

行政道德 文选

(英文版)

〔美〕杰拉尔德·凯登 著

〔美〕马国泉 编



MPA (公共管理硕士)

系列



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Gerald Caiden on Administrative Ethics



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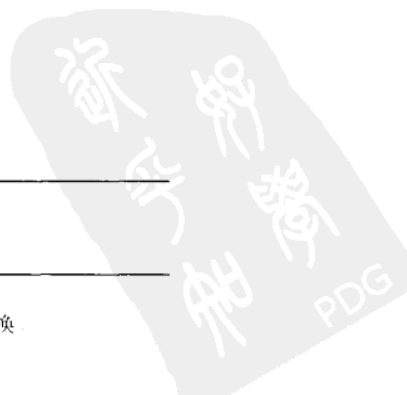
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内 容 提 要

本书为国际知名行政学家杰拉尔德·凯登的论文选。作者以行政道德为主题，视野开阔，对美国及其他诸多国家的行政文化、政府行为、行政腐败和反腐倡廉等进行了认真而颇有见地的分析、评述。

收入本书的20篇论文提出了不少发人深省的问题，如行政腐败是不是行政行为中的偶然或例外？为什么许多反腐倡廉的努力都徒见形式，收效甚微？为什么官僚腐败难以根除？等等。这些问题在世界各国带有一定的普遍性。

本书的出版有助于中国读者了解国外发达国家和一些发展中国家存在的行政腐败问题及所采取的一系列反腐倡廉措施，了解西方学者在行政道德领域的代表性观点和研究方法。

编者的话

杰拉尔德·凯登博士 1936 年 6 月出生于英国的伦敦。1954 年至 1959 年就读于伦敦经济和政治学院,主修经济学,获该校的科学学士学位。之后,他转往伦敦大学深造,获该校的博士学位。他先后任教于英国的伦敦大学(1957 年至 1959 年)、加拿大的卡尔登大学(1959 年至 1960 年)、澳洲的澳大利亚国立大学(1961 年至 1966 年)、以色列的希伯莱大学(1966 年至 1968 年)、美国的伯克利加利福尼亚州大学(1968 年至 1971 年)和以色列的海法大学(1971 年至 1975 年)。之后,他受聘前往位于美国洛杉矶的南加利福尼亚州大学,在该校的公共行政学院任教至今。

除了在各高等院校从事教学之外,凯登博士还曾担任过许多学术刊物的编辑委员会成员。他还应邀为一些学术刊物、出版社审稿或撰写书评,又受聘为不少政府部门、学术机构,以及包括联合国在内的许多世界组织的顾问。

自 1960 年发表了长达 400 多页的论文“加拿大的联邦公务员制”以来,凯登博士共出版了 20 多本著作,并发表了 200 多篇学术论文,其中有相当一部分论文以行政道德为主题,对美国以及其他国家的行政文化、政府官员的组织行为、行政腐败的表现、反腐倡廉的措施等等进行了认真的分析,提出了颇有见地的看法,对世界各国的政界、学界在如何认识和改进行政道德方面产生了重要的影响。

本书收集了凯登博士关于行政道德的一部分论文,共 20 篇,分别发表于 1977 年到 2001 年间。其中有几篇是凯登博士和其他学者,包括和凯登博士的夫人合作撰写的。凯登博士和夫人也为本文选撰写了前言。

这些论文提出了不少发人深省的问题,如:行政腐败是不是行政行为中的偶然或例外?行政部门的作风败坏究竟是生活中的现实还是一种生活方式?为什么许多反腐倡廉的努力都徒见形式,收效甚微?为什么官僚腐败难以根除?除了制定公务员道德规范之外,还应该采取什么相应的措施?

巡视官在提高行政道德方面能够发挥些什么作用？有什么值得借鉴和注意的地方？为什么在强调个人诚信的同时，更要从组织上加强自我约束？如何进一步完善保护检举人的机制？为什么社会和公众的参与对提高行政道德尤为重要？香港的廉政公署给了我们什么启发？等等。

此外，论文的作者也探讨了腐败和改革、治理、民主以及政府道德的关系，书中的观点反映了西方学者的研究视角。希望读者通过阅读这些论文，能够对行政道德的重要性，以及反腐倡廉的艰巨性有所分析和进一步的了解。

马国泉

2002年9月于美国洛杉矶加利福尼亚州州立大学

Introduction

These essays were written over a period of some thirty years. Their scope, emphasis and views change in response to personal disposition, academic debate and practical concerns. They are to be seen at three levels. The first concerns individual behavior in public office and how people deal with one another on a personal basis. The second deals with how individuals relate to their community and how they react to communal needs and the extent to which they are willing to assume responsibility and act in leadership roles. The third looks at how different communities relate to one another when they do not share common values and interests. Each level merges into the next so that distinctions are blurred. Morality cannot be conveniently divided.

At the individual level, even very young children fear being harmed and avoid needless violence. They appear to have an innate sense of fair play and elementary justice and they stick to the rules they have devised for themselves and accept this embryonic rule of law. As they grow up, they become more socialized into the conduct grown ups require of them. They are given duties and obligations of increasing importance to the community and they are expected to assume greater responsibility for their actions and to engage in communal affairs. Once they enter communal organizations, they are expected to follow social and organizational norms, resist temptations to deviate and report any deviations they find. As they progress, they come to appreciate how organizations interact and what is done to smooth relations. Eventually, they come to understand how communities interact and how to avoid unpleasant confrontations. In this, human behavior has hardly changed over the ages and common expectations have not differed that much from one community to another.

Despite difference, there is much universality about what constitutes good and bad conduct, irrespective of political ideology, religious persuasion and business practice. Again, this is well illustrated when youngsters from different backgrounds are thrown together. It is their elders who are more reluctant to accept their mixing and stress the difference among them. Globalization has probably brought about the most significant change in all this. The newly emerging global society is forcing more conformity in what people wear, eat, watch and do. This process has been gradually brought about by the increasing bureaucratization of global society, the likelihood that extremism can result in mutual destruction and the realization that misuse and abuse of technology can destroy the planet. The narrowing of official norms worldwide is a consequence, one that is likely to continue and accelerate over the next generation.

Obviously, everyone's world view is colored by their personal background and experience. In reading these essays, it is important to keep in mind where the authors stand. We were both brought up on the Five Books of Moses (the Old Testament). Our youths were filled with tales about Cain and Abel, Noah and the flood, the mixed family fortunes of Abraham, Isaac and Jacob, the adventures of Joseph and Moses, the giving of Mosaic Law and the heroes of Jewish tradition. We grew up in postwar England when the welfare state was instituted amidst the difficult times of scarcity and reconstruction and where the British tradition of honest domestic public service had been enhanced by the wartime experience and the public reputation of British officialdom for honesty and integrity remained high. We studied together at the London School of Economics and Political Science, founded by Fabian socialists and famed for its illustrious faculty in social science that excluded anti-democratic extremists. On graduation, we ventured to Australia to continue research into comparative civil service systems and in Canberra we found at first official norms similar to those in the United Kingdom.

In Australia, we came to question official norms, in this case, of the Commonwealth Public Service when some marginal cases of alleged misconduct arose and the Royal Australian Institute of Public Administration as

it was then called encouraged attempts to devise a more contemporary Code of Ethics for public servants. We thought that a revised code was all well and good but the real target should not be the good guys but the bad guys who deliberately took advantage of their official position for their personal gain. This interest coincided with the research of the Comparative Administration Group formed by Professor Fred Riggs in the United States, which included foreigners like ourselves. Clearly, administrative practices and conduct differed from one country to another and more had to be known to assist poor countries develop.

At that time, the academic world was divided over the phenomenon of corruption. The pragmatists accepted what existed, good and bad, and worked with what material they had. Their task was to advance development. If corruption helped their cause or appear not to handicap, they passed no judgment. There even might be a justification; it might just be another way of conducting public business, culturally rooted and should not be condemned out of hand if could be shown to be functional to development. The moralists thought otherwise and could find no justification at all for corrupt practices. Although we were in the moralist camp, we were prepared to examine the evidence first from a distance and then later up close when we moved to Israel and the United States, where we had to adapt to quite different administrative cultures. We had also joined the international circuit and were able to observe and participate in several other foreign administrative cultures around the globe. We begin to explore to separate fact from fiction, myth from reality and we have been doing this ever since as these essays show.

Our findings are contained in these essays. They should speak for themselves and need no further explanation. We accept diversity. We do not believe one size fits all. Although globalization may be bringing peoples closer together, although business practices are being universalized, although bureaucratic behavior is fairly common throughout the world, every country has its own peculiar characteristics shaped by its unique history and situation. Each must be dealt with as a distinct separate identity. This is also true of the United States of America that as its name indicates is composed of 51

components each of which under other circumstances could have become an independent country. Although these component states share much in common, up close they are quite different in many important respects. In no way can Hawaii or Alaska be mistaken for Rhode Island or Oklahoma. Within the large states, one part is quite different from another. Culturally too, the USA is a mixture of peoples most of whom have emigrated from elsewhere at one time or another and have retained their individual identities. As citizens of the same democratic republic, they have demanded the same respect and the same treatment. Thus, the USA exhibits, accommodates and preserves diversity within unity. The temptation to generalize has to be resisted; one finds too many exceptions to every rule.

The same applies to administrative ethics in the USA. On international measurement scales, the USA is just too diverse to come out at the very top for being best behaved and the most moral in its official practices. It ranks second but second only to some smaller and more homogeneous European and Commonwealth countries. Given its rather sordid history, it has made great strides to improve its reputation, particularly in recent years when every revealed fault gets exaggerated, taken out of context and ridiculed, showing how imperfect the USA is, contrary to its projected image. The driving force has been a combination of its embarrassment accompanying the exposure of official wrongdoing by its free, independent mass media, the professional commitment of its career public servants dedicated to serving the public interest, and the strict moral standards demanded by its citizens exercising their democratic rights. These have ensured that the many institutional devices employed to minimize wrongdoing actually work properly and eventually catch wrongdoers. Americans, like other peoples, have long realized that as the opportunities for wrongdoing increase so they have to be more vigilant and unrelenting in exposing wrongdoing and wrongdoers. Every exposure is carefully examined to spot where things may have gone wrong and what might be done to prevent any recurrence.

In contrast to the past, these days there are many international organizations willing to lend help to any country seeking to improve official

conduct. When we first began to study official wrongdoing, the subject was taboo and we were discouraged from prying into matters that did not concern us. This is no longer the case. Any taboos that remain are fast disappearing as official secrecy is being diminished through greater transparency in conducting public business and civic society is encouraged to ensure greater public accountability. Public officials have come to understand that to retain their credibility, they have to be more open, competent and trustworthy. Within just the last decade, Transparency International headquartered in Berlin and with national branches in over 70 states has been established specifically to combat corruption and improve official conduct. Technical assistance is now available from a whole host of international organizations including the United Nations ECOSOC, United National Development Program, World Bank, International Monetary Fund, Organization for Economic Cooperation and Development, European Union, Commonwealth Secretariat and the International Institute of Administrative Sciences. Conferences are to be found in every corner of the world with increasing frequency. A veritable official ethics business is emerging as more and more countries realize that corrupt practices bring little if any benefit in the long run except to the corrupt at much dysfunctionality to every one else. How effective these efforts will be at improving official conduct only the test of time will tell.

GERALD CAIDEN
NAOMI CAIDEN
MAY 2002

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1. Administrative Corruption (1977)

Gerald E. Caiden and Naomi J. Caiden

编者按

本文原载于公共行政学的著名刊物《公共行政评论》1977年5月/6月号。如标题所示,该文探讨的是行政腐败的问题。作者开门见山、一针见血地指出,行政腐败已经成为当代的一个令人困扰而又难以摆脱的大问题。然而,究竟如何看待和分析这一问题,各方人士仍然众说纷纭,莫衷一是。那么,作者又持何见解呢?第一,作者认为,行政腐败并非行政行为中的偶然事件或者例外现象,而是会伴随着政府管理的过程不时发生,可以说,它是行政管理的令人讨厌的规范产物。其次,行政腐败有它本身的作用,为某些个人和团体服务。但是,作者以为,行政腐败最值得一提的作用恐怕就是它意味着改革已经迫在眉睫。第三,腐败已经不单是一种个人的现象,而是体系的现象。一旦一个社会强调组织内的忠诚而不是大众的利益,热衷于以公谋私而舍弃了对公众的责任心,辜负了公众的信任时,这种情况就尤为突出。作者相信,在当代的公共行政实践中,更值得我们注意的问题并不是个别政府官员的不正之风,而是通过体系的腐败而达到的对公众利益的制度化的侵吞和破坏。

The increased visibility of administrative corruption has become a persistent and disturbing feature of our times. Almost every issue of the daily press brings, it seems, fresh examples of allegedly corrupt behavior on the part of responsible public and private figures. This growing prominence of corruption has coincided with increased academic interest in a subject long deemed inappropriate for serious research, and still not regarded as a respectable topic for study in certain circles. Fortunately, obvious objections to research into corruption — problems of measurement, difficulties of access, bias, and evaluation — have been largely attenuated, if not overcome. It is accepted now that it is the responsibility of social scientists to choose for their research subjects which touch on or embrace problems central to human society, and not merely those convenient to the tools they have to hand.

For those interested in corruption as a social phenomenon, the traditional approach, which treated it in a moralistic manner, was inappropriate. Studies of corruption were vague as to definition, condemned it *a priori*, and looked for explanations in individual behavior. Social scientists demanded precise definitions, objectivity, and some relationship between the workings of society and the existence of corruption. Thus was born a “revisionist” approach⁶, which defined corruption in terms of divergence from a specific norm of accepted behavior, explained its existence by reference to social mores and deficiencies in economic and political systems, and enumerated conditions in which it might elicit approval rather than condemnation. Although this approach contains much that is appealing, and has paved the way to more serious study of the problem of administrative corruption by non-revisionists^{3, 26, 27, 33}, careful examination of its assumptions and conclusions reveals several misconceptions. These arise mainly because, although the revisionists deal with social variables, they still think of corrupt behavior in individual terms without recognizing the existence of systemic corruption.

The Revisionist Approach

Until recently corruption was treated in a moralistic manner. Its cause was seen as the gaining of positions of power and trust by evil and dishonest men. The solution was to “turn the rascals out”. Corruption was therefore incidental to the working of society which might be safeguarded by appropriate laws and exhortations. But even as the muckrakers did their work of uncovering graft and corruption in the turn-of-the-century United States, suspicion was growing that these phenomena did not exist in isolation. The arch-muckraker, Lincoln Steffens himself, late in his career drew attention to the role of incentives fostering corruption in the private enterprise society, by providing “ordinary men” with “extraordinary temptations”³⁰.

A similar disquiet, and concern for corruption as rooted in the mores and institutions of society, stimulated a rejection of moralistic and individualistic explanations by students of comparative administration. As interest grew in non-Western systems of government and in the workings of development programs, those concerned with international aid and development encountered apparent and blatant corrupt administrative practices in poor countries. It was natural to ask “Why do certain societies at particular times appear especially prone to corruption?” Rejecting the answer of comparative moral virtue as somewhat out of keeping with the premises of the comparative administration movement, the revisionists were led to the view that corruption stemmed from norms of politics and administration which differed from those of the West, and might even fulfil political, administrative, and economic needs better than the public ethic fostered by aid officials. Corruption was not incidental but structural; it could therefore be removed from the realm of the moral (and unspeakable) to the neutral (and researchable).

The first problem was “what is corruption?” Definitions have been classified into three types²⁰: public interest, public duty, and market centered.

The first, which has largely been rejected by the revisionists, regards corruption as arising:

whenever a powerholder ... i. e. , a responsible functionary or office holder, is by monetary or other rewards not legally provided for, induced to take an action which favors whoever provides the rewards, and thereby does damage to the public and its interests¹⁷.

Such definition pre-judges the result of corruption, is imprecise (as the meaning of public interest is open to different interpretations), and may preclude recognition of corruption until after the event only when the public interest can be clarified and judged.

The second type of definition, public duty, appears more promising. Though a number of variations exist^{3, 5, 21, 24, 26}, the basic idea is conveyed by the most often used definition:

... behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence²⁸.

As long as no confusion exists regarding the standard from which corrupt practices diverge, i. e. , the nature of public duty, corruption may clearly be defined and recognized. Once, however, the public standard is challenged, or regarded as relative to circumstances, then considerable ambiguity enters. Who sets the standard to say what behavior is acceptable and what corrupt? What is *undue* influence? What is *misuse* of authority? What is public *irresponsibility*? If there is no accepted public standard, or if the standards of public office and public duty are regarded as foreign importations inapplicable in given conditions, is there then innocence of corruption²⁰? In short, "Are ideas and theories offered by Western scholars about the state of corruption in the developing nations valid in the light of the divergent social norms that govern the conduct of public office in the West and those in the transitional