

## Realms of Obligation and Virtue

Mark H. Moore

### The Limitations of Process

Historically, this nation has been reluctant to place much faith in the moral character of its leaders.<sup>1</sup> Instead, we have relied on elaborate procedural and substantive rules to insure good governance by limiting official discretion. We have made officials accountable to us by forcing them to face electoral tests (or to be accountable to people who do). We have made them accountable to one another (and, therefore, to the diverse interests each represents) by dividing power among separate institutions. And we have made them accountable to our most fundamental traditions by subjecting governmental actions to constitutional limitations guarded by a powerful judiciary. Although this system made it difficult for wise and virtuous leaders to bless us with their statecraft, it also gave assurances that no evil men could ever torment us.

The heavy reliance on procedural and substantive rules diminished any sense of urgency about the moral character of public officials. To the extent we thought about it, the virtues of public officials seemed to lie in being respectful toward the rules that circumscribed their action, and in exemplifying upright personal conduct in their daily actions. To many who now consider the question of how public officials should conduct themselves this view still seems the most appropriate. We want nothing more than that officials dutifully satisfy obligations of the decisionmaking process in good faith. The last thing we want is an official who takes liberties with (or even

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operates aggressively within) the mesh of process obligations to pursue an independent view of what the public interest requires.

If one held this view, the questions of what virtues officials might pursue and what duties they are bound to honor would hold little interest. The questions could be answered with a simple list of formal rules guiding official conduct. Several emergent characteristics of our governmental system suggest, however, that we will depend on the moral character of our officials much more in the future than we have in the past.

### *Corrupted Structures and Processes*

For one thing, recent experience with procedural "checks and balances" has, to a degree, jaded our view of their value. Institutional structures and processes originally designed to facilitate widespread participation in public decisions, to focus attention on a limited number of issues, and to occasion choices in which some public values were advanced over others now shelter a horde of narrow and parochial interests attached like barnacles to shards of public power. Within Congress, for example, the specialized committee structure inevitably leads legislators to seek positions on those committees most influential in areas of concern to their constituents. Once ensconced, they use the influence of their office to serve constituency interests.<sup>2</sup> In the executive branch, institutional structures are created to give special attention to specific problems such as drug abuse, environmental protection, energy, and education, and they quickly become the channels through which advocates of particular interests exercise untoward influence over executive branch operations.<sup>3</sup> Similarly, government watchdog agencies (such as the Civil Service Commission, the General Accounting Office, and even the Office of Management and Budget) originally designed to promote accountability now elaborate their rules to such an extent that one suspects they are at least as interested in enlarging their own domains as in promoting effective administration. Since rules, processes, and structures can, therefore, be made to serve narrow purposes as well as broad, bad as well as good, their *general* claim on the allegiance of conscientious public officials may have weakened.

### *Residual Official Discretion*

Even if the moral claim of procedures were not weakening, however, it is apparent that the existing rules and procedures leave substantial discretion to senior public officials. Current case studies of the jobs of senior public

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officials consistently reveal wide discretion in using the legal authority and resources of the government lodged in their offices (for example, launching major programs to treat heroin addicts with an experimental and potentially dangerous drug, loosening visa restrictions, deciding on aggressive enforcement actions against municipal and industrial polluters, and so forth).<sup>4</sup> Sometimes the discretion is *de jure*—the system expressly delegates substantial discretion because it was unable (or, in many cases, unwilling) to resolve the difficult issues that would arise as a program began to operate.<sup>5</sup> More often, however, the discretion is *de facto*. The formal rules are simply silent on an important substantive or procedural issue. Alternatively, the guidance that officials receive from different authorizing positions may be conflicting.<sup>6</sup> Whatever the reasons, it seems clear that the dramatic expansion of the government's undertakings has left many pockets of discretionary authority lodged among individual public officials despite determined efforts to limit discretion with substantive and procedural rules.

#### *The Opportunity to Conceive and Pursue "The Public Interest"*

Finally, the governmental expansion has not only left substantial discretionary authority in specific positions, but also created significant competence and expertise. Inevitably, public officials in charge of specific public programs become expert in the substantive problems with which they deal, and the operating characteristics of the programs they direct. They will know whether the authority and resources entrusted to them are being used to greatest effect. And if not, they are well positioned to initiate corrections. This suggests that the nation has an interest in encouraging its officials to accept some responsibility for informing— even shaping—government programs in their areas of expertise. Otherwise a great deal of useful insight and information would be lost. One possible implication is that the duties of public officials are not simply to be passive instruments in policy-making but to work actively in establishing goals for public policy in their area, and in advocating those goals among the people who share their responsibility. In short, they have the opportunity and duty to conceive of and pursue the public interest.

Despite our best efforts, then, we have not succeeded in constructing a governmental system that is independent of the moral qualities of its leaders. This makes questions about the duties, obligations, and virtues of public officials more urgent than we suppose, and particularly so for those who teach in professional schools establishing professional standards for public officials. My purposes in this essay are two: first, to sketch three realms within which virtues may be pursued and obligations arise; second,

to begin the analysis of where the paths of duty and virtue lie within each realm. Since the discussion risks becoming excessively abstract without specific examples, it is useful to begin with some actual cases.

### Three Realms of Official Obligation and Virtue

Consider a few vignettes of official action:

Gordon Chase, the administrator of the Health Service Administration of New York City, launches a large-scale methadone maintenance program to combat an epidemic growth of the heroin problem in New York City. The program is a controversial one that holds substantial risks for patients and produces uncertain but apparently significant improvements in their lives. Chase is not directly responsible for addiction treatment programs in New York. Instead, the responsibility is lodged in the Addiction Service Agency, which is adamantly opposed to methadone maintenance programs. Chase seizes the initiative by assembling the program, assuming the necessary authority and resources will be available. Furthermore, to build momentum, Chase claims that he will be able to treat 15,000 addicts within a year—a claim that is demonstrably exaggerated.<sup>7</sup>

Orville Freeman, the Secretary of Agriculture, hears testimony that people are severely malnourished, even starving, in the rural South. He has the resources within his department to act to alleviate the hunger, but fears the wrath of congressional overseers who oppose such efforts. He is responsive to their views not only because they can affect the entire range of his department's programs, but also because President Johnson expressly cautioned him to avoid antagonizing the congressmen who head his authorizing and appropriating subcommittees. Although the demand for action comes from a congressional committee, it is *not* the committee that has jurisdiction over his agency's programs or funds. Consequently, Freeman takes no action except to send a few aides to the South who report that no emergency exists there.<sup>8</sup>

Dave Goldman, an official with "California Legal Services, Inc.," reports to the press and the officials who finance his program in Washington that he has *not* been representing a local farmworkers union or giving them legal advice. In fact, he has repeatedly met with the union leader to discuss both legal and political tactics. The terms of Goldman's contract with the federal agency prohibit California Legal Services from assisting the union.<sup>9</sup>

Caspar Weinberger, the newly appointed chairman of the Federal Trade Commission, encounters Representative Ewins, the chairman of the FTC's appropriations subcommittee outside the hearing room just before his first

appearance before the subcommittee. The congressman hands him a note with three names on it and asks Weinberger to "take care of these people." Weinberger, who has assumed responsibility for reforming the FTC and who believes that the core of the FTC's problems is its reliance on patronage appointments, returns to his office and suggests that his personnel officer begin the process of terminating the employees whom Evins named.<sup>10</sup>

These examples of official action are useful for our purposes because in each instance the official acts in a way that violates widely shared notions of officials' obligations. Chase cavalierly ignores a formal policymaking process and launches a risky treatment program for heroin addicts. Freeman fails to meet a basic human need despite the availability of resources to deal with the problem. Goldman lies to his superiors about his activities. Weinberger acts precipitately and perhaps unfairly towards his subordinates.

Interestingly, however, in each instance the official can present an excuse for his actions. Chase would argue that, on balance, methadone maintenance programs were likely to produce more good than harm, and since the mayor could have halted his activities at any time, his silence constituted approval. Freeman would point out that, of course, he would have liked to respond to hungry people in Mississippi, but he received no instructions to do so from either the Congress or the president. In fact, he received contrary messages. Besides, it was not clear that the problem was as bad as alleged. Goldman would defend his actions by arguing that lying was necessary to protect a fragile effort to redistribute political power. Otherwise, the program would be crushed into irrelevance by those who were then powerful. Besides, he suspected that his overseers in Washington really wanted him to behave as he did. Weinberger would explain that his actions were ordinary managerial tactics to rejuvenate and redirect a failing agency, and that the benefits of the energized agency far outweighed any apparent unfairness to the employees.

The sins and excuses offered in these cases suggest the richness, ambiguities, and dilemmas of the moral life of public officials. Conscientious officials ask themselves questions like the following: What substantive objectives should they pursue? What programmatic uses of governmental authority and resources are appropriate to consider in reaching those goals? What process of consultation is required to legitimate a given policy decision? Can they take shortcuts in the process of consultation leading to authorization? Can they manipulate procedures? Does it matter if their opponents are manipulating procedures and expect them to do so as well? What do officials owe to colleagues whose positions and personal relationships entitle them to frequent, familiar access to the officials? What do they owe to subordinates whose careers depend on their stewardship? To what

extent should officials' personal interests play a role in the decisions they make?

To lend order to these questions, it is useful to think of obligations arising in three different realms. Officials are bound, first, by obligations to respect the processes that legitimate their actions. Typically, these processes require them to share their authority with others, and to subject proposed uses of government authority to the scrutiny of the public and their representatives. Second, they are obligated both by a general duty to beneficence and by their oath of office to serve the public interest—to use the powers of their offices to accomplish public purposes as effectively, efficiently, and decently as they can. Third, like all of us, on a more intimate and personal basis, they are obliged to treat their colleagues and subordinates—the individuals with whom they deal on a daily basis and who depend on them in important ways—with respect, honesty, and fairness.

While these realms of obligation usefully order the questions that officials might ask themselves, they also highlight two central difficulties. First, the nature of the obligations within each realm are often ambiguous. It is hard for an official like Chase or Freeman to know what the public interest requires of them in confronting heroin addiction or hunger. It is hard for Goldman to understand what programmatic activities are being authorized. And it is hard for Weinberger to know the extent of his responsibilities to the employees of FTC. Second, the obligations, once discerned, often conflict. Chase's, Freeman's and Goldman's perceived duties to pursue the public interest conflict with the obligation to protect authorizing procedures. Similarly, Weinberger's duty to serve the public interest and pursue a reform mandate for the FTC conflicts with his duties to his employees.

Given ambiguity and conflicts, virtue in public officials lies in the skill and judgment they reveal in discerning the obligations and resolving conflicts among them. The rest of this essay seeks to help conscientious public officials (and those who train them) pursue virtue by exploring the realms of obligation. I do not assume that the realms can be fully charted, nor that a complete chart could guarantee reliable navigation. In fact, my view is the opposite: that character and motivation to behave virtuously are much more important than concepts or technique. But given character and motivation, officials might still be aided by some discussion of the nature of their obligations. In any event, we will examine the nature of the obligations and virtues of public officials in pursuing the public interest, in protecting and authorizing processes, in preserving relationships with colleagues and friends, and, finally, in confronting their own conscience.

### Obligations to Pursue the Public Interest

Public officials are obliged to pursue the public interest—to use the powers and resources of their offices to accomplish public purposes efficiently and effectively. In part, this duty derives from normal obligations that attach to administrative offices in which an agent works with the authority and resources of others to accomplish their purposes. But the duty also partakes of a general duty of beneficence—to do what one can to help others.

For private individuals, the duty of beneficence is a modest one, largely because the scope of plausibly effective private action (and hence the scope of moral responsibility) is comparatively small.<sup>11</sup> When, however, an individual assumes responsibility for broad public purposes, and has been granted discretionary command over the substantial powers and resources of the government, the duty of beneficence takes on a markedly different aspect. The difference is partly one of scale. Since the capacity to do things for people is so much greater for public officials than for private individuals, the relative importance of this general duty of beneficence must increase. But the difference seems to be based on the *public* character of the responsibility and the routine use of coercive power in pursuing the good as well. The hope of realizing broad public goals in which many take satisfaction and the concern about inflicting harm through clumsiness or a deliberate choice to sacrifice some interests to advance others make the duty of beneficence both more important and more difficult than in the private realm. The problem for a public official is to discern what the simple duty to “do good” requires in the complex undertakings of the public sector.

To argue that officials have an obligation to the public interest does not necessarily imply that they have either the duty or the right to develop their own conceptions of what the public interest requires in particular situations. One can argue, for example, that their purposes have already been established when they arrive. They can be discovered in explicit legislative mandates, inferred from prior policies, or guided by tacit understandings with the people who hire them. Moreover, if officials are in doubt about their mandate or want to change it, they can always seek explicit new authority by consulting with others who have authority or interests in their area. They need not, indeed *should* not, feel that they have to make all the decisions about purposes and programs themselves.

On the other hand, to argue that officials should take guidance from others in formulating and deciding matters of public policy does not relieve the officials of responsibility for taking some initiative in conceiving and proposing alternative uses of the powers vested in their office. After all, mandates are often quite ambiguous. Moreover, even when they are not,

senior public officials are in an unusually good position to see new opportunities, or to discern the changing character of a given problem. Because they possess information and expertise, they are expected to play a special, but not necessarily dominant, role in making policy. Finally, on some occasions, when there is a compelling need that they can satisfy, and when there is reason to be distrustful of the process that would authorize action, officials may even be under some obligation to risk violating process obligations on behalf of an overriding obligation to serve the public interest. The point is that regardless of whether we consider the officials' role as discreet, neutral administrators giving operational content to well-established mandates, or as respectful advocates proposing changes in policy with full attention to authorizing procedures, or even as officials pursuing a public need at the moral risk of violating existing authorizing procedures, senior public officials must inevitably think about the purposes their current policies are serving.

In conceiving of the public interest in particular situations, conscientious officials must be careful to avoid some common pitfalls. Some concern the nature of their responsibilities for foreseeing the consequences of the policies they recommend. Others have to do with the way they size up or appraise the diverse effects they foresee.

#### *Foreseeing Consequences of Policies*

Intuitively, awareness of the consequences of one's actions seems a necessary if not sufficient condition for moral conduct. While this point is debated among philosophers with respect to private conduct, the principle seems beyond dispute for public officials deciding important policy issues. Officials have a duty to anticipate the important consequences of policies they advocate or implement.<sup>12</sup> This, in turn, requires them to conceive of categories of effect that would influence their judgment about the wisdom of pursuing given policies. Since these categories of effect become the terms in which old policies are evaluated and new policies advocated, they define the officials' moral vision of the social values at stake in their domain. The discerning sensibility officials reveal in developing these categories is, then, an important mark of their virtue. In actual practice, characteristic shortcomings occur.

Perhaps the most common pitfall is to miss entirely the importance of the activity. In a system that encourages public officials to avoid taking responsibility for advancing policies, it is all too easy for officials to shrink from the intellectually and politically demanding task of describing the important values that are at stake in their domain. Instead, they refer to terms established in legislative or policy mandates no matter how inadequate for

describing actual effects, or to a few very broad goals which are commonly shared but are difficult to relate to the particular decisions at hand. They also commonly seek refuge by describing operational objectives that describe their activities well but do not connect easily with important social values. Worst of all, perhaps, they sometimes act as though the problem of developing a suitable accounting system was a technical matter best left to experts. Of course, it is not easy for officials to be aware of even the immediate effects of their actions. It is also difficult to connect the proximate effects of their programs with the ultimate effects envisioned somewhere further along elaborate chains of causation. And it is still more difficult to connect a wide variety of ultimate effects with a few overarching social values. But of such skills is discerning judgment made, and it is precisely these skills that are the virtues of responsible public officials.

A second common pitfall is to develop conceptions that are too narrow—that capture too few of the important effects of a given policy. Somewhat ironically, the narrowing can result from two radically different notions about the “proper” way to develop views of social values at stake in policy choices. Sometimes it occurs because officials become preoccupied with “quantifying” effects. They look primarily at those effects whose magnitudes can be reliably measured. Even worse, in a vain attempt to establish an “objective” measure of social value, they focus exclusively on effects that can be valued in terms of market prices. Alternatively, however, their vision may become improperly narrowed if they decide in advance that all policies will be ruled out if they produce harmful effects (however small) in areas that the officials regard as inviolable. In the end, of course, a principled stand basing a policy on one important effect may be seen as the proper choice since it was the only one that suitably honored an important social principle. But still, to refuse from the outset even to explore other consequences of the choice seems a moral luxury that cannot be afforded to public officials.<sup>13</sup> Public officials should have the discipline and detachment to see *all* the things at stake in their choices—even consequences that are “unthinkable.”

It is not too difficult to resist these temptations to narrow one’s vision, and expose one’s sensibilities to a suitably far-ranging array of consequences. But even if officials free their minds to roam widely over the terrain of important effects, they are still likely to overlook or fail to accommodate an important class of consequences—namely, the long-run effects of given policies on institutions and institutional relationships in the society.<sup>14</sup> Such effects occur through several different mechanisms. Sometimes policies will create important precedents that give rise to new expectations or shape policy debates in other policy areas. Other times policies create new institutions whose future operations will importantly shape

governmental actions in ways that are difficult to foresee. Perhaps the most common and important institutional effect, however, is the effect of each policy initiative on the authority, credibility, and prestige of government itself. Every policy claims for itself some of the government’s prestige and some of the polity’s attention. As our recent history makes clear, these are hardly inexhaustible resources. In fact, the recent sprawl of policy initiatives has shown just how quickly government credibility can be dissipated among a confused and increasingly disenchanting citizenry. It is not always true, of course, that a policy initiative saps the legitimacy of the government. When a policy initiative solves a salient public problem (such as polio or air pollution), or reaffirms an important public value (such as equal voting rights or equality of educational opportunity), the prestige of the government is enhanced, not reduced. The point, rather, is that it is insufficient for a public official to explore each policy exclusively in its own substantive terms—even when the terms have been expanded to accommodate many diverse effects, extended forward in causal systems to capture ultimate as well as proximate effects, and connected to broad social values. Beyond this, an official must assume the statesmanlike burdens of foreseeing the effects of policies on institutions, including, in particular, effects on the legitimacy of the government itself.

A third pitfall for public officials in foreseeing consequences is to mishandle the inevitable uncertainty in the choices they make. Perhaps the most common errors in this domain are to pretend that uncertainty does not exist or to try to exorcise it with the tools of science. Such temptations are an inevitable feature of a system in which officials take their responsibility to foresee consequences seriously. It is only natural for conscientious public officials to want to appear knowledgeable. And it is natural for them to reach out to experts and to science to bolster both the image and the reality of confident knowledge. On the whole, reaching out to science to provide certainty in the judgments they make is admirable. The problems arise only when the drive for certainty stands in the way of using current knowledge effectively.

This paradoxical result can occur in two different situations. First, when officials claim greater certainty than is warranted by current knowledge, major distortions can occur. By acting as though some consequences were certain, officials are, in effect, obscuring the possibility (perhaps even the probability) that some effects quite different from those they imagine could occur. In shrinking their conception of what might happen, some useful knowledge is lost. Second, officials can err by refusing to decide a question until science reduces all the major uncertainties to very low levels. For officials caught between an obligation to foresee consequences precisely and an apparent obligation to be conservative in using scientific information, it



often seems desirable to delay choices until science reduces major uncertainties to very low levels. The problem with this, of course, is that delaying a decision is the same as deciding to live with the consequence of not deciding. Since some information about the consequences of failing to decide is often available, as well as some information about the possible consequences of different decisions, it is possible for officials to compare delay with some alternative choice. To the extent that officials fail to use this information and make the comparison, they leave us less well positioned against possible events than current knowledge would allow. Thus, the determined pursuit of confident knowledge can often drive out useful information.<sup>15</sup>

The alternative to the unrealistic drive for certain knowledge is simply to acknowledge the uncertainty in the choices that officials make. This has the enormous virtue of corresponding to the actual state of affairs. But it has the great liability of emphasizing the painful fact that, ordinarily, we do not know precisely what will happen as a consequence of policy choices. To say that we are uncertain is not the same as saying we know nothing, of course. We can imagine possible effects. We can usually even say that some effects are more probable than others. What we cannot say with a high degree of confidence is exactly what will happen. In this sense, then, officials are often "gambling" with the lives and fortunes of citizens. What standards should guide officials as they face these gambles?

Some activists hold the view that any uncertainty about the effects of a given policy should prevent the government from acting. The government simply should not gamble with the welfare of its citizens. The certain benefits of inexpensive electric power that could be guaranteed by the construction of nuclear power plants cannot offset the remote chance of a nuclear accident. Nor, presumably, can the uncertain benefits of prison reform or forced school integration justify the certain, immediate costs of these policies respectively to victims of crime and parents who want their children in neighborhood schools. It is simply wrong to expose people to risks of bad outcomes, or to try to justify certain losses in one area with uncertain gains in others. Unless the government can be sure of the consequences of a policy it should not act.

Other times we adopt a slightly less conservative stance: the government should not act if there is a chance (however small) of a very bad consequence. It is all right if there is uncertainty about potential benefits. It is even all right if there is a chance that there will be some small bad effects. The problem arises when there is a chance of a real catastrophe. Thus, the uncertain benefits of school integration could conceivably justify the imposition of certain costs if we think the likely benefits of school integration are sufficiently large, but subsidies to nuclear power plants could never be justified because some chance of a real disaster undeniably exists.

A third stance is less conservative still. It says that society should look at the relative likelihood of conceivable effects in all the relevant areas of potential impact and calculate the "expected magnitude" of a policy's effects in given areas. Of course, it could choose to weigh the possibility of very large bad effects disproportionately to other kinds of effects. But the mere possibility of very bad effects would not be an absolute bar to a policy. It would all depend on the probability of the very bad effect, and the other offsetting (or not quite offsetting) advantages of the policy.

My own view is that public officials should strike the third stance described above: they should look at the expected magnitude of the effects in given areas, and should count prospects of large losses much more heavily than other kinds of effects. I think the first stance, that the government should take no action if there is any uncertainty, is absurd. Since virtually all government actions, including the establishment of government itself, involve uncertain consequences, no government at all would be possible if we adhere to this rule. The second stance is more respectable, but still inappropriate since it rules out policy actions even where the chance of a bad effect is small, to the point of vanishing, and the potential benefits very large and quite certain. There seems to me no choice but to face up to the fact of uncertainty, explicitly assess the relative probabilities of different results in all areas of concern, and decide on the basis of some expected result appropriately weighted.

### *Discerning the Public Interest*

It is one thing to have the discipline, competence, and vision to foresee the diverse consequences of policies. It is quite another to discern the thread of the public interest in the tangle. Two broadly different concepts of the public interest or public welfare have been developed to help officials make the judgments with confidence and precision. One conception is the analysis of benefits and costs based on the logic of welfare economics. The second is the analysis of rights and responsibilities drawn from specific conceptions of justice. While specialists offer these conceptions as complete in themselves and antagonistic toward one another, I think it is more useful for public officials to know the strengths and limitations of each and to use both in searching for policies that move most surely in the direction of the commonweal.

The "benefit-cost" approach to discerning the public interest begins with the notion that the appropriate way to value the diverse effects of a given policy is to let their values be assigned by those who are affected.<sup>16</sup> Intuitively, this notion is extremely attractive. It reserves an important right—the

right to say what is valuable and what costly, what dignified and what undignified, what virtuous and what contemptible—to individuals. In doing so, welfare economics honors the capacity to assign value as something fundamental to human existence. A practical problem soon appears however: how to discover the value that affected individuals actually do assign to the imagined effects. For this problem, welfare economics proposes several solutions. Economic theory demonstrates, on the basis of a rigorous deductive logic, that in a world where consumers with stable, well-ordered preferences purchase goods in perfectly competitive markets populated by firms whose managers maximize profits by choosing efficient solutions to well-defined production problems, the set of prices one observes in the market will be pareto-efficient. At that set of prices, at the margins, individuals will be trading things of exactly equivalent value. If we go farther and assume that the initial distribution of rights and responsibilities in the society is fair, or that the current distribution of wealth and income is in some sense appropriate, then we can also say that the observed set of prices gives a fairly precise estimate of the *social* value attached to production and consumption of things traded on the market. Consequently, for things traded in markets, the observed prices provide a rough approximation of their social value. For things *not* traded in markets, welfare economics proposes a less elegant (and much more expensive) but still eminently practical solution: simply ask the individuals what they would be “willing to pay” to add additional units (or avoid losses) or whatever it is that is being affected by a policy. To the extent that we can observe market prices related to effects of policies or collect data on citizens’ “willingness to pay” for given kinds of effects, we will have a convenient way of assigning social value to the diverse effects of a given policy.

The merits of this approach are formidable. It delegates to the affected individuals the right to assign value to the effects. In addition, it exploits some relatively inexpensive information (market prices) to suggest the value of alternative actions. Finally, and most important, the methods lead to results in which the value of diverse effects are all expressed in the same units. Thus, one can “add up” different effects, not only across different kinds of effects, but also across groups that are differentially affected. The sum of these values will represent the “net social value” of a given policy.

While these features commend the benefit-cost approach to our attention and make it prudent to gather information about the values that individuals attach to policy effects when convenient, several important limitations of the approach make it unwise to use this conception exclusively to fix a conception of the public interest in a particular situation. For one thing, information about prices and willingness to pay is likely to be distorted for technical reasons. Since actual market conditions rarely correspond to those

required by the theory, observed market prices can be taken only as rough approximations of social value. Similarly, simple introspection suggests that it would be difficult to give meaningful responses to a survey of “willingness to pay.” It is difficult to think of how much one would pay for a park, cleaner air, and national defense, to say nothing of more complicated effects such as integrated schools or a society in which satisfactory nutrition was guaranteed to everyone. Finally, both market prices and expressions of willingness to pay are dependent on the current distribution of wealth and income. If the current distribution is unfair, then these prices cannot be interpreted as appropriate expressions of social welfare. Since welfare economists have no theory that justifies a particular distribution of income, however, and since in any case their ability to gather information conveniently and inexpensively depends on accepting the current distribution of wealth and income, they are inclined to ignore the theoretical problem in order to get on with the practical task.

Second, although welfare economics accepts the relevance of distributional concerns in evaluating the outcomes of given policies, the theory handles these concerns quite cavalierly. The fundamental moral issue is whether losses to one group of citizens can be justified by “larger” gains for others. The welfare economist’s answer to this question is that as long as the overall contribution to social welfare is positive, that is the gains to the gainers are “larger” than the losses to the losers, the policy should be adopted. The justification for this position is simply that the existence of a net social gain means that, in principle, the gainers from a policy decision could compensate the losers and both would be better off, in their own view, than if the policy were not adopted.<sup>17</sup> The curious part of this solution, however, is that there is no requirement that the losers actually be compensated. That is treated as a different problem to be addressed at a different time. The crucial thing is that the compensation could, in principle, occur. Thus, although distributional issues arise both in estimating the values of specific effects and in determining whether a policy should be adopted, they are often ignored when actually evaluating a policy or deciding exactly how to execute it.

The standard of rights and responsibilities based on conceptions of justice starts from a much different premise. The idea is that with respect to some goods, activities, and conditions individual preferences should *not* be the basis for assigning social value. Instead, society as a whole should establish the value without reference to individual preferences. Far from being disinterested in the distribution of the socially valued goods, activities, and conditions, society takes responsibility for guaranteeing that the rights and responsibilities are distributed equally in the society. Thus, even in liberal societies we require everyone to attend school, to be immunized

against some diseases, to accept the right to vote, to remain free from slavery, and to repress desires to attack their friends and neighbors, despite the fact that individuals would often be "better off" in their own eyes if they could exchange the rights for something they valued more, or escape an obligation by contributing something else. In effect, by requiring individuals to accept rights and duties, and by preventing exchanges in these areas, society forces individuals to act as though the rights and duties had finite value.

Socially established rights and duties, then, are special things. They are established by collective decisions rather than individual preferences. They are distributed equally throughout the society. And citizens are not allowed to exchange them. Insofar as their creation overwhelms individual preferences and frustrates exchanges, the conception presents a stark challenge to the idea that social values should be nothing more than the sum of individual preferences. Insofar as we conceive of the exclusive purposes of the state as doing justice by guaranteeing these rights, an alternative conception of where the public interest lies is established.<sup>18</sup>

This conception of the public interest also has some enormously appealing features. While the conception of welfare economics celebrates our diversity, the conception of equal rights and responsibilities celebrates the idea that in some important areas we are (or should be) equal. If there are some areas in which we are the same, these must be the defining characteristics of being human. If they are the defining characteristics of being human, then they must be invested with a special significance: they present minimal conceptions of human dignity which cannot be trespassed without making someone less than human. To establish such conceptions of human equality and dignity collectively, and to honor them reliably in public policy decisions is clearly consistent with an attractive notion of how officials might pursue the public interest.

Note that while part of the appeal of establishing conceptions of socially established rights is the sheer satisfaction of celebrating shared conceptions of human dignity and citizenship in a just society, the creation and maintenance of rights produce important individually consumed satisfactions as well. By allowing people to develop legitimate expectations that their rights will not be violated, they create a kind of wealth for individuals in the society. Some fears that might impoverish their lives can more or less safely be put aside. Similarly, the existence of rights creates a degree of equality in bargaining relationships because they give individuals enough security to withstand substantial economic or physical power. In fact, rights prevent individuals from yielding to temptations to abandon some virtues. Thus, the establishment of generally shared rights and duties meets individual and social needs to define the place of individuals in a collective enter-

prise—a need that has both expressive and instrumental value. Moreover, rights define the areas in which individuals will be powerful and autonomous, not only with respect to one another, but also with respect to the government.

But just as there are problematic aspects of the utilitarian standard of the welfare economists, difficulties also exist with this notion of rights and justice. One problem is that the strength of the obligation to protect a given right is often uncertain. Rights often conflict, and it is not usually obvious in advance which rights should take precedence in given situations. For example, do the rights of some citizens to equality of educational opportunity outweigh the rights of other citizens to attend schools in their own neighborhoods? Or, do the rights of citizens to accumulate wealth and pass it on to their children outweigh the rights of less advantaged people to have an "equal opportunity" to pursue their conception of virtue and satisfaction in their individual lives? Similarly, there are often good reasons to override specific rights in given situations as long as the rights are well defended by procedural safeguards and as long as some reasonable compensation is paid. So, like all contracts, establishing rights is not entirely free from uncertainty: apparently clear duties may not be honored. When this could or should occur will not always be clear to a public official who is seeking to protect the most important rights of citizens.

A second problem, related to the first, is that it is rarely clear which rights have been established within a society at a given moment. Academic justifications for different conceptions of justice always exist. They range from a notion that individual rights to life, liberty, and property are so far-reaching that almost any state action infringes on them significantly,<sup>19</sup> to a notion that rights leading to significant economic equality could be justified.<sup>20</sup> In the most commonly accepted formulations, rights are established primarily in civil and political areas. Rights to property in these schemes are only licenses to accumulate as much economic value as one can by using one's labor and enterprise in production and exchange. No guarantees are offered in the struggle with nature. More recently, however, as we have accumulated wealth, entitlements have been created that to some extent *do* provide guarantees in the struggle with nature. We now provide some levels of income, food, housing, jobs and health care *almost* as a matter of right. Whether programs providing benefits in these areas represent extensions of rights to cover economic struggles that were previously left to chance, or whether these are simply charitable gifts that may be withdrawn by the rest of the society if economic conditions deteriorate or if the behavior of people accepting the entitlements departs from social expectations, is a major unresolved issue in our current politics.

While public officials weighing the consequences of policies should recognize effects on the current distribution of socially established rights, entitlements, and duties, which of these demand overriding allegiance is unclear. In many areas, recognition of relevant rights and entitlements may prove insufficient to guide the officials' judgment about whether and how to proceed with a given program. They may meet the objective of protecting all relevant rights, and still have some latitude about how to distribute additional costs and benefits of the proposed policy. So, as a practical matter in many areas the concept of justice turns out to be as ambiguous as the conception of maximizing individual satisfaction.

In my view, then, officials searching for the public interest must accommodate two fundamental problems. The first, discussed above, is the insufficiency of either the welfare standard or the justice standard when each is taken alone. The simple summation of individual preferences attached to effects fails to guide policy because it ignores legitimate *social*, as opposed to individual, values, and the distribution of gains and losses among individuals in different social positions. The assertion of a more or less limited number of absolute rights and inescapable duties is either inadequate in guiding policy (because it leaves many important effects of policies unvalued) or distorting (because it forces us to reject policies where rights are abridged even in situations where the rights are defended by elaborate procedures and suitable compensation can be arranged). The second problem for officials is that the specific content of both conceptions changes over time as a result of changing social conditions. Values that individuals assign to certain kinds of effects change with social conditions. So do the kinds of things that are called rights and duties.

To accommodate these difficulties, conscientious officials should make two broad commitments. The first is that in valuing the consequences of given policies they should adopt elements of both the welfare economics and the justice criteria. From the welfare economics criterion they should accept the responsibility to foresee the consequences of policies for individuals, and, when it is convenient, gather information about the values that individuals place on the diverse effects. But they should also go beyond the welfare economics criterion to see that the social interest in guaranteeing rights in some areas and promoting equality in others is reflected in the policy choice.

From the justice criterion, they should accept the notion that society as a whole has a legitimate interest in guaranteeing rights, even when individuals could abandon them and other individuals in the society would benefit from the abandonment. But, they should also understand that individual rights may be abridged when compelling reasons for doing so exist, and when the rights have been protected by procedures that force the state to

establish compelling reasons, and, sometimes, arrange suitable compensation. Moreover, since rights and duties can change over time, and since governmental action in a just society inevitably creates precedents (since it always carries an expectation of equal treatment across individuals and over time), officials should consider how current policies affect the *future* structure of rights, entitlements, and duties. Moreover, they must realize that their actions are not only *reflecting* but also *shaping* these future rights and duties.

The second broad commitment of conscientious public officials is to accept responsibility for deciding issues and explaining their decisions in ways that strengthen the *process* of defining social and individual values. This commitment is important precisely because the domain and content of social values change, and because the officials' actions affect these things. While the structure of the government frees officials to choose for all of us, and while they must do this as conscientiously as possible, they must ultimately acknowledge their subordination to social processes and their general obligation to make broad social processes work as well as possible. At the very least this means that in deciding on specific policies, they must give their reasons. They must explain which values are taking precedence, which are being subordinated, and why. At the most basic level these are obligations of the officials to themselves—otherwise how could they justify their own actions to themselves? But they are also their obligations to the rest of us. We need them to explain their actions partly so that they become accountable to us, and partly so that they can help our political choices become what they ought to be—a deliberate social weighing of relevant values in particular decisions against the backdrop of a changing context of individual preferences, rights, entitlements, and duties. Their justifications are part of the process of discovering what individual and social lives are possible at a given moment.

### Obligations to Authorizing Processes and Procedures

Beyond, and, as we have seen, part of, the obligation to explain and justify policy choices in terms of anticipated results, public officials have obligations to expose their views and judgments to elaborate mechanisms of consultation that legitimate their choices. This obligation can be derived both from a *prima facie* duty to respect and accommodate the interests of others whenever possible, buttressed by a long political tradition of solicitousness toward the interests of minorities,<sup>21</sup> and from a variety of utilitarian arguments that emphasize the instrumental values of consultation in making complex and controversial choices.<sup>22</sup>

At the heart of the *prima facie* duty is the notion that people should be asked to consent to actions that affect their interests. This presumption is very strong in situations where contemplated actions will produce adverse effects. It is also present, however, even when the expected results will be beneficial. No other posture is consistent with the notion that individuals or their representatives have independent capabilities to assign value and choose, and that in deciding on actions that affect us all, we confront one another as approximate equals. Of course, in the political realm, where the interests of many often stand in opposition to the interests of a few, we do not always insist on the strong condition that the consent of the few be secured (which would, in effect, grant veto power to the few). But we do often assume that a good-faith effort will be made to understand those interests, accommodate them as much as possible in the design of policies, and provide explanations, as well as occasional compensation, when those interests cannot be accommodated. Such actions are necessary to show respect for the equal status and legitimate interests of others in the society.

Three different utilitarian justifications for consultation can also be offered. One justification is based on technical considerations. Consultation is good because it develops better information on the likely consequences of policy choices and the preferences of affected parties than would be available without the elaborate machinery. Forced to confront interested parties, officials will see more clearly and vividly what is at stake in their policies and will make more informed decisions.<sup>23</sup> A second justification emphasizes the fact that the use of procedures granting "due process" will facilitate the execution of the ultimate choice. Parties whose interests are adversely affected will nonetheless accept the decision because they have been dealt with "fairly": they have been granted the expressive satisfaction of making their case as convincingly as they can, and they have been implicitly assured that their right to be heard in future decisions is intact. In fact, if they are gracious losers, they may legitimately think that their interests will attract greater solicitude on the next decision.<sup>24</sup> A third justification is even more far-reaching. Processes of consultation, discussion, and negotiation are valuable because they teach people to be good democratic citizens. By confronting one another on an equal basis in situations where interests conflict, the parties learn skills in reaching compromises as well as an attitude of respect toward their opponents. These are extremely valuable for citizens in democratic societies.

Whichever justification appeals more strongly, good reasons for officials to feel generally obligated to consult extensively with affected parties clearly exist. In fact, the obligation cuts even more deeply because we all carry in the back of our minds a model of an "ideal" decision process. In this ideal, all parties interested in a choice are invited to participate. Their oppor-

tunities to participate are arranged to be more or less equal. Their aggressiveness in exploiting their opportunities reflects their degree of interest in the issues under consideration. They participate in the choice by emphasizing some values at the expense of others, by proposing alternative actions that seem well designed to achieve important values, and by presenting arguments and evidence that their proposals will produce attractive results that are consistent with common values or represent a fair distribution of costs and benefits. Because the participants expect to encounter others in the process who are more or less equally influential in the final choice, but have different interests and equal capabilities to make arguments, they are motivated to express their position in ways that show sympathy for the interests of the others, and to make truthful statements. Otherwise, their good faith can be questioned and, if it is, some increment of their influence in the final choice will be lost. Moreover, there is enough agreement within the group concerning appropriate values, institutional relationships, and concepts of justice and fairness that nothing offered as a reasonable proposal by one group sounds outrageous or beyond the pale to others. Finally, all parties feel motivated to confront the decision because no parties gain by the continuation of the status quo. (Or if they do, there is enough power among the others to force the other parties to negotiate.) In this situation, satisfactory decisions agreed to by people with different interests and knowledge can ordinarily be made.

To a very great degree, we have designed our governmental institutions to create such processes throughout our political system. The system of representation is designed to give citizens more or less equal, as well as ready, access to political power. The Administrative Procedure Act created highly structured proceedings to prevent agency administrators from ignoring major interests in wielding their substantial discretionary authority.<sup>25</sup> And we continue to tinker with our process of governmental decisionmaking through such things as the Freedom of Information Act, Government in the Sunshine Act, legislation designed to control *ex parte* communications between regulatory agencies and affected parties, and so on. Not only do we have a commonly shared ideal of an attractive decisionmaking process, then, we have also created laws and institutions which require officials to approach this ideal.

The problem, of course, is that despite our ideals, institutions, and laws, the actual process of decisionmaking rarely comes close to the ideal. The representation of interested parties in a decision is usually far from complete or fair. Similarly, simple busyness, as well as limitations on human cognitive capabilities, routinely frustrate intellectual ambitions for creative and thorough joint analyses of given issues.<sup>26</sup> Finally, and perhaps most important, it is always tempting to behave strategically in the process of

discussion and negotiation rather than to enter the process in "good faith." The process can be deliberately biased by ignoring relevant interests or by granting formal rights of participation that are substantively meaningless. Similarly, in discussions, information about important consequences can be withheld or distorted, and preferences can be disguised so that a "fair division" of losses and benefits turns out to be much more favorable to one party's actual interests. Since such ploys are always possible and often occur, it is difficult for any party to enter the process of deliberation and negotiation in good faith. One's sense of competence and worldliness is at stake as well as the actual substantive and procedural stakes that will be affected in the process of choosing. In most actual circumstances, then, the problem for officials is how they should cope with a process that is likely to fall far short of an ideal process. What obligations do they have in confronting this common situation?

Three different standards for officials could be advocated. One standard is that officials should behave as though they were in fact operating within an ideal process. The justification for this standard is the categorical imperative: if officials are unwilling to discipline their own behavior to create a fair process they can hardly expect others to do so, and as a result, all hopes for a fair process will disappear. A second standard of conduct is that officials must manage their own actions in the process to compensate for the apparent weaknesses and injustices of the existing process governing their area of responsibility by deciding issues in ways that would be the result if the process were, in fact, fair and rational. The justification for this standard is that the officials' responsibility to do justice or serve the public interest takes precedence over the obligation to meet *apparent* process obligations where they depart from the basic requirements of an ideal process. A third standard is that officials must work to make the process "fairer." In the short run they must conform to the existing process, but because the current process is deficient, they must try to correct the process by drawing in additional interests, or shaping the process of deliberation in different ways.

In practice, each of these standards presents difficulties. The first standard—to behave as though one were involved in an ideal process regardless of its actual status—seems to me to run the risk of continuing both an unfair process and an unfair result. It is a noble position, but it seems to me to sacrifice too much of the officials' continuing responsibilities to create both fair processes and attractive results. The officials miss an opportunity to restructure the process, to represent unrepresented interests, and to insist on the value of their expertise.

The second standard—operating within the process to insure a result that officials think is just without regard to the rules that would govern their

conduct in a fair process—runs the opposite risk. Justice may be done or the public interest served in a particular instance, but only at the price of further weakening the process. Moreover, there is always the chance that the officials' perception of the appropriate outcome is faulty because they do not have the ideal process to instruct them. Thus, they may weaken the process by championing nonexistent interests or by utilizing distorted information without doing any greater justice, or serving the public interest more effectively.

The third standard—making adjustments in the process to bring it closer to the ideal—seems the most attractive of the three. The only problem is that the officials' capacity to affect the process will usually be quite limited. Typically they face procedures built on law, well-defined institutional relationships, and custom. Many other officials and citizens will have important stakes in this process. Often no convenient forum to discuss a change in process will exist, nor will any authority to change the process be available. While this situation does not preclude officials from cumulatively making changes in the process, their term in office is often too short to produce much effect. To be sure, officials may, for some specific choices, be able to improve the typical process. And, of course, the force of this third standard is to oblige them to do so when they can. But still, there will be many situations in which they are more or less powerless to change the process in any significant way, and they will then face a choice between the first two standards.

In making up one's mind about what one owes to the process in a given situation, I would suggest the following principles. First, I think that public officials must accept the notion that the legitimacy of their actions depends crucially (I am tempted to say exclusively) on the extent to which the authorizing process for their actions approximated the ideal decision process. The closer the approximation, the greater the legitimacy. This means that officials have strong obligations to improve the decisionmaking process in their areas of responsibility, and to give great respect to the laws, institutional relationships, and customs that currently structure the process. It also implies that in ignoring or frustrating the process to achieve a specific aim, officials must accept a particularly heavy burden, since in this case the legitimation of their actions will be even weaker than it would have been if they had continued with the unfair but well-established process. Finally, this principle implies that most officials most of the time operate with surprisingly slender degrees of legitimacy. This does not necessarily mean that their actions are unjustified, but one of the conditions that could justify their action is often absent.

Second, as a corollary to the first principle, the officials' obligation to seek legitimacy through a process that approximates the ideal process in-

creases as the action they contemplate becomes more important. An action may be important because it affects many people, produces effects in very sensitive areas, establishes new precedents, or involves some risk, however small, of very large adverse consequences. In effect, some actions require less elaborate procedures because the consent that is required covers a smaller, less important domain.

Third, I think it can be argued that the amount of legitimacy officials must secure through an elaborate process of consultation *diminishes* with the officials' own degree of accountability. If officials can be easily removed from office, they may be able to take greater risks with the legitimating process than they could if they were solidly entrenched. The reason is that removal from office is so thorough a repudiation of the officials' actions that the process cannot only be repaired but strengthened. No permanent damage can be caused by someone who can easily be removed from office. So a civil servant with civil service protection should take fewer risks with the process than a political appointee who serves at the pleasure of an elected chief executive.

### Obligations to Friends and Colleagues

The ambiguities of an official's obligation to pursue the public interest and to conform to authorizing processes lead many conscientious officials to seek help and advice about where their duty lies. For such advice, officials are apt to turn to a relatively intimate circle of colleagues and friends. They turn to them partly because they trust their judgment and partly because they need their support. They need the good opinion of friends to comfort them when they are being criticized. And they particularly need the good opinions of colleagues to give them instrumental assistance and assure their future on the job. Moreover, when they turn to this circle of friends and colleagues, officials will find that not only do the intimates give advice, they also impose obligations of their own. The officials find that they owe them something that derives from personal loyalty and shared conceptions of ultimate purposes.<sup>27</sup> Thus, the advice and claims of colleagues and friends will figure quite prominently in the moral environment of a public official.

It is important to recognize that advice and claims from intimates are apt to be very powerful. The obligations are concrete and personal—not abstract. Moreover, they are familiar because they are similar to bonds that spring up in other realms of the official's life and are routinely honored, such as obligations to family and personal friends. Finally, the sanctions that these intimates can impose if they are disappointed, or, in their view,

betrayed, are swift, vivid and devastating to a person's conception of himself. Because duties to colleagues and friends are personal, familiar, and effectively guarded by social sanctions, these duties may often be given great prominence by officials.

These observations raise the question of exactly how much prominence should be given to these claims. We can see that they will be psychologically powerful. My view is that while one does owe friends and colleagues personal loyalty, these claims are much less important than the other claims we have discussed, and much less important than most officials make them. My guess is that more officials have been tempted into bad actions by responding to strongly felt obligations to friends and colleagues than by a badly distorted idea of what the public interest requires or a contemptuous attitude toward process.

Public officials owe colleagues and friends two things. First, they owe them notice that in their professional lives they serve their conception of what the public interest and authorizing processes require. They are obliged to do the *public's* business, not that of their friends or their own personal business. The interests and access of friends and colleagues with respect to public decisions must conform to these obligations. Of course, it will be difficult to maintain this distance. It requires an emotional attachment to conceptions of the public interest and authorizing processes that is as strong as an obligation felt to a friend. But I think this is the direction in which moral responsibility runs.

Second, officials owe friends and colleagues consistency in the independent stance they take toward the public interest and authorizing processes. I think this predictability and consistency are often what officials mean when they talk about another official's "integrity." They know where a person stands, understand the individual's reasons, and can trust that person not to change a position capriciously. It is capricious changes rather than disagreements that create a sense of betrayal. And the sense of betrayal is the sin that must be avoided in these intimate relationships. Given the "distance principle" cited above, friends or colleagues cannot reasonably feel betrayed if their interests are not accommodated or their advice not taken. They can feel betrayed only if they could not have guessed at the outset what stance their friend or colleague would take.

So officials owe their colleagues and friends clear signals of how they view obligations to the public interest and authorizing processes in particular circumstances.

### Obligations to Oneself

Notice that we have finally returned to the beginning of our inquiry. If obligations to the public interest and to authorizing processes are ambiguous in specific situations; and if friends and colleagues must be held at arm's length by a confidently held view of the duties of office; then, in the end, much depends on the individual official's conscience. Ultimately that individual must develop and remain loyal to a conception of the duties of a particular office, in a particular form of government, at a particular time, for the range of issues that occur. If much depends upon personal conceptions of duty, it is worth noting two troubling elements that insinuate themselves as one privately reflects on where duty and virtue lie. One element is personal ambition. The other is an astonishing capacity for rationalization. The two together are particularly poisonous.

Personal ambition is likely to be a major problem for public officials. After all, one must be more than a little arrogant to presume to govern others. With arrogance often comes ambition. Moreover, since continuing success seems to vindicate past actions, and since officials operating in their morally ambiguous environments often feel an acute need for vindication, officials may have a more than ordinary interest in continuing to be successful. Finally, we often think we see officials acting as though they were primarily interested in keeping their office or aggrandizing themselves rather than doing the right thing. It seems all too frequent that officials will explain inaction in an area where the public interest seems clearly to demand action but a suspect process of authorization prevents it by arguing that they are protecting their capacity to act effectively in other areas. Cynically we suspect the official is merely trying to survive in office. Similarly, active officials may claim that their unwillingness to rely on an elaborate process of consultation was necessary to achieve their purposes. Again, we cynically suspect the officials ignored the process to insure that they might claim credit for the action.

Clearly, selfish motives of public officials create moral difficulties when they guide actions.<sup>28</sup> That is particularly true in cases where simple stealing or deliberate deceptions of the public are involved. But I would argue that the desire to retain an office or to seek personal glory are hardly the worst sins of a public official. In fact, in our system of government, personal ambition is a key ingredient. We harness personal ambition to public purposes by forcing officials to be accountable. The best way for officials to stay in office and be praised is to meet their obligations to the public as they understand them. Note that because the system is designed in this way, the issue of whether public officials are acting out of self-serving or public-serving motives will always be obscure. When officials act on a policy,

neither they nor we can be sure exactly what their motives are. If the action is well conceived and consistent with our aspirations, it will always be possible to see a self-serving as well as a public-serving motive. Perhaps the fact that we have designed the system in this way is part of the reason it is easy to become cynical about the motives of public officials: both self-serving and public-serving motives can always be inferred. Perhaps we err, then, and overestimate the importance of personal ambition as a threat to the moral stature of public officials.

Still, conscientious officials should determine how significant personal ambition is in guiding their actions. Fortunately, there are two rather simple tests they can apply. The first is to ask themselves whether they would be willing to be replaced in office by someone who shares the same values with respect to both outcomes and processes. Of course, it will always be easy to exaggerate the importance of modest differences in the stance of the proposed replacement in comparison with one's own stance. But if officials find themselves reluctant to leave office, or exaggerating small differences as they contemplate the imagined change, they should begin to be suspicious that personal ambitions and interests might be carrying too much weight in their actions.

The second test is particularly appropriate where officials seem to be sacrificing important values in one area because they believe they can make contributions in others. This situation often arises when officials feel particularly constrained by ties of personal loyalty to colleagues, and feel those with whom they serve are honorable despite their actions in given areas, but worry that their desire to stay in office is what is really influencing their willingness to continue in a job when important values are being sacrificed. The simple test here is simply to establish an arbitrary deadline in the future for reappraisal. If by that time the official has not been able to take actions that *advanced* important values, the apparent justification for "going along" can be readily seen as a rationalization and the official should leave office.<sup>29</sup>

In my view, the capacity for rationalization is a far greater enemy than personal ambition. It is a greater problem because the errors one can make if one allows this capacity full sway are much greater, and because it is much harder to see when it is operating on one's conception of duty. The only device that can protect one against rationalizations is a rather thoroughgoing, relentless skepticism about one's own conceptions, and enough time to become settled on a view that withstands this skepticism. Of course, one cannot take this time and effort with every action, but one should do it with *some*.

To the extent that the observations made in this essay will assist officials in rooting out rationalization and leaving only real justification for their ac-



tions, I will feel that I have accomplished a useful purpose. But I worry that I may only facilitate rationalization. And that is how skepticism works.

## NOTES

<sup>1</sup>See *The Federalist* (New York: Heritage Press, 1945), in particular, no 51. "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls would be necessary. In forming a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

<sup>2</sup>For an example of this kind of activity see Philip B. Heymann and others, *The Federal Trade Commission: A Failing Agency*, Kennedy School of Government Case C14-76-119, Harvard University.

<sup>3</sup>The establishment of a separate cabinet level Department of Education is probably the most dramatic recent example of a shift in organizational structure that left the executive branch more vulnerable to influence by a narrowly interested professional group. For a general discussion of how structure affects the distribution of power, see Harold Seidman, *Politics, Position and Power* (New York: Oxford University Press, 1970).

<sup>4</sup>See the following cases: Mark H. Moore and others, *Methadone Maintenance (A) and (B)*, Kennedy School of Government Case C94-77-065; Philip B. Heymann and others, *The Bureau of Security and Consular Affairs*, Kennedy School of Government Case C14-75-003; and Joseph Bower and others, *William D. Ruckelshaus and the Environmental Protection Agency*, Kennedy School of Government Case C16-74-028.

<sup>5</sup>A standard current complaint of public officials is that goals of legislation are left hopelessly vague, even contradictory, to allow passage in the legislature, and then turned over to officials to administer. The ambiguity and conflicts in the statutes then provide ample cause for interested parties to sue the government no matter what action an official takes, and the management of the program ends up in court. The court, in turn, tries to discern Congress's real intent by examining the legislative history. It also checks on the adequacy of the procedures an official used to reach a particular decision. It is a very clumsy process that puts officials in a difficult and ultimately hopeless position: they can work very hard in setting up a process and making a choice, but they have little reason to believe that their decision will be accepted as legitimate, final, and binding.

<sup>6</sup>There are notorious cases of these in the literature on federal program implementation. See in particular Jeffrey Pressman and Aaron Wildavsky, *Implementation* (Berkeley: University of California Press, 1973).

<sup>7</sup>Moore, *Methadone Maintenance (A) and (B)* (Case C94-77-065).

<sup>8</sup>Nicholas Kotz, *Let Them Eat Promises: The Politics of Hunger in America* (Englewood, N.J.: Prentice-Hall, 1969).

<sup>9</sup>Private correspondence with an official whose pseudonym is David Goldman.

<sup>10</sup>Heymann, *The Federal Trade Commission* (Case C14-76-119).

<sup>11</sup>For a discussion of the relationship between the extent of one's responsibilities and one's capacity to act see Charles Fried's concept of the "realm of efficacious action," in Charles Fried, *Right and Wrong* (Cambridge, Mass.: Harvard University Press, 1978), pp. 24-28.

<sup>12</sup>This statement reveals a commitment to utilitarianism, since it suggests that a necessary if not sufficient condition for moral action is that one be aware of the consequences of one's action. A nonutilitarian, of course, could argue that the rightness of an action depended not at all on the consequences of the act, but only on the character of the action.

<sup>13</sup>Again, throughout this discussion I am aware that I am revealing a strong utilitarian bias.

<sup>14</sup>For a more complete argument on this point see Mark H. Moore, "Statesmanship in a World of Particular Substantive Choice," in Robert A. Goldwin, ed., *Bureaucrats, Policy Analysts, Statesmen: Who Leads?* (Washington, D.C.: American Enterprise Institute, 1980).

<sup>15</sup>For an admirably clear discussion of the role of uncertainty in choices see Howard Raiffa, *Decision Analysis* (Reading, Mass.: Addison-Wesley, 1968). The fact of uncertainty in choices has important but as yet unstated implications for exactly how social science findings should be used in policy deliberations.

<sup>16</sup>For a useful introductory discussion of these principles see Edith Stokey and Richard Zeckhauser, *A Primer for Policy Analysis* (New York: Norton, 1978), chap. 13.

<sup>17</sup>*Ibid.*, p. 279.

<sup>18</sup>John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

<sup>19</sup>Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974).

<sup>20</sup>Rawls, *A Theory of Justice*.

<sup>21</sup>On the concept of prima facie duties see R.M. Hare, *The Right and the Good* (Oxford, Eng.: Oxford University Press, 1973).

<sup>22</sup>For an extended utilitarian justification for consultative processes see Charles E. Lindblom, *The Intelligence of Democracy* (New York: Free Press, 1965).

<sup>23</sup>*Ibid.*

<sup>24</sup>For a discussion of the important role that "due process" plays in facilitating implementation of choices see Roger B. Porter, *Presidential Decision Making: The Economic Policy Board*, chaps. 7, 8 (New York: Cambridge University Press, 1980).

<sup>25</sup>For an excellent discussion of this important statute see Richard B. Stewart, "The Reformation of American Administrative Law," *Harvard Law Review*, vol. 88, no. 8 (June 1975).

<sup>26</sup>For a stimulating discussion of the limits of individual cognitive capacities and the implications for policy deliberations see John D. Steinbruner, *The Cybernetic Theory of Decision* (Princeton: Princeton University Press, 1974).

<sup>27</sup>For an illuminating discussion of this subject in a different context see Michael Walzer, *Obligations: Essays on Disobedience, War, and Citizenship* (Cambridge, Mass.: Harvard University Press, 1970), chap. 9.

<sup>28</sup>For a discussion of this problem see Joel Fleishman's essay in this volume.

<sup>29</sup>I am indebted to Jonathan Moore for this idea.