

## **PROFESSIONAL ETHICS FOR POLITICIANS?**

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**ABSTRACT:** *Democracies typically impose onerous regulation on the conduct of bureaucratic officials and remarkably light regulation of the conduct of elected officials. The traditional presumption was that politicians should be allowed to self-regulate. In many democratic regimes, politicians have shown themselves unable to carry this burden of public trust. As a result, political ethics is regulated from a perspective of public distrust, associated with fears of political corruption. Despite my personal reservations about professional ethics models (recorded here by reference to recent fictional work of novelist J.M.Coetzee), I revive a trust-based perspective to make a case for a regime of self-regulation for democratic politicians, based on a democratic hope that politicians can be trusted to act as responsible professionals.*

In the management of public sector ethics, codes, commissions, and cops all have their place. They are particularly useful in combating political corruption. But what works in encouraging political ethics, in sustaining a political system that values political decency? My preference is to avoid cumbersome legal prescription and rule-compliance approaches. Talk is better than chalk: what passes as political ethics is itself a political issue, best determined through political processes giving the public opportunities to weigh contending views about the prudence and good sense of questionable political conduct. Open deliberative processes can allow politicians to account for and justify the public value of suspect conduct, before other politicians and before the public. Prudence is more valuable than prescription, although prescribed structures of public deliberation can bring prudence to the fore--if used responsibly by politicians. Ultimately, that is a question for the public to judge.

Does this sound like a very soft version of a regulatory system? If so, this is because I am sketching a regulative ideal rather than a regulatory mechanism. The ideal trusts politicians to reward decent and honorable conduct and to punish unethical conduct. How they do that is best for them to judge, according to the constitutional conventions

of each political system. My preference for deliberative structures is consistent with many of the checks and balances common to liberal constitutionalism, and even if the regulative ideal is never matched in political practice it at least gives politicians a fair sense of the standards of political ethics that a democratic political community might want of them.

### **THE ISSUE OF RESPONSIBILITIES**

My argument is in two parts. The first reduces the prominence of 'professional' in the style of professional ethics we might expect of politicians. The aim here is to clear a space for what I am tempted to call real ethics by reducing the domination of professional or role ethics. The second part builds on this by widening the scope of the political in political ethics to include recognition of, and even encouragement for, decent political ethics to balance the prevailing focus on indecent or corrupt political ethics. What might encourage ethical political decency? Drawing on principles of deliberative democracy, including those examined in my *Deliberative Democracy in Australia* (Uhr 1998a), my answer is that public political deliberation can encourage political decency. How can public deliberation strengthen political decency? By allowing all parties to governance relationships to have their say on the state of their official responsibilities, thereby providing the public, should it be in a position to listen, with opportunities to review standards of political responsibility.

Much turns on these two concepts of responsibility and relationship, clarified below. The two parts of my argument work together to support my contention that democracy has more to gain by trusting politicians to take greater (but not by any means total) responsibility for regulating their own ethics than by distrusting politicians and subjecting them to regulation primarily through external anti-corruption commissions. The term politicians covers a diverse class of public actors. My scheme presumes that this very diversity can encourage a pro-active system of checks and balances where nonexecutive politicians (e.g., legislators, backbenchers, the opposition) use the publicity of deliberative processes to keep those with greater political power (e.g., heads of government, cabinet ministers) responsible in the conduct of their official relationships (e.g., ministers with civil servants). The hope is that structures of public deliberation can provide politicians with professional capacities to be trusted to regulate much of their own public conduct.

I acknowledge that the odds are against me. The case against professional ethics faces two prominent claims, among many others. Most basically, there is the theoretical claim that the full nature of ethical conduct can not be reduced to the forms appropriate to professional conduct, despite the welcome public benefits of properly managed professional conduct. Ever since F.H. Bradley (1927, 160-213) explored the ethic of 'my station and its duties,' the ethics of office or role have won at best only qualified praise--even from Bradley himself, although this reservation escaped the attention of his early critics like Sidgwick (1967, 284-287). Second, there is the practical claim that forms of self-regulation typical of professional ethics are plagued by practical defects deriving from the capture of the regulatory system by the professions. Contaminating private interests too often weakens the promised public benefits. Taking these two claims into account, political occupations provide one of the hardest test cases for

advocates of professional ethics, who face considerable odds in persuading critics that either or both of these two counterclaims can be overcome.

While I acknowledge the force of the general case against professional ethics, I want to sketch principles to construct a version of professional self-regulation suitable to democratic politics. One test of professionalism is the capacity for self-regulation of official conduct. I favor models of political ethics that include opportunities for politicians to take greater responsibility to regulate their own conduct. This preference is unrelated to any political professionalism. The reverse is more likely: politics being a public rather than simply a professional activity, decisions about what constitutes appropriate political conduct are matters for public debate. Politicians can help or hinder that process, but they should not be excluded from it because of any fears about conflicts of interest. Conflicts of interest can and do arise, and abuse of office has to be regulated. But there can also be conflicts of responsibility as well as conflicts of interest, where competing ethics of political responsibility clash.

The most dramatic example from recent Australian experience comes from President Bush's 2003 visit to the Australian Parliament, where his address was interrupted by two Greens senators who then refused to vacate the chamber when so directed by the presiding officer. The government successfully moved to exclude the two Greens senators from the next day's joint session with the Chinese president. Both incidents, the senators' conduct in interrupting President Bush and the government's exclusion of them from the subsequent parliamentary meeting with the Chinese president, ignited considerable public debate over who should have the political power to determine how elected representatives conduct themselves when engaged in parliamentary business. One extreme supported the right of every elected representative to make their own decision on when and where to speak out on issues of public concern including, if they are prepared to stand by their judgment, interrupting an address to the national parliament by the U.S. president. The other extreme supported the decision of the Howard government that this conduct was irresponsible and should not be repeated--particularly at a time when Australia was about to sign a huge energy contract with China.

These extremes reflect contrasting norms of political responsibility, with no hint that either is tainted by suspicion of illegality or corruption. But the lively community debate over these contrasting ethical postures tells us much about the neglected end of political ethics: democratic communities are surprisingly keen to talk through the political ethics of self-government when confronted with contrasting examples of responsible ethical judgment by politicians. My point is not to award ethical points for exemplary decency to either position but to call attention to the larger issue of process: democratic political ethics are tested through public deliberation over the responsibilities of debatable political conduct. This deliberation occurs in relation to contrasting models of political decency no less than in relation to models of corruption. Frequently this involves no issue of self-interested abuse of office, but rather a clash of ethical expectations about the proper use of political office or about standards of political decency. Debate over failures by politicians to do the right thing (e.g., failure to listen in silence to the visiting head of government, or failure to allow elected representatives their right to join other

parliamentarians in a meeting with a visiting head of government) can be just as central to public life as debate over alleged criminal misconduct by politicians.

### **ETHICS OR CORRUPTION?**

My point of departure is that it is misleading to treat political ethics solely with the analytical tools used to deal with political corruption. Large parts of the ethics in political ethics go uninvestigated when the methods of corruption analysis dominate the scene. To exaggerate for effect, ethics itself is corrupted when the focus is on the negative effects of corrupt conduct with little or no interest in the positive effects of ethical conduct. For those who like big concepts, this analytical corruption limits our access to the phenomenology, or full range of characteristic conduct, captured by the category of political ethics. Missing from most accounts are the phenomena at the ethical end of political ethics. One useful example of neglected practice is the investigation of types of exemplary public conduct published in Terry Cooper and Dale Wright's reader, *Exemplary Public Administrators* (1992).

Importing a distinction I defend at greater length in my book *Terms of Trust* (2005), I distinguish studies of political ethics from studies of political corruption by reference to the public conduct they seek to explain. Put crudely, corruption analysis explains how different forms of external accountability (i.e., external to the politicians concerned) impede political corruption, and ethics analysis explains how different forms of internal responsibility (i.e., internal to the politicians concerned) promote political ethics. Those familiar with the old Friedrich-Finer debate in U.S. public administration will recognize this as derivative from that influential exchange over the contest of the two values of accountability and responsibility--values that are distinguishable even if in practice they are inseparable.

The topic of political ethics covers two poles of conduct: the unethical pole with the tension between corruption and its detection through public accountability, and the ethical pole with the tension between ethics and its discovery through personal responsibility. Here I want to distinguish the study of political ethics from the study of political corruption, usually understood as a form of criminal misconduct best regulated by nonpoliticians. Investigation of political ethics gets at other forms of abuse of office--conduct that is not illegal but not necessarily right or decent. I argue that democratic standards of ethical political conduct are matters for political debate and determination, ideally (nice word!) managed politically through processes of political argument and public deliberation.

### **THE ISSUE OF RELATIONSHIPS**

My take on professional political ethics will focus on the ethics of official relationships. Ethical responsible conduct by democratic politicians is largely about their management of official relationships. Other approaches deal with conflicts of interest or with outright corruption. My worry is that many aspects of what we might term constitutional morality go unnoticed in these approaches. Of particular concern to me is the lack of scholarly attention to the ethical responsibility politicians have for managing

relationships among the various institutions of government. To the extent that politicians have professional duties, I think these duties derive from their share in the collective or shared responsibility for the appropriate public use of political power. As I describe a little later, different political offices will have different types of responsibilities depending on the specific powers at their disposal (legislative, executive, head of government, member of cabinet, senior advisor, civil service, military service, etc.). As responsibilities change, so too do the specific institutional relationships so necessary to give effect to the public powers in question. The ethics of institutional relationships might be less tidy than the ethics of personal power, but they are the building blocks of any profession of public responsibility suitable to a democratic society.

To simplify, ethical responsibility is tested in judgments about the management of political relationships. My suggested distinction between political ethics and ethical politics can help keep the focus on ethical relationships. By political ethics, I am referring to the political conventions for managing disputes over ethical conduct through rules and regulations over the fine lines between private interest and public duty. This is what is usually meant by ethical regulation of political conduct, the aim being to reduce the incidence of private use of public office. The conventional approach moves along a path of distrust, based on assumptions that politicians generally cannot be trusted with the responsibility of regulating their own ethical conduct. Relevant policy prescriptions include peer investigation but increasingly focus on external regulation of political conduct by ethics or integrity commissions and the like. In contrast, ethical politics builds on trust rather than distrust, conferring a kind of professional autonomy on politicians to manage their own power relationships with considerable self-regulation. Here the aim is not the negative one of reducing the incidence of the vices associated with the private use of public office, but the more positive one of stimulating the virtues associated with praiseworthy political management of official relationships of power.

I concede that politicians cannot be expected not to be political. It therefore makes good policy sense to take precautions against unethical forms of political conduct. The path of distrust leads to greater and greater public accountability of politicians, with many external accountability agencies holding the line against formal breaches of ethical rules and expectations. But it also makes good policy sense to try to promote higher forms of ethical political conduct than simply compliance with the rules. This alternative path of trust opens up possibilities for more substantial ethical responsibility, in the quite traditional sense represented by the political virtue of prudence as the driver of ethical responsibility in public life. In its most expansive sense, for politicians being ethical means acting prudently--taking prudence to mean the political virtue of practical wisdom so necessary for the sound management of official relationships. Actions speak louder than words, and political actions that build relationships can be more effective in promoting ethical politics than any number of fine words in a formal code of conduct.

I admit that it stretches belief to suggest that the use and abuse of political prudence lends itself to professional self-regulation. Prudence, thus understood, is not only the exercise of judgment but it is the exercise of political judgment in managing official relationships. Matters of judgment attract debate over the use and abuse of discretion, and matters of political judgment attract debate over the use and abuse of political deliberation by parties to the decisions in dispute. But this very recognition of prudential

deliberation through open political debate highlights the nature of the professional standard invoked when speaking of professional ethics for democratic politicians. The model of professionalism here is not that of the single provider responsible for professional services, but that of an assembly sharing responsibility for the provision of professional services. That, at least, is the ideal.

### **BUT IS POLITICS A PROFESSION?**

Does the ideal match our realities? The case for treating politicians as professionals deserving the public trust associated with self-regulatory professional responsibilities seems, at least initially, farfetched. Across the democratic world, politicians universally lack the public confidence of professional occupations like health professionals, legal professionals, teachers, many police forces, and the military. This lack of public confidence reflects widespread suspicion that politicians lack the capacity for responsible self-regulation of their professional conduct.

This suspicion might be well founded. After all, politics is an occupation open to all comers, with no easily discernable professional training that might qualify would-be politicians for political practice. The best-known case for treating politics as a vocation--that presented by Max Weber (1994)--certainly had an ethical theme, and related writings by Weber highlight the importance of supervised experience and career training in the development of political leaders. But remember the nature of this ethical theme: politics can be treated as a vocation because of the distinctive calling seen in the practice of truly great political leaders who are prepared to live for and not simply off politics. These exceptional public figures not only break the rules but also break the mold of conventional political ethics. They take personal responsibility for their own political conduct and are prepared to be judged by the consequences of their own decisions. By taking responsibility they are not simply taking charge but, in democratic systems, preparing themselves to face a wider public reckoning of their political ethics.

Weber's approach is less an argument for professionalism and more one for exceptionalism: political ethics are exceptions to the normal ethical rules. This is one of the most influential arguments in favor of a kind of ethical autonomy for politics. But it is an argument that seems to concede too much autonomy, sheltering irresponsible schemers beneath the scaffolding intended for responsible leaders. Weber's ethic is compatible with the dirty-hands ethic, which, certainly in the time since Weber, has been reformulated to justify everything from the grand exceptionalism of a (capital M) Machiavellian leader to the corrupt conduct of many (small m) machiavellian schemers. What holds for leaders does not necessarily hold for schemers. This schemer stealth is a classic example of what gives professional ethics a bad name. Norms of appropriateness devised to apply to distinct and distinguished practitioners are seized on by indistinct and undistinguished competitors. The danger is that any public benefit accruing to professional claims of ethical exceptionalism will be jeopardized by the private benefits of the professional pretenders. Most professional associations granted self-regulatory powers strive to justify their due diligence in policing their own professional ethics. Once again, politics is exceptional, in that there are so few examples to reassure a suspicious public that politicians deserve to be granted authority to regulate their own

affairs. Periodic stories of corruption are enough to drive out the high hopes for ethically responsible politics.

The dismal record of political self-regulation is one important practical count against political professionalism. Another is the deeper theoretical reservation about the ethical integrity of professional or role ethics. One of the most striking examples of the critique of professional ethics in public life comes from the recent novel *Elizabeth Costello* by the 2003 Nobel Prize winner for literature, J.M. Coetzee. South African author Coetzee now lives in Australia where he is based at the University of Adelaide--when he is not associated with the Committee on Social Thought at the University of Chicago. His novel contains a dramatic illustration of the merits and pitfalls of professional or role ethics. Within limits, I support a professional approach to the regulation of politicians' ethical conduct, one which confers considerable responsibility on elected or representative politicians to take the initiative in managing the resolution of conflict over alleged breaches of appropriate standards of ethical conduct. The relevance of Coetzee's novel is that it helps clarify what I mean by within limits.

The novel draws attention to the limits of attempts to reduce ethics to role compliance, and implicitly to the dangers of professions' claims of ethical exceptionalism. At the end of the day, being ethical means doing the right thing regardless of what one's profession deems to be right according to the professional role. In the case of politicians, this means that being ethical is more than simply not breaching the rules of official conduct or even obtaining formal clearance from an ethics committee of one's peers. Weber, to his credit, knew this and made the test of ethical responsibility a demanding version of consequentialism: having the courage to stand firm, taking personal responsibility for noncompliance with the unconditional obligations of conventional orthodoxies, and being prepared to justify the public benefits of one's deviation from traditional norms.

### **RETHINKING THE ETHICAL IN PROFESSIONAL ETHICS**

The novel *Elizabeth Costello* is subtitled *Eight Lessons*, with the eight substantive chapters each tackling a particular lesson. The topic of professional ethics appears in the last lesson, entitled "At the Gate," when the chief character is called on to account for her moral beliefs (Coetzee 2003, 193-225). This character is an imaginary Australian writer, Elizabeth Costello, who in her older years becomes the invited celebrity at many literary and academic conferences. She knows that her celebrity reflects her early work, not her present writing, and she knows that these invitations cannot last. In some ways, the end of these invitations would be a blessed relief as she would be released from the obligation of having to explain herself and her work, a task which she finds increasingly difficult as she ages and rethinks the merits of her earlier work and becomes increasingly aware of the better work that she has never completed. Much of the novel deals with this tension between the public persona of the author and the private character of the writer who is increasingly detached from her prominent role as celebrity author. Tired of making public statements, Elizabeth Costello retreats into a private world where she permits greater honesty about herself and her talents as a writer and as a person.

Lesson eight deals with Elizabeth Costello's final lesson as she imagines what her final act of public scrutiny at the gate of heaven might look like. Think of this as her imaginary anticipation of her most important public justification of her use of her time down below. This is what she envisions. Arriving at the gates by bus (we are not alone even in this, the final journey), Elizabeth asks permission to pass through the closed gate separating heaven from the world of the still-restless souls. But, before she can enter, she is told by the authorities (the guardians, as they are called) that she must make a statement. "Will this posturing never end?" she thinks, "Why can't I simply pass through the gate and put paid to my earthly debt?" Handed a blank piece of paper, Elizabeth is told that the required statement is to be a statement of what she believes. As the burden of this trial begins to dawn on her, Elizabeth realizes that before she will be found good she must do what she can to provide evidence of her goodness in her beliefs.

Can her beliefs carry this burden? Elizabeth protests that, as a writer, "It is not my profession to believe, just to write. Not my business. I do imitations, as Aristotle would have said." Then she begins a slippery process of plea bargaining: "I can do imitation of belief, if you like." She gets no encouragement. She later regrets this tendency to flare up, which reflects her conviction that she is typically misunderstood and that she deserves better. She is a true professional and wants to be appreciated as a model of a professional writer. Generally, she resists inquiries into her inner world of personal interest and deflects attention back to the external world of her professional capacity.

Now taking an even more radical turn, Elizabeth writes a statement of belief to challenge the rule about statements of belief. Understanding herself as a writer who trades in fictions, she records that she maintains beliefs only provisionally: "Fixed beliefs will stand in my way." So on these grounds, which she calls professional or vocational, Elizabeth requests exemption from a rule requiring every petitioner to hold one or more beliefs. Her strategy is unsuccessful. The guardian tries to encourage her with an incentive. He allows her a brief glimpse of the brilliant light through the open gate, and then in a surprisingly personal gesture he acts out of keeping with his own professional role and pats her on the arm, inviting her to try harder. Forgetting herself or her place, Elizabeth tries to behave smarter rather than harder. She begins to joke with the guard, but to no avail. Humor works no better than serious pleas for exemption, so she accepts that she had better return to the task and prepare the required statement of beliefs.

Elizabeth takes stock of her situation and returns to this, the most difficult act of writing she has ever attempted. Eventually, she completes the statement to her satisfaction and her day in court arrives. Elizabeth is called before the court of nine elderly male judges to present her statement. She begins reading her statement, explaining why writers have no beliefs. Her thesis is simple: "My calling: dictation secretary." Later she identifies this as a secretary's way of life, their special vocation being to record but not to judge the worth of what they hear. Claiming that as a writer it is not her role to interrogate or to judge the beliefs of those about whom she writes, Elizabeth says that what she writes is what she hears, not what people might want to hear. As a good secretary, the writer should have no beliefs. It is inappropriate to the function. Her rather compelling argument is that personal beliefs act as obstacles to writers, impeding their capacity to hear properly what others say and believe.

The response is not long coming. Says one judge: "Without beliefs we are not human." Elizabeth's response is that her sense of duty follows her function, with the result that "I have beliefs but I do not believe in them." The next response is quick and acute: "What effect," the judge asks, "does this lack of belief have on your humanity?" Elizabeth protests that her own humanity is of no consequence, claiming that her own emptiness is outweighed by her contribution as a writer to the humanity of her readers. For professional reasons, Elizabeth cannot afford to believe: she cannot afford to take herself too seriously. She begins to appreciate that this must sound as though she is treating the court proceedings with contempt.

At this point a judicial voice asks: "And what of the Tasmanians?" What might appear an obtuse aside is, in fact, a confronting move intended to tease out whether this Australian writer really has no beliefs to guide her in thinking about the miserable fate of the indigenous Tasmanians--exterminated, Elizabeth now recognizes to herself, by her countrymen, her ancestors. A judge asks why Elizabeth presents herself "not in your own person but as a special case, a special destiny, a writer...?" Forcefully, the judge asks if being a professional secretary means that one makes no judgments and is therefore bankrupt of conscience. Elizabeth now knows that she is cornered, beaten down by what appears to be a contest of rhetoric rather than a real interrogation into truth. Weighed under by too many heady abstractions, Elizabeth departs the hearing with a severe headache, knowing that she has lost her case.

Eventually she gets a second chance. She is now aware that her problem is that she cannot afford to believe, because in her line of work one has to suspend belief. Despite this, Elizabeth gets her second hearing, this time before a new panel of judges, smaller than the first and now including a female judge. She takes advice from another petitioner and presents a case illustrating her passion rather than her beliefs. It is a riveting performance, an exemplary apologia of her life history, presented not as a writer but "as an old woman . . . telling you what I remember"--a remarkable presentation about her memories of her childhood in rural Victoria and her relish for the natural environment. The judges are confused. Is Elizabeth replacing her former plea with its absence of beliefs with a new one based on explicit beliefs? Or, are her recollections of her passionate life evidence of a very human belief in life? Elizabeth's desperately truthful answers to their many questions are attempts to defend the integrity of both of her two formal statements of belief. This is of little avail, finally provoking the judges to howl with laughter at this picture of strained personal integrity. Elizabeth recognizes that the special fidelities of her vocation will not allow her to win this final rite of passage.

Coetzee does not allow us to see any further into Elizabeth Costello's imagined final saga. The lesson ends where it began, with Elizabeth restlessly wondering just what it takes to get through the gates to the peace on the other side. Elizabeth ponders her new knowledge of the cost of her own loyalties to her vocation, appreciating that fidelity is the word on which all hinges. At least she has learned that pride in her professionalism does not count for much in the eyes of her gatekeepers. The advice to try the path of passion is useful because it brings out more of her own personal beliefs, even if Elizabeth is ill prepared to explain their meaning. Her tendency to slip back into her

professional mode of nonevaluative recording probably shows that the early passion has faded, at a cost only now beginning to be appreciated in the afterlife of this gifted writer.

Where does this leave us? Elizabeth Costello presents herself very much as an individual but for our limited purposes, which do less than justice to Coetzee's own purposes, she can stand as an example of a professional type. Professions differ, and not all have the same degree of impersonality that the writer Costello thinks appropriate to her calling. Nevertheless, this studious impersonality, with its restraints on partiality of judgment in the business of storytelling, causes us to wonder about the parallels with other professions. In general, ethics of professionalism are variations on this theme of impersonality. Professional ethics tell practitioners to carry out their duties informed by their professional as distinct from their personal judgment about a responsible course of conduct. This highlights rather than minimizes the role of discretionary judgment in professional practice, but according to a demanding model of discretion with little or no place for personal value judgment. For good reasons, practice is never as tidy as this impersonal model: the best professionals tend to be good human beings as well as good professional practitioners. In the context of his novel, Coetzee invites us to ask if the judges are so blind that they cannot see that Elizabeth Costello is a good person as well as a good writer. Perhaps they are the models of professional limitation, so blinded by their adherence to form that they fail to give Elizabeth her due justice.

### **RETHINKING THE POLITICAL IN POLITICAL ETHICS**

I move now from reorienting ethics to reorienting politics. The first reorientation attempted to widen the scope of appropriate ethical conduct to include the positive pole of the decent as well as the negative pole of the dishonest. Of course, broadening the category of researchable conduct does nothing to increase the incidence of decent conduct. Broadening the category simply opens up the possibility of fresh research into debates over decency to balance the prevailing preoccupation with debates over dishonesty. Decency typically begins with compliance with the rules, but there is plenty of scope for debate over the supralegal expectations of appropriate political conduct. To my mind, this is as much a political as an ethical question: in fact, it is an ethico-political question.

The second reorientation reinforces the turn from political ethics generally to ethical politics more specifically. If democracy is the basic political norm under consideration, then the study of ethical politics is going to involve investigation of a democratic ethic of shared responsibility for self-government. What orientation to the political would be compatible with this new research impetus? My suggestion is one drawn from theories of deliberative democracy because of their attention to the importance of norms of responsible political argument in structuring democratic politics. To say that decency or ethical responsibility among politicians is an ethico-political question is to say that standards of appropriate conduct are, in a democracy, ideally determined through responsible public deliberation over the forms and substance of ethical politics. This allows for considerable contribution by politicians through open and accountable systems of self-regulation of suspect or debated instances of political conduct. While the standards of appropriate conduct might be thought to belong to the democracy itself, responsibility for detailed management of claims and counterclaims over suspect

conduct rests with serving politicians, in keeping with their public responsibilities as representatives of the political community.

What institutional implications flow? To me, the most important principle is that professional political ethics only makes sense if we recognize the collective character of political professionalism. Think of this as a version of the many hands thesis: political responsibility is shared responsibility--between electors and the elected, between executive and legislative officials, between political branches and the judiciary, between cabinet ministers and the bureaucracy, between insiders and outsiders, and so on. In keeping with the many hands thesis, politicians can evade ethical responsibility by claiming that others took a greater role in instances of debatable conduct.

There is another dimension to this collective arrangement sometimes neglected in the many hands literature. This is the other side of the evasion story: political ethics is not so much about individual conduct as about shared responsibility for the conduct of relationships. If we put to one side the conventional approach to criminal misconduct through abuse of office, there is still plenty to investigate in the legal but questionable conduct by politicians in the use and abuse of relationships of public power.

Westminster-derived parliamentary systems provide many examples: in the ways that prime ministers dominate relationships with cabinets; ministers dominate relationships with civil servants; ministerial consultants dominate relationships with both ministers and civil servants; and higher civil servants dominate relationships with lower civil servants, who in turn dominate service providers who dominate consumers of public services. I emphasize domination to bring out the incompatibility of these sorts of power relationships with democratic norms. This recital of dominating relationships is a caricature but it conveys the message: political ethics is about many things, not least the conduct of those official relationships among public institutions that constitute the political and policy process. The study of political ethics deals with the state of relationships among the many political offices sharing political power, including the basic organizing offices of citizen and government. Thus, political ethics includes the study of the norms that constitute democracy as evident in the political management of governance relationships.

A final institutional consequence to note here is that political relationships are relationships of mutuality. Political ethics cannot be gauged solely through investigation of one party to the relationship. Indeed, whole webs of relationships influence the political conduct of individual political actors. The institutional implication is that political ethics should include the study of the conduct of public processes and not just the study of the conduct of individual actors. To give but one illustration, parliamentary systems typically have codes of ministerial conduct, occasionally even including independent advisors on ethics and integrity. Within limits, these codes of conduct can help clarify expected standards of official conduct by ministers. But in almost all instances, the codes are creatures of the political executive, illustrating a very circumscribed relationship between the holders of executive power. When push comes to shove, professed standards of high responsibility are overridden by operational norms of executive convenience.

The Australian story is one of prime ministerial discretion to interpret ministerial conduct in the light of the political interests of the serving government. The relationship

does not include the wider body of elected representatives, despite the constitutional rhetoric of responsible parliamentary government. Elsewhere I have argued that parliament has only itself to blame because it has failed to deal itself in by establishing or instituting a relationship with ministers whereby they agree to honor parliamentary as distinct from ministerial standards of public conduct (Uhr 2001a). This failure also means that parliament has failed in its relationship with electors by not living up to its responsibilities as an accountability agency protecting the public interest in open and honest government.

### ETHICS BY EXAMPLE

I bring this together with an Australian example, the so-called children overboard affair in the lead up to the 2001 national election. This example balances my earlier use of Coetzee's novel with an account of Australian lapses in political decency that reads all too much like a novel. If only the events described were fictional.

There is a growing academic literature on the political and administrative ethics surrounding these events, most of which suggests that the reelection of the Howard government came at the price of unprecedented damage to the government's reputation for public integrity. The government won the election and, not surprisingly, defends its integrity in terms of having earned the public mandate to retain the responsibilities of executive power. The government has defended its ethical credentials by pointing to the balance between its right to use the responsibilities of governmental power as it sees fit (acknowledging that this right is subject to the limits of the law) and its proven public accountability as evidenced by its electoral victory. From the government's point of view, no law was broken during its tenure in office and the people have spoken, giving fresh legitimacy to the governing coalition. In this simplified account, the government's take on ethics in government is a classic attempt to justify the government's discretionary use of its powers by reference to the renewal of public trust in the government granted by electors.

Mandates are tricky things, and the same election also returned a solid nongovernment majority in the Senate, which contests the right of any government to claim a mandate to govern. The Senate select committee that inquired into a certain maritime incident reported adversely on the government's ethical performance. A subsequent Senate committee built on this initial inquiry and reported the need for new legislation to bring greater accountability to bear on government's use and abuse of the hidden power of ministerial staff (Select Committee on a Certain Maritime Incident 2002; Finance and Public Administration References Committee 2003). Both reports contain detailed examinations of suspect conduct of government ministers in abusing their powers over the public service and abusing responsibilities stipulated in the ministerial code of conduct not to deceive the public and their obligation to correct any misleading public information, even in cases where there has been no deliberate intention to deceive.

The best investigative account of the children overboard affair and related incidents is Marr and Wilkinson's *Dark Victory* (2003; see also Weller 2002). This book is a war story of sorts, detailing the armed resistance marshaled by the Australian government against the perceived threat posed by boat people to the security of Australian

sovereignty in the months leading up to a general election. It is also a political thriller, documenting the struggle within the government over deployment of military forces and the daring risk management of the government's most astute political advisers, who won out against traditional caution, and risk-averseness of the professional military, particularly the Navy, committed as much to due process as to results.

The authors suggest that the 2001 electoral victory is stained, marking the Howard government's deceit of the public through manipulation of the truth about the significance of the increase in asylum seekers (boat people) during 2001, culminating in the contortions of the children overboard affair which helped consolidate electoral support for the government. The attack became an election theme: the undocumented aliens were not only unwelcome queue jumpers but were untrustworthy and uncivilized manipulators of Australian assistance, even to the point of throwing children overboard to get Australian compliance with their demands for rescue and access to Australian care and custody. Or so the government claimed, attributing the intelligence to Navy officials when it originally seemed correct, but failing to mention subsequent contrary doubts or uncertainties when the story wore thin.

## CONCLUSION

The above example illustrates my focus on professional relationships. It also illustrates my interest in political conduct that is, paradoxically, as corrupting as it is legal. Although this Australian practice is broadly consistent with current regulatory expectations, it falls far short of the regulative ideal I began with. The story is significant because it highlights the suspect ethical quality of so many political relationships in Australian government--including the relationships of accountability. I have no magic box of regulatory mechanisms that can transform Australian or similar systems. Intent on bringing politicians closer to the task of self-regulation, I have contrasted prevailing tendencies with a regulative ideal. For all practical purposes, the prevailing tendencies are winning.

The children overboard story does not turn on mundane conflicts of interest but on conflicts of constitutional responsibility, taking constitutional to refer not to the black letter of the law but to the norms of the different political offices constituting a democracy. It is a classic example of the contestability of political ethics, testing in unprecedented ways the decency of many political relationships by politicians whose personal decency is not the question. It is a good example because it shows how political corruption advances under the cover of many disguises, including the disguise of politics as usual (Uhr 2001b, 723-726). Putting Australian developments to one side, I conclude with some general lessons arising from this attempt to apply a professional ethics framework to democratic political ethics.

Most forms of professional or role ethics apply group norms to recognized individual practitioners of the profession in question. Politics is different, not only because the professional skill is unrelated to any specialized training and any associated professional academy, but also because the practice in question is fundamentally shared or collective. This is so particularly in democratic regimes, which quite properly pride themselves on participative public decision making and typically privilege the constitutional power of an elected assembly, even to the point of protecting the

participation rights of nongovernment or opposition members. The collective nature of political professionalism extends beyond power sharing within the ranks of elected representatives to include relationships between politicians and related professionals in public administration.

In this approach, professional political ethics refers to the widely distributed responsibility for determining appropriate standards relevant to these relationships of shared power and, in addition, to the collective resolution of disputed instances of unethical conduct. Particulars of responsible ethical conduct vary according to the nature of the political office under discussion, the precise ethical responsibilities varying with the power relationships managed by different political offices. This range of official responsibilities is itself subject to any formal constitutional constraints--a matter for the collective determination of the assembled professional politicians, subject to public oversight (Uhr 1998b, 11-23).

Thus, professional political ethics as used here refers to the collective determination of appropriate political conduct, which will be more ethically responsible when structured around due processes of fair and open political deliberation in place of politics as usual. Most existing systems of political ethics try to overcome the defects of politics as usual by conferring special power on small groups of politicians comprising dedicated ethics or privileges committees with responsibility for investigating and adjudicating ethics infringements, judged against the rules or codes of official conduct. My idealized model differs because it is relationship-centered rather than a rule-centered approach. My approach is inevitably more uncertain and unpredictable than narrower forms of professionalism based on compliance with the rules. But this very openness reflects the true nature of political ethics as a matter of political judgment, with disputes managed through collective political deliberation over appropriate relationships of power--representatives relating to their own offices and relating to other public offices sharing public power.

The implications of this focus on collective professionalism are considerable, including, not least, a surprising role for the public as the court of ultimate appeal. Democratic politics rests on the relationship between the professionals and the people, and the ethical quality of democratic politics depends in no small part on the ethics of the relationship between the people and their political representatives. Democracy can be thought to hold the people in some sort of professional regard, in that they have the responsibility (the final say) over the system of self-regulation we call democratic self-government.

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