# Compatibility of Public Administration Systems and Ethics Management

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*In this paper the idea that certain approaches to ethics have better compatibility with certain public administration systems is explored. Inquiry starts with an overview of general approaches to ethics management. Then some country-cases are discussed to explore which approaches are actually used. Finally an answer to the question, if there is any regularity in the use of certain ethics manageent approaches in certain public administration systems is searched. Some ideas about compatibility of public administration systems with ethics management are sketched. That is an attempt to expand overwhelming dualistic continuum of ethics management. To some extent it has to be admitted that there is some speculation in interpretation of facts. This approach is not purely empirical and some philosophical generalisations have been drawn. On the other hand co-occurrence of some features of particular public administrations have provided a basis to draw theoretical conclusions finally presented.*

**Raktažodžiai:** *viešasis administravimas, viešosios tarnybos etika, sąžiningumas, etiška vadyba, vertybės, etiks diegimo taisyklės.*

**Keywords:** *public administration, public service ethics, integrity, ethics management, values, rules, implementation of ethics*

## Introduction

During the last two decades many European countries have experienced important reforms in public administration. Western European public administrations with long and rich histories have gone through smaller or bigger transformations. The newly constituted countries of Central and Eastern Europe (CEE) had to build up their public services from the ground. Moving from hierarchical public service systems towards more open and modern organisation of public administrations has brought along many questions concerning common values and ethical demands. In the Western Europe, the questions of ethics and integrity appeared together with changes in public administration systems [2; 18; 27]. In CEE countries ethics as an issue emerged in the beginning of this millennium. The evidence of that is the adoption of codes, regulating ethical behaviour[1]. In Estonia the Public Service Code of Ethics was adopted in 1999, firstly in CEE countries. Other countries followed soon [34].

There has been a lot of discussion about the role of ethics in public management, especially during the last few years. International surveys are monitoring the current situation in European countries [10; 31]. But there is not much literature concerning building up a national integrity system in particular country. If we shun the idea that there is only one best model to build up an ethical system, a question rises about choosing an appropriate model for a particular country.

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[1] Indirect evidence of rising interest to the questions of public service and governance ethics is indicated in activity of participation in working group of ethics and integrity of the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee). In 13-th Annual Conference (2005) there were six presentations (http://www.nispa.sk/_portal/files/conferences/2005/Prgram_Moscow_final.pdf ). In 14-th Annual Conference the number of presentations has grown more than twice (http:// www.nispa.sk/_portal/ conf_program.php?s_meeting_name=&s_day_id=&s_room_i d=&s_wg_id=39&s_meet_type=&s_time_from=&s_time_to= &cid=14 ).

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In this paper the idea that certain approaches to ethics have better compatibility with certain public administration systems will be explored. Inquiry starts with an overview of general approaches to ethics management. Then some country-cases will be discussed to explore which approaches are actually used. Finally an answer to the question, if there is any regularity in the use of certain ethics management approaches in certain public adminis-tration (PA) systems will be searched. If such relationship is established, some ideas about compatibility of public administration systems with ethics management will be sketched. That will be an attempt to expand overwhelming dualistic continuum of ethics management. To some extent it has to be admitted that there is some speculation in interpretation of facts. This approach is not purely empirical and some philosophical generalisations have been drawn. On the other hand co-occurrence of some features of particular public administrations have provided a basis to draw theoretical conclusions finally presented.

## 1. Approaches to ethics management

Speaking of public service ethics raises a general question about the role and function of ethics in the public service (PS). Usually public service ethics is considered as a branch of practical or applied ethics. In the studies of applied ethics "ideas and theories from the general studies of goodness and right action are applied to particular circumstances and problems of some profession or occupation, and standard philosophical techniques are used to define, clarify, and organize the ethical issues found in its domain"[2]. Unfortunately there is not much discussion about appropriate philosophical ethics theories in connection to public service ethics as a professional ethics.

In the discussions about public service ethics the theories of ethics are not frequently mentioned. More attention has been paid to deontology, teleology/ utilitarianism, and axiology [6; 30] that are quite common in philosophical discourse of the professional ethics [9, p. 2]. Purely philosophical approaches to public service ethics remain descriptive and are not used in the ethical analyze of the work of public servants. Philosophical approaches do not provide many recipes to public administrations with about ways of do-

mesticating ethics into the public service in a way that individual moral agents with moral demands or imperatives are provided. According to Neil Brady: "Especially in the public sector, where issues are broad and complex, it should be clear that no single ethical perspective is adequate and no perspective should be neglected" [6, p. 533].

Public management practice and theory offer two often-opposing routes to encouraging ethical practice and ethical practitioners in public agencies – the high road and the low road. According to John Rohr the "high road" stresses social equity. "Relying on moral character, this route counts on ethical managers individually to reflect, decide, and act. Individual responsibility is both a starting and an end point on the integrity route in public service" [24, p. 16-17]. Rohr examines ethical approaches, grounded on political philosophy, especially in J. Rawls's theory of justice, in humanistic psychology and in regime values. He suggests that the last is the most appropriate method for integrating the study of ethics into a public administration curriculum [38: 68].

If integrity's high road rejects administrative realities that stem from accountability [24, p. 17], then "low road" addresses ethical issues almost ex-clusively in terms of adherence to agency rules [38, p 60]. In this approach "ethical behaviour is reduced to staying out of trouble" [38, p 62]. The "low road" of compliance is designed to spur obedience to minimum standards and legal prohibitions. Here adherence to formal rules, legally enforceable standards and legalistic problem- solving are in focus. In managerial terms, compliance translates into oversight and control [24, p. 16]. "The low road of compliance does not care that most people want to make good decisions but only that most people meet minimum standards of conduct" [24, p. 17].

Analogous dichotomical approaches are the "compliance" -"integrity" and the "verification"– "values" set of integrity institutions [26]. The compliance approach emphasizes the importance of external controls in shaping the behaviour of public servants and integrity approach focuses on self-control exercised by each individual public servant [26].

It is quite obvious that in practical life we cannot meet pure examples of these approaches and that they are usually combined and complementing each other. Lewis and Gilman offer the third, two-pronged (they use a modernistic term 'fusion') approach [24, p 18] that incorporates both compli-

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ance with formal standards and the promotion of individual ethical responsibility. The insufficient character and built-in problems of the dual continuum lead Jeroen Maesschalk to propose an expansion of the continuum – based on grid-group theory [26]. His approach gives new possibilities to classify already existing ethics management systems in public administrations and to work out effective solutions for the concrete problems. On the other hand, it basically remains to the domain of the dualistic approach.

Apart from the management approaches, another range of questions is connected to the features of ethics frameworks described and introduced by international organizations like European Union and OECD [7; 13; 28; 36;]. Ethics framework or ethics infrastructure is about the elements or features which member states consider important for the proper functioning of public service. There are differences in those documents, but the main ideas – the need for clear ethical standards or values, importance of leadership, handling misconduct, avoiding conflicts of interests, to list the most important - are the same. They are generally recommended instruments or mechanisms, occurrence of which does not say anything about their effectiveness in connection with ethics of a particular public service. As Council of Europe's rapporteur Giovanni Crema points out: "The ethics of public service vary greatly according to the historical and cultural values in each European country and are also influenced by other factors, such as level of economic development and democratic maturity" [8: statement 86].

## 2. Ethics management in different countries

Several studies have been conducted about the influence of new, private sector oriented management methods being applied to the public service systems and management. On one hand countries with long history of democracy have had to adjust to the new demands, simultaneously trying to maintain the very idea of public service. New democratic countries in Europe have quested for the best possible system for their public services.

This rises among other, questions about public service ethics – core values of PS, guiding principles in rapidly changing situation [see 2; 18; 27;]. Countries have applied new public management methods and dealt with challenges in the field of ethics differently. Below some examples will be

pointed out how general ethical demands are expressed in European countries.

In some countries like Finland general ethical demands for public servants are externalized through explanation of the meaning and functioning of the values that form the shared foundation of state administration [40; 41]. Values are one operational part of the Government's personnel policy [33].

Analogous features can be found in Denmark. To ensure general awareness of public service values and to develop the culture of ethics in public service various documents are used, e.g. the Central Government Personnel Policy, various departmental guides and so forth [14]. According to the GRECO Evaluation Report on Denmark, "A Code of Conduct for civil servants is being drafted. It will take a form of general guidelines, allowing for the designation of rules appropriate to the needs of specific sectors. It will constitute a new tool for civil servants, covering fundamental principles and ethics" [15]. Based on that, it seems that the code will not provide something qualitatively new. It will collect together principles already existing. However, it is a remarkable fact that Denmark has not started working out the code of conduct itself before now.

Portugal is a representative of the group of countries where ethical demands for public service are expressed in a-law-like document. A Code of Administrative Procedures was instituted in 1991 with the enactment of Decree-Act No. 442/91 of 15 November, a lengthy piece of legislation, containing some two hundred articles. In it, two types of standards are of special relevance to public service ethics: first, general principles of administrative activity, and second, standardisation of the way procedures are organised. The general principles of administrative activity (Articles 3-13) constitute a set of broad legal standards outlining the fundamental principles that guide the action of State bodies and employees and summarising the overall philosophy of the public service. The area covered is not exclusively a legal one; as standards of conduct with no corresponding sanctions for noncompliance, they are more like standards of conduct than the legal requirements they technically are. Moreover, they are quite similar to the injunctions of the Public Service Code of Conduct, since the ideas are the same and only the form is different, the Code being clearly less juridical, taking a more informal tone and using plainer language [32]. Alongside disciplinary measures different incentives and persuasion are used in

Portugal to assure that important values are taken into account in everyday action of the public service [13, p. 62].

In Great Britain there is no strong body of administrative law. There is a tradition of strict rules in relation to the conduct and behaviour of public officials. The Standards Board alongside with the Audit Commission, the Improvement and Development Agency and others controls and investigates wrongdoings. The codes form part of the conditions of employment of all civil servants and are therefore enforceable under employment law [10, p. 100; 8: statement 102]. Codes of Conduct have to incorporate seven principles of public life established by the Nolan Committee. The Standards Board with other official bodies are involved in enforcement of ethical behaviour.

Germany and France are the examples of countries that do not have any special ethics-documents as general codes, value statements etc (Demmke et al 2004, p. 100). In these countries public service values are predominantly expressed through laws. Concerning France, "In the public sector, rules of conduct derive from the law, regulations, circulars and, to certain extent, court rulings and professional good practice guides. Although there is no code of conduct or ethics as such for all public officials…" [16]. As COE report points out: "In countries with a career system, it may seem unnecessary or even pointless to set out yet again in a code, albeit in a different legal form, an arsenal of constitutional, legislative, regulatory and case-law regulations and provisions which already govern the statutory framework of the civil service" [8, statement 103].

In Germany conjunction of ethics and law is even more obvious. "Selections 52 et seq. BBG (Bundesbeaumtengesetz –Federal Civil Service Act) and 35 et seq. BRRG (Beamtenrechtsrahmengesetz – The Framework Act on the Law Applicable to Civil Servants), together with the applicable legislation at Länder level, establish the duties and core values of civil service" [17].

In CEE countries different models of ethical management have been adopted. An interesting fact emerges that these countries actually started paying attention to codes of ethics earlier than many countries in the Western Europe. Codifications of ethics for public services were adopted in Estonia in 1999, in Bulgaria and Latvia in 2000, in Czech Republic in 2001, in Macedonia, Albania, Slovakia and Poland in 2002 and in Romania and Lithuania in 2003 [34]. Palidauskaite shows explicitly how different codes

can be formed and that in many cases like in Albania, Romania, and Lithuania, the codes offer a detailed list of principles and administrative arrangements and have been drafted as laws [34, p. 38]. She also refers to the different administration of codes. "Either an impartial council or committee (board) as in the United Kingdom and in the United States, or individuals can be left on their own to interpret and apply the code of ethics" [34, p. 45]. According to the analyses carried out about these countries, the question about implementation of ethics into PS [see 3; 22; 42;] to a large extent still remains unanswered.

Special attention will be paid to Estonian code as a deviation from typical solutions. Taking the Estonian Public Service Code of Ethics [37] as the general statement of core values creates discordance. Formally it is a supplement to the Public Service Act. In such a form the code is unique in Europe [10, p. 100]. On one hand the statements in the code express values rather than rules for conduct. On the other hand it is the annex to the law. As a result, there is so much confusion about the code that in reality, the benefits usually associated with having a code of ethics have fallen in the shadow [39] and choosing compatible tools for promotion ethics is complicated.

In all those countries elements of ethical infrastructure are in place but developed differently. It seems that particular practices of implementing ethics depend on how general demands and values are expressed. As with respect to modernizing public services by introducing public management, there is a fairly clear difference in the practical implementation of such preventive and ethical management mechanisms between the European countries which have chosen a predominantly open, employment system[3] for their civil service and those that have opted for a predominantly career system[4], since there is inevitably a clear link between the ethical system of a country and its approach to public management [8, statement 100].

Some explanation should be given to describe applying different systems of ethics. If the system of ethics is based purely on common core values (expressed either in value statements or in codes of ethics), enforcement and punishment measures are weaker. Ethics demands expressed

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[3] Distinctive feature of managerialism in public administration

[4] Distinctive feature of Weberian type of public administration

in rules (codes of conduct) need enforcement mechanisms. If duties and core values are expressed in legislation, obedience is enforceable by the law. Relying on rules or on law can be seen as two different approaches in regulation. The first refers to the 'compliance' approach that utilises measures that fall short of prosecution. The second one relies upon 'deterrence' and utilises penal sanctions in the case of failure to abide by the law [21]. Codes and value statements give a clue to the process of examining the ethics aspects of government.

Basing on empirical information, subsequently some outcomes will be expanded upon. Usually ethics management systems and tools are analysed in the integrity -compliance continuum. The integrity approach builds upon aspirational values for the public sector sometimes supplemented with decentralised codes of conduct [13, p. 61]. The countries, which ethic structure features such characteristics are for example Finland and Denmark. In these countries there is no central coordinating body for ethics and the responsibility of ethical behaviour is left to the hands of individual public servants.

At the other end is the compliance-based approach to ethics management that focuses on strict compliance with administrative procedures and detailed rules, which define what public servants should do and how [13, p. 61]. In this approach there is usually no difference made about how rules are expressed – whether they are embedded in laws or set as rules or codes of conduct. However, basing on analysis of practice of different countries, incorporating both rules and laws under the same approach does not seem quite correct. According to descriptions of the compliance-approach heavy emphasis should be put on policing actions and catching wrongdoing [13, p. 62]. In cases of Germany and France there is no special body for enforcement of ethical behaviour, which could do that.

In Europe there are no pure examples of complex and comprehensive rules-based systems that we can see in the United States [13, p. 62] but Portugal and United Kingdom can be considered close to that.

| Value-based | Rule-based | Law-based |
|---|---|---|
| Finland | Portugal | Germany |
| Denmark | Great Britain | France |

Figure 1: Basis of ethics management in countries

Continuous changes are taking place in the sphere of public service ethics. It's highly probable that information a few years old about existing parts of the ethics framework is not accurate any more. Looking at the wider picture we can see that in many countries there is a movement away from the law- or rules-based system towards to the values-based system. "In terms of the evolution of an ethics regime, the question remains as to whether it is possible to go directly to an integrity-based system or whether a rules-based system is a necessary transitory phase" [13, p. 62]. In Western European countries starting to create their codes of ethics only now there has been no rule period of insuring ethical conduct. In Central and Eastern Europe tendency to create detailed codes of conduct with punitive measures is greater.

## 3. Ethics management and public administration

Until now, there have been several attempts to draw parallels between the types of public administration systems and the amount of ethical problems in the public service. Not wanting to follow the rich discussion about exact features of different paradigms in public administration [25; 11] recognising that there are two main traditions in the field of public administration– Old Public Administration and New Public Management. Pure models of ethics management or public administration theories do not exist in practical life. It is possible to follow only the general tendencies occurring in reality and each government has to define its own path. The historical and socio-cultural roots play an important role in shaping operational details of managerial incentives of ethics framework but seem to have a more modest role when it comes to choosing an ethics management system. "And it would seem logical that an ethics regime should be consistent with approaches to public management in general. Indeed, the approach to public management offers signals as to how the ethics regimes should be developed" [13, p. 61].

In the common discourse, the rise of ethical problems in public service is usually taken as by-products or co-influences of changes in the public administration system [8; 10, p. 50; 27, p. 466]. In all European countries changes accompanying the movement to managerialism and New Public Management have had a great impact. "New Public Management refers to a cluster of ideas and practices <…> that seek, at their core, to use private-sector and business approaches in the public sector" [11, p. 550]. During last two dec-

ades massive reorganisations have ripped through all levels of government and its personnel. Fundamental rethinking of the role and functioning of bureaucracy has come about. "While NPM in the 1980s was primarily focused on promoting and more efficient and effective government service, the attention in the 1990s included issues such as equity, integrity and so forth. This was conceptualised as a "good governance" [1, p. 9]. Frederickson warns us that "the managerial recipe – deregulation, privatizing, downsizing, and market competition – will make a dish that will spoil and become the problems of 2008, and these problems will be primarily ethical" [18, p. 178].

Does it mean that in countries that have turned to the road of New Public Management there is less hope for ethical public service than in countries with traditional Public Administration? It is not a question about for or against NPM. It is a question about choosing ethics management tools that fit better to certain conditions. Differences on the basis of ethics management lead to the idea that in explaining features of new managerialism and classifying countries on the scale of Old Public Administration - New Public Management, this continuum is too narrow.

There are several implications that the integrity-based ethics management suits with NPM-style of public management and that the compliance approach does not fit the results-based managerial approach [13]. Considering the practice of countries mentioned above. Great Britain [19, p. 20] and Portugal [2] have introduced the NPM-type reforms most strongly. In Portugal "public management reform was a real movement …the adoption of the NPM paradigm for administration reform has converted the administrative State into a managerial State" [2, p. 8 - 9]. In both these countries ethics management has been mainly based on providing rules, regulations and enforcement systems. As said before, Portuguese Code of Administrative Procedure entailing values and lines of conduct for public officials more resembles law than soft regulations.

German and, to a lesser extent, French civil service systems correspond to the theoretical description of traditional civil service [20; 29]. The legal status, the reward structure, recruitment and selection procedures etc. are regulated and standardised. The personnel management system is bureaucratised. Ethically acceptable actions are those that correspond to the law. As mentioned, there are no general codes of conducts as such;

ethical principles are integrated in laws and regulations [10, p. 100]. This drives to the conclusion that there is a connection between traditional Old Public Administration system and ethics management based on law.

Third type of countries like Finland and Denmark has been experiencing the period of public administration reforms. In the situation of continuous changes in administration, providing fixed operating procedures does not give solutions to all situations. Ethics management in these cases can be and is successfully endorsed by promoting shared values, not rules. The question remains about labelling those reforms as purely NPM-laden. On one hand, effectiveness and efficiency and focus on results are reasonable targets. On the other hand, citizen-oriented services are declared to be of great importance. According to Denmark's National Reform Programme:

> Since 2001 the government has made it a central policy to modernise the public sector by placing the citizen at the centre of activities of public governance, by creating more opportunities for free choices of welfare services, by easing administrative burdens, and by putting more emphasis on tangible targets and results, which can give more value for money [12, p. 54].

As referred, one of the indigents of NPM is the missing attention to ethics problems. According to the Transparency International Corruption Perceptions Index, Finland and Denmark have been among five least corrupted countries in the world for years. So, the warnings about NPM turns of public administration and implicit worsening of ethics climate are either groundless or the popular view of Finnish and Danish public administrations as strictly NPM-type should be revised.

Beside old public administration and NPM, there is a third way offered by Denhardt and Denhardt [11]. They labelled management that is focused on public servants´ responsibility to serve and empower citizens and organisation of public administration that stresses public institutions characterised by integrity and responsiveness [11: 549] as New Public Service (NPS). In the cluster of ideas embedded in NPS theory, focusing on the citizens and public interest in common seems to be the most important.

In comparison of the features of NPS with characteristics of public administrations of Finland and Denmark, in ethical paradigm it seems more correct

to view these systems in the framework of New Public Service rather than New Public Administration.

Placing aforementioned countries in an expanded old-new continuum the following picture emerges:

*NPS*                    *NPM*                    *Old PA*

← ————————————————————————————— →

Finland                  Portugal                 Germany
Denmark                  Great Britain            France
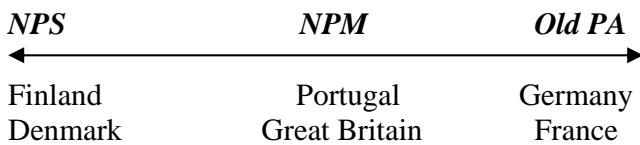
Figure 2: Public administration theories in countries

We can see that parallels can be drawn between ethics management theories and theories of public administration. In countries with predominantly Old Public Administration systems, ethics management is based on demands expressed in laws. Countries taking NPM as the basis of public administration reform tend to use rules and developed control mechanisms to ensure ethical behaviour in public service. Countries preferring soft ethics regulation based on common and shared values and that place high expectations on personal integrity might be examples of new public administration theory – New Public Service.

*Table 1:* **Compatibility of public administration systems and ethics management**

| *Public admini-stration system* | *Ethics man-agement* | *Basis* |
|---|---|---|
| Old Public Administration | Law-based | Law |
| New Public Management | Compliance - based | Rules |
| New Public Service | Integrity - based | Values |

Returning to the Estonian case there are some difficulties to cluster this country. Estonia was the first CEE country that adopted an ethics code. As Palidauskaite states: "Attempts to include new market concepts into practice of public administration under influence of New Public Management are combined with the principles of democratic governance. The Estonian Public Service Code of Ethics is the best example, because it includes many principles regarded as the foundation of good governance" [34, p. 46]. At the same time the code tends to resemble more an expression of values than a body of rules of behaviour.

Currently there are no clear agreements concerning Estonian public service development

(although reform plans have existed since the adoption of the Public Service Act in 1996). Reflections of problems related to such a situation also emerged in the survey on values and attitudes in Estonian public service. According to the survey, the most important values in Estonian public service are competency, honesty and lawfulness. In literature these values are defined as old, traditional values, related to Weberian PA system. Reaching objectives, independency and efficiency are less valued. These values are usually associated with new, modern understanding of PA, New Public Management [5, p. 54]. Here we can see that despite of Public Service Act declaring Estonian PS to be an open, flexible NPM-oriented system (see also 4, p. 9-10, 17-18), the values actually carried by Estonian public service are more characteristically to classical public administration. In such conditions it is complicated to introduce a proper ethics management system [35]. The situation refers to the need of harmonising ethics management with public administration.

**Conclusion**

Laurence E. Lynn has said that "Regimes do not simply succeed one another; rather, institutions, ideas, and values are woven into the complex institutional fabric that constitutes democratic governance" [25, p. 145]. The ways of dealing with issues of public service ethics seem to be related with particular systems of public administration. The literature providing theories of ethics management does not pay enough attention to public administration systems applying compliance approach to public service ethics. In the wave of criticizing New Public Management as a troublemaker for ethical public service, important developments in public administration might be missed. There might be a new theory in place, which together with the three "E's"- economy, efficiency and effectiveness – provides the fourth – ethics. It seems that theories on public service ethics management have been developing faster and have met the challenges introduced by changes better than theories of public administration. In accepting three-fold approach to ethics management and public administration theories, additional scenarios for finding the right path rise. In case of absence of a clear vision for public service development, creating interrelations with the integrity system will be deficient and therefore also the implementation of public service ethics will remain insufficient. If public management and ethics management are harmonised,

the integration of ethics into public service will be more successful.

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**Viešojo administravimo sistemų ir etikos vadybos suderinamumas**

Santrauka

Straipsnyje analiuozjama idėja, kad tam tikras etikos traktavimas labiau dera vienoms viešojo admnist-ravimo sistemoms nei kitoms. Analizė pradedama bendrųjų etikos vadybos sampratų apžvalga. Tada aptariami skirtingų šalių atvejai, siekiant išskirti, koks požiūris jose vyrauja. Pabaigoje atsakoma į klausimą, ar egzistuoja požiūrių į tam tikrą etikos vadybos reguliarumas konkrečiose viešojo administravimo sistemose. Siūlomos kai kurios idėjos dėl viešojo administravimo sistemų ir etikos vadybos suderinamumo. Taip siekiama išplėtoti didžiulį etikos valdymo dualizmo kontinuumą. Atkreipiamas dėmesys į tai, kad esama tam tikrų spekuliacijų interpretuojant faktus. Autoriaus požiūris nėra grynai empirinis; pateikiama keletas filosofinių apibendrinimų. Kita vertus, tam tikrų viešųjų institucijų bruožų pasireikšimas suteikė pagrindą pabaigoje pateiktoms teorinėms išvadoms.