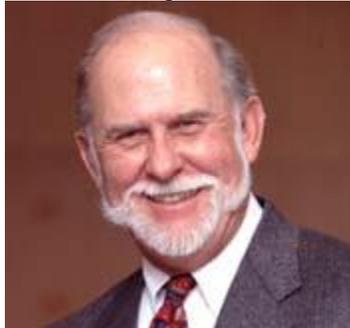


University of North Florida
Master of Public Administration program
PAD 6436 Ethics
Fall 2017

Understanding ethical decision-making

Public manager of the week



[Photo credit](#)

Terry Cooper

Lecture goals: Look at three views of ethical decision-making: Cooper's macro-level, 'big questions' in administrative ethics; his chapter two attempt to understand ethical decision making; and finally, Amartya Sen's views on fairness, through the lens of Rawlsian justice.

Thompson and Leidlein

Chapter 2 (selected questions)

- 1: Did Burns turn his back on the people who elected him?
- 2: Was it proper for him to serve on the City's bargaining board?
- 3: Was it proper for Burns to hint to the police union that they should put concerns about the chief on the bargaining table?

Chapter 3 (selected questions)

- 1. Was the Mayor unethical by being overly involved in the police department?
- 2. Did the City Manager politicize the interview process with the blue ribbon panel?
- 3. Would it have been more ethical for the City Manager to have an open selection process than a closed one?
- 4. Was Chief Grover's termination an illegal constructive termination because of his race?
- 5. What would be the likely community reaction if the City Manager had trusted his gut and appointed Carson?
- 6. What could the City Manager have done better?
- 7. How should the City Manager have handled the racial overtones of the Mayor, and efforts of he and allies to undermine the Police Chief?
- 8. What action could the City Manager have taken to address the Mayor's hands-on approach to his job?

Cooper's big questions

What are the normative foundations for public administration ethics? Cooper offers some options:

- The [U.S. Constitution](#) (and the Supreme Court's interpretation of it?): for John Rohr, these values are freedom, equality and property. Others:
 - The preamble, which indicated why we ordained and established this constitution of the United States of America:
 - We, the people of the United States, in order to form a more perfect union,
 - establish justice, ensure domestic tranquility, provide for the common defense,
 - promote the general welfare, and
 - secure the blessings of liberty to ourselves and our posterity
 - Articles I – III: Limiting government through dispersal (separation) of powers.
 - Article I, Section 8: The Congress shall have the power to
 - Lay and collect taxes, duties, imposts and excises,
 - To pay the debts
 - And provide for the common defence and
 - General welfare of the United States.
 - To regulate commerce...among the several states.
 - Amendment I: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
 - Amendment II: A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.
 - Personal freedom from arbitrary government: Amendment IV (protection from unreasonable searches and seizure), Amendment V (due process of law), Amendment VI (right to speedy trial, witnesses, etc.), Amendment VII (right to trial by jury), Amendment VIII (excessive bail or fine, cruel and unusual punishment).
 - Amendment X: The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.
 - Amendment XIII-XV: Reconstruction Amendments.
- Citizenship theory: “The public administrative role is viewed as derived from that of the citizen, thus making administrators representative citizens, professional citizens, fiduciary citizens, or citizens in lieu of the rest of us” (Cooper, p. 397).
 - Luiz Carlos Bresser Pereira, who we will read in week seven, emphasizes as well the *duties* of citizens.
- Social equity: the focus here is on a deeper meaning of “equality”. After all, does anyone believe that American credo that: “We hold these truths to be self evident, that all men are created equal...” should not have applied to women and African-Americans, as well? As well, were Donald Trump and [Lonzie Barton](#) created with an equal shot at the American dream?
- Virtue: character!

- The public interest: “Are you acting on behalf of broad shared interests or limited particular ones?” (p. 399).
 - Beyond this, I like to argue that MPA graduates, as well as many public servants, know more about the public interest than do the public. For instance:
 - The destination of the plane having been determined by passengers (as reflected in their market choice of ticket purchases), who would you trust to make a decision about the design of an airplane: a vote of airline passengers, or someone with a graduate degree in aeronautical engineering?
 - The goal of policy having been determined by citizens, who would you trust to make a decision about the design of a public policy: a vote of citizens, or someone with a graduate degree in public administration?

How do American administrative ethical norms fit into a global context?

Cooper suggests a handful of administrative ethical universals: “self determination, freedom, honesty, trust, and stability” (p. 399). From what it’s worth, I’m skeptical, fear that there are many more administrative universals (see [EBSCO link](#)).

However, perhaps the one difference between the US and the rest (or most of the rest) concerns the balance between individual and collective obligation. We saw that in Table 1

Table 1 – Individualism¹					
	Hofstede’s Individualism ^a	Economic freedom ^b	Social expenditure ^c	Inequality ^d	
G7+					
US	91	7.96	16.2	40.8	
Australia	90	7.90	16.0	35.2	
Canada	80	7.95	16.9	32.6	
France	71	7.32	28.4	32.7	
Germany	67	7.46	25.2	28.3	
Italy	76	6.90	24.9	36.0	
Japan	46	7.46	18.7	24.9	
Sweden	71	7.28	27.3	25.0	
UK	89	7.81	20.5	36.0	
BRICs					
Brazil	38	6.18	--	55.0	
China	20	6.65	--	41.5	
India	48	6.51	--	36.8	
Russia	39	6.62	--	43.7	

of last week’s lecture: the US has the highest inequality, and lowest social spending, of any rich country. Put another way, we are the country least committed to the values of promoting the general welfare (as we have seen, this is contained twice in the US Constitution: Preamble, and Article I, Section 8) by doing unto the least among us (Matthew 7:12; Luke 6:31, etc.). This

¹ Sources: a) [Geert Hofstede’s Cultural Dimensions index](#). b) [Fraser Institute](#) and [Cato Institute’s 2010 Economic Freedom of the World Report](#). The data is on a 1-10 scale, with 10 equal to more economic freedom (i.e. less government ‘meddling’). The data are for 2008. c) [Organization for Economic Cooperation and Development, Statistics Portal](#). The figure is Public Social welfare spending as a percentage of GDP, and includes spending on old age, survivors, disability, health, family, unemployment, housing, and other social areas. d) [United Nations Development Program’s 2010 Human Development Report](#). The numbers are a Gini coefficient, which measures inequality. Higher scores indicate more inequality. The data can be found on pages 152-5.

individualism is also evident in a series of indicators developed by Geert Hofstede. I'll add this to other individualism indicators in Table 1, below:

How can organizations be designed to support ethical conduct?

This is clearly an important focus of Cooper's *The Responsible Administrator*, with its structure around a 'design approach' to ethics in an organization. A sense of the (perhaps over-stated) importance of this design is evident in some of the passages in this section of the paper:

- “During the late 1960s through the 1970s, the tendency of large bureaucratic organizations to stifle conscience and punish those who called attention to corruption and misconduct became painfully evident” (Cooper 2004, p. 400).
- Scott and Hart raised “the specter of a fascist state growing out of the oppressive nature of large bureaucratic organizations” (p. 401).
 - How does this read in the US today. If there is a risk of a fascist state in the US, does its origins lie in “large bureaucratic organization stifling conscience?”
- “Alberto Guerreiro Ramos argued for ‘organizational delimitation’ in *The New Science of Organizations* in 1981 because organizations threatened to dominate their employees’ lives with an emphasis on a narrow market mentality that would turn them in to economic maximizers devoid of appreciation for the qualitative side of human existence outside the workplace” (p. 401). As indicated, these concerns were probably over-stated, as even Guerreiro Ramos qualified his criticism of market decision-making: “The alternative model of social science outlined in this book is not anti-market. Moreover my criticism of contemporary market-centered society should not be interpreted as an advocacy of the elimination of the market as a functional social system. Rather it acknowledges as an asset for all future times the main accidental outcome of the history of the market system, namely the creation of unprecedented processing capabilities which, if used correctly, can liberate mankind from the drudgery of laboring for the sake of sheer survival. Finally, in relation to the market system, my analysis even has a conservative overtone. It suggests that, purged of its unqualified expansionist trends and of its political and social abuses, the modern market may very well be the most viable and effective way devised to date to undertake mass production, the delivery of goods and services, and the organization of certain types of economizing social systems” (1981, pp. 167-8).

When should we treat people equally in order to treat them fairly, and when should we treat them unequally?

Consider the following quotes:

- “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with unalienable rights, that among these are life, liberty, and the pursuit of happiness.” -- U.S. [Declaration of Independence](#).
- “The beauty of capitalism: anyone can become ‘super rich’ in USA.” -- [Rush Limbaugh](#).
- “You do not wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please. You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the

starting line of a race and then say, "you are free to compete with all the others," and still justly believe that you have been completely fair. Thus it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates." - Lyndon Johnson, [Speech](#), 4 June 1965.

- “The irony of America’s class system is its foundation in a culture of meritocracy. The upper middle class believe they deserve their good fortune. Its members are well-educated and hard-working, prudent savers and attentive parents. Yet meritocracy ultimately undermines equality of opportunity because the successful are best placed to pass on their high status. They hand on good genes, rear their children in homes rich in human capital, and provide the best of every educational opportunity... The result... is a chasm between the upper middle class and the bottom 80% of households, which makes a mockery of America’s vision of itself as a land of opportunity. More than 40% of the children of the wealthiest 20% of households will themselves end up among the wealthiest 20%. And nearly 50% of those born to fathers who are among the best educated 20% will themselves end up among the best educated 20%.” – [The Economist](#), 29 June 17.

Cooper’s chapter two

This chapter, it seems to me, focuses on the second last of Cooper’s ‘big questions’, above.

...the underlying assumption of this book: *ethical public administration requires a theoretical perspective on the role of the public administrator*. Moreover, this theoretical perspective must be developed by practicing administrators through a combination of professional experience, contemplation, study, and deliberation with colleagues, whether in a structured course of through self-motivated inquiry.

...Administrators must also develop skill in thinking about ethical problems, toward the end of creating a working professional ethic of their own. (p. 14)

Ethical problems. It’s complicated! Much of his point is that ethics are not simple, and one often needs to think about how to balance the myriad ethical obligations one has.

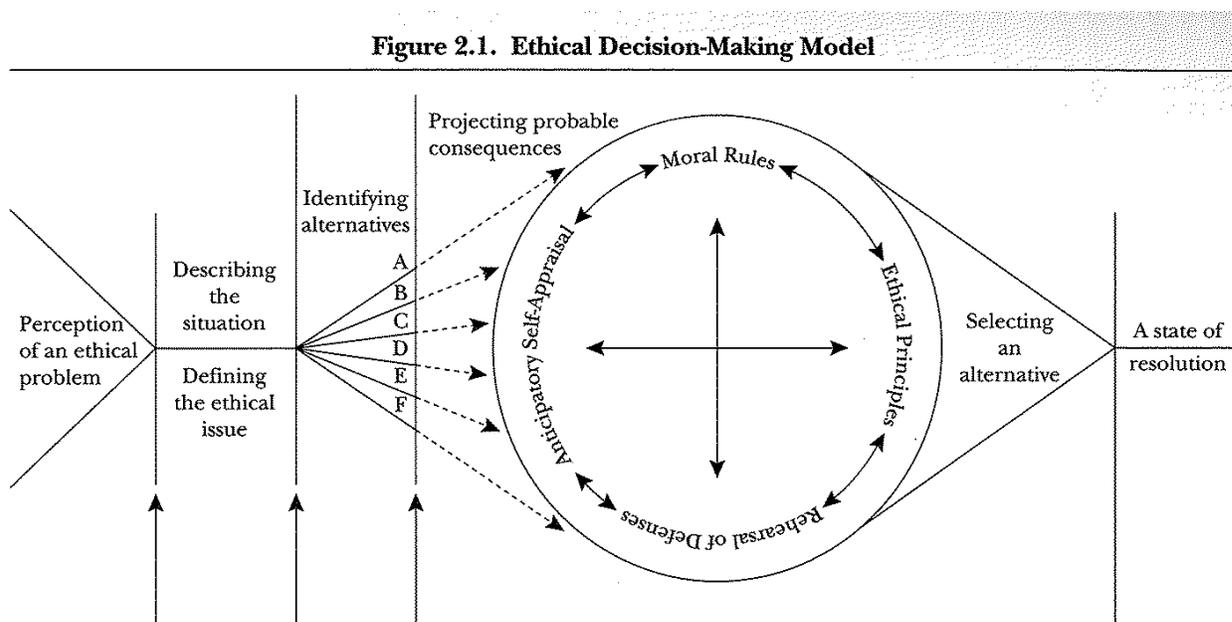
Ethics as an active process. A point that Cooper has returned to repeatedly is the distinction between values, principles, codes of conduct and the like; and an “operational ethic...the substance of one’s professional character over time” (p. 18). Perhaps more helpfully, “ethics as an active process of design, an ongoing process that occurs whenever circumstances force us to deal with conflict, tension, uncertainty, and risk” (pp. 18-9).

Levels of ethical reflection. A framework!

- The expressive level: venting frustration over perceived injustice. By the way, a lot of folks have argued that [a moral sense is part of our genetic make-up](#), more so in some than others, no doubt!
 - The expressive level is, for Cooper, largely the realm of emotion.
- The level of moral rules: Cooper identifies these as coming from “our families, religious affiliations, education, and professional experiences” (p. 21). These are simple, often glib rules of thumb that we take for granted.
 - This level is largely reflective of our socialization.

- The level of ethical analysis. When things become too complicated for simple rules, especially when some of these conflict (as we will see next week).
 - The level of rational reflection. This, for Cooper, is the critical level (p. 28).
- The postethical level. ‘Why should I be moral’? My answer, generally, is that I prefer not to be part of the problem.² Others:
 - Fear of getting caught. Ethics becomes a cost-benefit game, with benefits up front and tangible, but the costs including a large dollop of risk. It is also worth adding that trying to act ethically in a world that is often unfair can itself have costs.
 - Religious conviction.
 - Evolution: something deep within you nags at you when injustice occurs.

A decision-making model.



Source: Cooper 2006, p. 31

Amartya Sen's chapter two

Sen the Nobel winning welfare economist. As a cursory review of the course readings list shows, [Amartya Sen](#) is one of three folks (along with Cooper, and Kenneth Kernaghan, who we will be introduced to next week) whose work we will specially focus on in this course. Sen is an economist who made his mark early looking not at the sources of wealth, but at the causes of famine. As indicated in his Nobel Economics Prize, the field of welfare economics (which we will discuss in week six) is what he eventually came to be honoured for. His Nobel lecture can be [found here](#). He has also dabbled in philosophy, and it is more this work that we will read.

² Indeed, I am increasingly adopting “Don’t be part of the problem” as a personal mission statement.

Sen on the Rawlsian view of justice. For John Rawls, justice is about fairness. Note that we are now discussing fairness, not ethics, but the two concepts are certainly in the same ‘normative’ realm of ‘why’ public administration exists. For Rawls, fairness is especially concerned with treating all members of society ‘fairly’. He identified two key principles of justice:

- a. Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.
- b. Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society. (Sen 2009, p. 59)

So far, so [bolshie](#) (second definition) sounding! First, everyone gets a ‘[fair go](#)’. Second, inequality is only justified if unequal benefit is earned (inherited wealth, position, or influence would be suspect), and ‘taking from the rich’ is only justified if this is used to benefit the disadvantaged. I’ll add that literally, this does not say to benefit the poor, but rather the least advantaged. As a result, the slack-arsed who become unemployed are not so much the beneficiaries of Rawlsian justice, as are their (blameless) children.

Nozick’s criticism of Rawls. It is also worth noting the criticism of Rawls that Robert Nozick formulated. For Nozick, Rawls’s views are so much commie claptrap: it is unfair to take from today’s over-privileged to reduce some of the disadvantage suffered by today’s disadvantaged, even if today’s over-privileged got where they are in no small part due to class advantage, with this based in part on past unfairness toward the parents of today’s disadvantaged. For Nozick, this merely adds new injustice to old.

The contrast between the two, and the broad ideological approach that favoured each, should be pretty evident. Which seems more consistent with American values, and why?

Sen’s positive lessons from the Rawlsian approach.

1. Fairness is central to justice.
2. The importance of a public framework for ethical ruminations, featuring objectivity and practical reasoning (echoes of Cooper).
3. “Rawls makes another basic contribution in pointing to ‘the moral powers’ that people have, related to their ‘capacity for a sense of justice’ and ‘for a conception of the good’.” – Sen 2009, p. 61. This, again, echoes Cooper’s above reference to ‘virtue’.
4. The primacy (but not hegemony) of liberty. As we’ll see in later readings from Sen (especially week 6), he has a somewhat different view of liberty than, say, Nozick.
5. His emphasis on procedural fairness, which Sen sees as a more productive key to combating inequality than outcomes.
6. His emphasis on what might be referred to as “the least among us.”
7. Related to #4: Sen takes from Rawls an emphasis on the importance of ‘substantive freedom’, an issue also reflected in the LBJ quote from page 5 of these lecture notes. Sen’s emphasis is not on absolute liberty in this generation (Nozick), process (equal opportunity), or outcomes (redistribution), but on *capabilities*.

Sen's problems with the Rawlsian approach. The first two “problems that can be addressed effectively” are that Rawls takes his liberty principle too far: what about the general welfare, or the least among us?; and Sen thinks capabilities are a more important frame of reference than goods in assessing equality. His major focus, though, is on difficulties with Rawls’s approach that need ‘fresh investigation’:

1. Rawls focuses on ‘just institutions’ rather than ‘just societies’. In this section he then discusses this with reference to some concepts derived from Indian philosophy (*niti* and *nyaya*) which, short of assigning this long, expensive book, will be beyond the scope of this class. But the nub of Sen’s concerns lies here:

“...if the justice that happens in a society depends on a combination of institutional features and actual behavioral characteristics, along with other influences that determine social realizations, then is it possible to identify ‘just’ institutions for a society without making them contingent on actual behavior...(p. 68)?”

Or put another way: despite all the fine institutional rules in the US Constitution, the Reconstruction Amendments were still needed: an unjust society ignored the rules.
2. Alternatives to the ‘contract’ approach. By this Sen means the emphasis in Rawls’ work on civic moral reasoning about fairness. From this, society comes to agreement about questions of fairness, and ‘contracts’ rules to achieve this. Sen worries, though, (at the risk of grossly summarizing his four points, p. 70) that the contractual parties may be fallible: parochial, unaware of complex social dynamics, dogmatic, and unrepresentative.
3. Global perspectives: the parochialism of the previous point again, and this also raises Cooper’s questions above about the universalism of American ideas of fairness. As indicated, from what I can make out we’re all pretty much the same at bottom: whether created on day six of creation, or evolved. But American lack of empathy for the least among us seems perhaps the key difference between the US (and a handful of our Anglophone siblings) and elsewhere.

*

References

Guerreiro Ramos, Alberto (1981). *The New Science of Organizations*. Toronto: University of Toronto Press.