith. As it is formulated, the principle aims to transpose two values: honesty and fairness, in a social practice – good faith. Unfortunately, good faith is also a value and not a way of implementing values.

The overlap between the values and principles has a metaphysical origin. The principle has an originator and a primary character. The religious philosophical literature often talks about the principle of greater good with reference to the Divinity. We argue that there is a pragmatic distinction between value and principle, at least at an ethical level. Value has an immaterial and inoperable nature and is, in general, the answer to the question: *Why do we do a certain action?* In Kantian terms, value represents the purpose of action, but also its foundation. The principle operationalizes value in the area of social action, being somehow included in the area of means. If we consider the value of human dignity and the principle of defending human dignity, we observe that the value subsides even if the principle becomes inoperative due to various social factors. The dignity of the human being subsides the failure of defending it, due to the incapacity of political-administrative system. The principle of defending human dignity raises instrumental questions, ‘How can the human being’s dignity can be defended?’, and structural-operational ones, ‘What are the components of the human being bearing human dignity, that must be defended?’. The answer to these questions can generate debates referring to the violation (or not) of human dignity in the case of experiments on human embryos, on totipotent stem cells and on the morality of postnatal abortion, etc. All these discussions are based on the presumption of Kantian inspiration- about how dignity resides in the rational capacity of the human being or in their awareness of self-interest. Thus defined, dignity in relation to self-consciousness has a limit of functioning of the human dignity defence principle. This can be considered by those who believe that dignity resides in the human species as being able to be extended towards the potential beings. An artificially created embryo which is not implanted is such a potential being, with zero chances of becoming a human being. In none of these examples of the principle of defending human dignity, do we dispute the value of human dignity, but only the limitations of the practical applicability of the principle meant to defend it.

The value becomes essence. An ethical value is something which deserves to be transposed to the level of the social action. The origin of value can reside in itself or the other, which leads to the distinction between inherent values and the instrumental ones. The social-constructionist perspective proposed here has an anti-essential nature, showing that the values are social constructs which result in the act of communication as a negotiation of the interpretations that the subjects give to a ‘clipping

from reality'. Dignity can be seen as such a clipping from reality, which defines and reifies a series of behaviours, based on certain previously built generative laws and also through interpretative agreement. The interpretative agreement is a long-term process which is completed on different plans called 'instances of the social construction'. We therefore refer to an 'instance' which leads to an interpretative agreement regarding the value (one referring to practice, and the other referring to ontos) which establishes the meaning of that clipping from reality. For dignity, the ontological instance generates definitions, including the context in which its defence is necessary. The axiological instance places dignity in the constellation of human values, and the pragmatic instance establishes the ways of transposing the value in social practice. These instances are generic, unintentional, being mechanisms of the social construction of reality. These mechanisms large, comprising the content of the social interaction which ensures the interpretative drift of the concepts in different social contexts. The axiological failure of a value – namely its deposition in the constellation of values – causes the principle generated for its implementation to become inoperable. For example, the decline of the value of loyalty – constitutive in the ethics of medieval policy – makes the principle of duty towards the sovereign inoperable in the political ethics and public administration. Loyalty suffers from a deconstruction on the ontological axis (Sandu, Caras, 2013; Sandu, 2015b), from duty towards the sovereign, to the attachment to values and the institutions which transpose those values in social practice. We therefore refer to the loyalty of the consumer towards a brand and also the obligation of loyalty of the public servant towards the institution to which he belongs.

4. Constitutive ethical values versus operational ethical values

The scientific literature makes a distinction (Moore, 1922) between the intrinsic values and the instrumental ones. The intrinsic values are those which reside in themselves, and are therefore values. The instrumental values are those gaining value only in their relationship with the intrinsic ones. Morally, we can say that good can be considered a value in itself, while charity may stand as an instrumental value in the relation to the supreme value of good. The intrinsic-instrumental distinction in defining the values is tributary to the essentialist paradigm of ethics, according to which a moral value exists in itself and for itself and a moral behaviour can be oriented towards a prior established practical reason. For Kant, dignity of the individual is a universal value which can be considered intrinsic to the human being. The philosophy of human rights is based on this intrinsic value of human dignity, as well as the bioethical theories referring to the sacredness of human life. If dignity is an intrinsic value of the human subject, it can be legitimately extended to the human being in the embryonic stage. This is where large discussions emerge, regarding the moral unacceptability of abortion, experiments on human embryos and also cloning. This essentialist vision is questioned (Schroeder, 2012), showing that there are values which are intrinsic by their nature, but which cannot exist in relation to other objects. The intrinsic good of a value may not reside in the object carrying the value, without this decreasing its value or turning it into an instrumental value. Robert Elliot showed that nature as a whole should be considered as an intrinsic value, since its own value resides in nature itself, but this value could be manifested only in relation to different objects that exist in nature, including the human species. If we reduced nature to its instrumental value – of the environment of the development of the human species

– we could justify the claim of other values, for example the economic ones, to have axiological priority. The intrinsic values have an axiological constituent in the virtue of their own properties. The instrumental values have no axiological substance in themselves, but in their capacity to lead to achievement – to make exist – other values with intrinsic character. The intrinsic values therefore have axiological priority over the instrumental ones, while the latter have an ontological priority, since they bring the former ones to life.

Christine Korsgaard (1983) showed that this distinction can be thought of in the sense of being between values – purpose and values –mean, therefore we adhere to the categorical imperative and the last value of the human individual. The ontological priority of the instrumental values ahead of the intrinsic ones is matched by the axiological priority of the intrinsic values, which leads to an aporia and implicitly to the deconstruction of the claim of universality of the very intrinsic values. Following the deconstruction in different constructive instances (Sandu, Caras, 2013; Caras (Frunza), 2014), we consider useful the distinction between constitutive values, those values which lead to the emergence of a social institution and operational values, as values which guide the functioning of that institution (Caras (Frunza), Sandu, 2014; Sandu, Caras (Frunza), 2014). The distinction proposed overcomes the inconveniences of dividing the values into intrinsic and instrumental by taking into consideration the nature of social construct of any form of value. Once developed, a value – in a process of negotiation of interpretations and of establishing values – becomes constitutive for different social institutions. In the process of functioning of the social institution, values are generated through communicative action and transformed into principles of good practice. Both the constitutive and operational values can have an axiological dual status of both intrinsic and instrumental values. The value of public good, for example, can be considered as being constitutive for modern administrative systems, but also as having an intrinsic nature within the discursive universe of the administrative system. Public good can be, at the same time, an instrumental value since it is done within public systems. The instrumental value doesn't undermine the nature of the constitutive value since public good is being established with the administrative system. The relationship between constitutive and operational values is derived at an ontological level without the existence of an axiological subordination between them. The two types of values operate on different levels of the social reality, the same value being both constitutive and operational in different levels of social reality. Referring to the constitutive values, the scientific literature (Moss, 2009) includes them in the intrinsic values, taking into account their generative nature. Starting from Korsgaard's distinction (1983) between intrinsic and extrinsic values classified on the resource of value, Moss (2009) observes that the intrinsic values may or may not have an instrumental character. Ackrill (1997) introduces the idea of constitutive values (constituent in Ackrill's terms) which are described as values oriented towards something, without being a meaning for that something. In this regard, the value of equality may have a constitutive character for the public good, but, at the same time, have its own intrinsic value. The model proposed here, being based on a constructionist relational theory, completely rules out the intrinsic or extrinsic character of the value, since there can be no value not constituted through an agreement on the interpretations, assigned by communicative actors. A value pre-existing the pact of language should be apodictic and unrelated, in any form, to the act of language that institutes it. Such language, if it exists, can have no connection to the

communicative action, therefore also to the moral action. That value would really be transcendental in the Kantian sense, but impossible to constitute for practical reasoning. The constructionist waiving to essentialism - although starting from suspending the distinction between the thing itself and the phenomenon, and from the phenomenological reduction, taking into account the post-modern experience of the deconstruction of meta-narrations – completely eliminates the transcendental character of values and the claim of values not to be constituted in the context of the communicative action. The neo-empirical approach can be overcome through the proposed distinction, between constitutive and operational values which, based on introducing the idea of plurality of the social worlds which derives one from the other, make possible that, for a given world, a value to have a constitutive character, without the value being directly immanent to that social world.

Public good can be considered a constitutive value for each administrative system, but will not appear as such in the discourse referring to the ethics of public administration, but rather as operational drifts meant to institute it (Caras (Frunza), Sandu, 2014; Sandu, Caras (Frunza), 2014). The operational values can, in turn, be expressed as having an intrinsic character for the level of reality in which that institution is constituted and functions. They can be addressed as ‘essence’ for that communicational universe whose limits it establishes. Their value is derived from the constitutive one which, however, is in another level of discourse. Given the ambiguity of using the concepts of intrinsic-extrinsic in the constructionist perspective discussed, we consider it necessary to give up the distinction between intrinsic-extrinsic as being congruent to the model of social reality communicatively constructed. The distinction can further be operational in other social ontologies, other than the semiotic-constructionist (Sandu, 2015b).

We suggest the model of the distinction between constitutive values and operational values, where the former underlie the emergence of a professional social system and the latter serve as the base of their functioning. In our vision, the principles transpose the values in social practice, being the glue between deontic axiological and the social practice.

The term *ethical axiologic* generally means the world of moral values and, in the context of professional ethics, the ethical constitutive values of that profession. In the practice of regulating the standards of ethics, we establish the (operational) value simultaneously with the principle which includes them, being usually followed by an explanation of their social applicability (Sandu, Caras (Frunza), 2014; Caras (Frunza), Sandu, 2014; Caras (Frunza), 2014).

In our opinion, the transition from values to principles is based on a deconstructive-reconstructive process which makes the transition from the ethical universal to the social particular (Sandu, Caras, 2013; Caras (Frunza), 2014). Honesty and fairness are sometimes combined in a principle, according to which, expressing the public function and the service tasks must be performed in good faith¹. In such expression, the principle is imprecise and unclear. It aims to transpose two values: honesty and fairness, in practice through a third value and not through an operational manner.

¹ See the Code of Conduct of Public Servants in Romania, established by Law no. 7/2004 regarding the code of conduct of the public servant, and was first published in the Official Gazette of Romania, part I, no. 157 from 23.02.2004, republished in the Official Gazette of Romania, part I, no. 525 from 2.08.2007.

5. Social construction of ethical values

The constructionist perspective, just like the postmodern one, talks about a relativization of ethical values, understood as social constructs. A social construct represents the result of a negotiation of interpretations on the meaning of a term that occurs between the communicative actors of an interpretative community (Vladutescu, 2014). The subject retrieves constructs through various socializing processes and transforms them into operational definitions involved in his social action.

The social construction occurs only in interpretative contexts and the operational definitions are dependent from the context in which they were developed. The constructs, once taken, are perceived as universal, the subject not being endorsed by the dependence of context other than following a process of reflection with epistemic value. Good faith is an example of a construct that should signify the congruence between action and reason of the communicative actor. In other words, this should be guided by ethical norms, acting in the best way possible, based on the known data. It is possible that, when acting in good faith, the effect is an undesirable one, but the moral actor cannot be held responsible for it.

This understanding of the term of *good faith* overlaps with that of *honour*. The latter is a value which translates good faith in the plan of action and which, from this view point, only emerges at the level of moral reason. As such, we consider good faith as being a constitutive value, while honour can be considered an operational value. Honour can be discussed as an internal value of moral consciousness, only in the sense of being honest with oneself. Honesty is a value related to behaviour as it connects the individual to the alterity. You can be honest to someone, or to yourself as own alterity. Honesty is, therefore, an operational value translatable of responsibility. If responsibility is always towards someone (Levinas, 1999), one builds the self in relation to Alterity. Responsibility is the self-moving towards the other, but it must be translated through a different value in order to understand it in the plan of social action. This value is thought of here as fairness.

Responsibility exercised with fairness underpins any communicative action since it can generate consensus. Exercising responsibility without fairness represents a form of paternalism, a false caring which disregards the respect given by the autonomy of the other. Openness and transparency are synthesized in a principle according to which the activities developed by the officials are public and can be subject to monitoring the citizens.

We formulate a point of view according to what extent each constitutive or operational value can be assigned an affirmative and a negative principle that would lead to the fair achievement of that value. Dignity can be achieved only by respecting certain affirmative and negative principles and prohibiting others, for example, through doing justice and excluding injustice. The categorical imperative itself, through its two formulations, achieves this complementarity between affirmative-negative in grounding ethics.

Establishing one's own moral law at the highest and most universal degree constitutes, in this opinion, the positive side, while the negative one is covered by the prohibition of using the other as means. The deontological codes should establish a minimum level of moral acceptability and conduct of an individual and the standards of ethical performance should propose 'professional virtues' as moral laws and, as such, should be synthesized into complex ethical codes including values, principles

and good practices. In practice we can find deontological codes which refer to both undesirable behaviours and their sanctioning, as well as acceptable values and morally desirable behaviour. Establishing ethics is basically done in order to avoid malpractice and its associated sanctions, and not from a real development of social responsibility. Social responsibility is a legitimate structure (Bortun, 2014) used for image, rather than a real adherence to the constitutive ethical values that made necessary the emergence of a social institution, in the broad sense of social structure, which introduces rules and operates thereafter.

6. Conclusion

We can consider the functioning of public administration as being centred on the values of public good, dignity, equity, responsibility and transparency. The values can be classified as constitutive and operational, replacing the traditional inherent and instrumental values. The constitutive values are those which lead to the emergence of an institution or are aggregated by social institutions, while the operational values guide the functioning of the institutions within their limitations. The values are transposed into social practice; we are supporting the primacy of the values facing the principles strictly from the perspective of their social construction. We have shown the existence of three constructive frameworks of values, the ontological, which shows the substrate and the context of value, the axiological framework in itself, which highlights the relationship between a given value and the other ethical values, and thirdly, the pragmatic framework, which shows ways of implementing the values into social practice. The ethical principles are socially built only at the level of the third constructive axis of axiological nature.

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