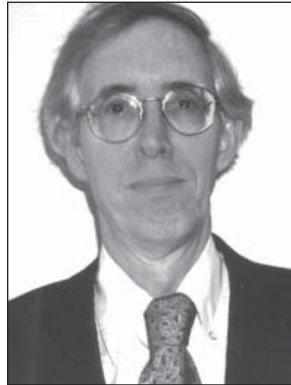


An Abbreviated History of Government Ethics Laws— Part I¹

By Mark Davies, Steven G. Leventhal and Thomas J. Mullaney

This article, the first of two parts, sets forth an abbreviated history, if not a magical mystery tour, of government ethics laws. At the heart of government ethics law is the concern about—and therefore the enduring attempt to regulate—conflicts of interest. Conflicts of interest, actual or perceived, compromise a public official's attempt to protect and promote the common good. In addition, they undermine the notion of fairness that is essential to effective and trustworthy government.²



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Accordingly, much of this article explores the history of efforts to regulate conflicts of interest. Many municipal attorneys assume that government ethics restrictions arose after the Watergate scandal of the Nixon Administration in the 1970s, a view probably shared by most municipal officials, civic groups, and citizens. But that simply is not so. In fact, these kinds of restrictions go back not decades or even centuries, but millennia. They were ancient when the baby Moses was pulled out of the bulrushes. Understanding that antiquity, even in this extremely cursory form, can, the authors believe, help provide some much needed context to modern conflicts of interest laws, such as Article 18 of the General Municipal Law and municipal ethics codes.³

One major caveat to this article is in order: None of the authors is a historian, let alone a legal historian or philosopher or theologian. We therefore welcome any corrections or additions to the examples cited in this article, corrections and additions that we will seek to post on the Section's website.

Code of Hammurabi

The earliest government ethics provision that the authors have been able to locate is section five of the Code of Hammurabi, promulgated by the King of Babylon in the 18th century B.C.E. and, literally, carved in stone. That provision read:

If a judge has given a verdict, rendered a decision, granted a written judgment, and afterward has altered his judgment, that judge shall be prosecuted for altering the judgment he gave and shall pay twelvefold the penalty laid

down in that judgment. Further, he shall be publicly expelled from his judgment-seat and shall not return nor take his seat with the judges at a trial.⁴

One may assume that this provision was aimed at judges' accepting gifts in return for altering a decision.

Hinduism

Throughout the ancient Hindu texts of the Vedanta and the Upanishads run threads of government ethics, particularly in the concept of *dharma* (the principle of doing right things, of duty) and in the Tirukkural's elucidation of *artha*, along with *dharma* one of the four goals (*purusharthas*), which includes good government.⁵ For example, the Tirukkural admonishes that "the tyrant's request for gifts from his people is like the armed highway robber's demand couched in the language of politeness."⁶

Buddhism

Buddhism teaches that "if an important minister of state neglects his duties, works for his own profit or accepts bribes, it will cause a rapid decay of public morals."⁷ The Buddhist ideals of government, or ten royal virtues, are set forth in the *dasa-raja-dharma*.⁸ Using public office for private gain or public resources for oneself, exploiting those who come before one, or accepting gifts from those who appear before one would all violate these precepts.⁹ A corrupt official would be a "bribe eater."¹⁰

Confucius (551-479 B.C.E.)

Ethics permeated Confucianism, which became the foundation of Chinese public service.¹¹ To be sure, Confucianism, to use a modern terminology, was a

values-based rather than a compliance-based system—a system of virtues as opposed to legal prohibitions.¹² Thus,

The Master said, “If the people be led by laws, and uniformity sought to be given them by punishments, they will try to avoid the punishment, but have no sense of shame. If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of shame, and moreover will become good.”¹³

Such a statement goes to the heart of the ongoing debate in the United States over values-based versus compliance-based government ethics systems. Values-based ethics laws promote positive conduct but lack sufficient specificity to permit civil fines and other enforcement (except disciplinary action). A values-based provision may read: “public officials shall place the interest of the public before themselves.” Compliance-based ethics laws (technically, conflicts of interest laws) provide bright-line, civilly and criminally enforceable rules but focus on negative conduct and interests. Such a provision may read: “a public official shall not accept a gift from any individual or firm doing business with the government agency served by the official.”¹⁴ While the authors of this article remain firmly committed to compliance-based government ethics laws, we also believe that a recitation of values provides a solid and necessary foundation upon which to erect those laws. Thus, for example, the preamble to the ethics code might provide:

An officer or employee...should endeavor to pursue a course of conduct which will not raise suspicion among the public that he [or she] is likely to be engaged in acts that are in violation of his [or her] trust.¹⁵

Indeed, Confucius concluded that government should dispense with the military (and even food) before acting in such a way as to undermine the confidence of the people in their leader, for without confidence a people cannot stand.¹⁶

Hebrew Scriptures (Tanakh)

Throughout the Hebrew Scriptures, generally, bad things happen to bad kings, bad judges, and bad officials.

Perhaps the most infamous misuse of position arose when King David sees the beautiful Bathsheba bathing (technically, immersing herself in a mikva). Smitten, David has her brought to the palace, where he makes love to her while her husband, Uriah, is away at war. David, of course, gets Bathsheba pregnant. To

cover up the pregnancy, David has Uriah brought to the palace and tries to cajole him into sleeping with his wife, but the upright Uriah refuses because his comrades are camping in an open field. So David writes to the commanding officer, Joab: “Set Uriah in the forefront of the hardest fighting, and then draw back from him, so that he may be struck down and die.” Joab does, Uriah is killed, and David takes Bathsheba for his wife.¹⁷ Now those are misuse of office violations if there ever were ones.¹⁸ But the Lord is not pleased. And as a consequence of David’s misdeeds, the child born to Bathsheba and David dies.¹⁹

Another famous misuse of office story in the Hebrew Scriptures forms the basis of the festival of Purim, when Haman, the grand vizier of the Persian King Ahasuerus, misused his office and employed the king’s signet ring to send letters “to all the king’s provinces, giving orders to destroy, to kill, and to annihilate all Jews, young and old, women and children, in one day, the thirteenth day of the twelfth month, which is the month of Adar, and to plunder their goods.”²⁰ But in the end, of course, Esther saved her people, and Haman was hung on his own gallows.²¹

An illustration of misuse of resources arose when the Priest Eli at Shiloh permitted his sons to steal the people’s offerings to the Lord for themselves. As punishment, Eli lost the priesthood and his family died young.²²

As for gifts to officials, the Torah admonishes: “You must not distort justice; you must not show partiality; and you must not accept bribes, for a bribe blinds the eyes of the wise and subverts the cause of those who are in the right. Justice, and only justice, you shall pursue....”²³ The JPS Torah Commentary points out that “gifts” is probably a better translation than “bribes” because the word includes not only payoffs, but also simply private payments for doing one’s official job—i.e., gratuities.²⁴ In any event, taking these gifts has consequences. According to Isaiah:

Everyone loves a bribe and runs after gifts. They do not defend the orphan, and the widow’s cause does not come before them. Therefore says the Sovereign, the LORD of hosts, the Mighty One of Israel: Ah, I will pour out my wrath on my enemies, and avenge myself on my foes! I will turn my hand against you; I will smelt away your dross as with lye and remove all your alloy.²⁵

By contrast, the prophet Elisha refused a gift from Naaman, commander of the army of the king of Aram, after healing Naaman of leprosy.²⁶ And when Elisha’s servant, Gehazi, runs after Naaman and asks him for a talent of silver and two changes of clothing,

Elisha transferred Naaman's leprosy to Gehazi and his descendants forever,²⁷ "[s]o [Gehazi] left [Elisha's] presence leprous, as white as snow."²⁸ Elisha did not tolerate solicitation or acceptance of gifts from those "doing business" with him.²⁹

One may suspect that David, Haman, Eli, and Gehazi may have jumped at the chance to settle their cases for a civil fine and a suspension from office.³⁰

The Greek Philosophers

The Greek philosophers were mainly concerned with the idea of living a good life, which they called *eudaimonia*,³¹ and with defining the traits and habits that contributed to living a good life. However, they did not devote much attention to defining the particular moral and legal rules which would lead to a good life, or whether those rules were fixed or relative. From Socrates on, the philosophers argued that justice was a part of the definition of a good life.³² Some pointed out that the best life for a particular individual might be one where everyone else must obey the law, but he is free to do what he wants. But generally the Greek philosophers developed a contract theory of justice, in which the members of a society required order, and laws provided a framework for pursuit of the common good.³³ As a practical matter, the institution of democracy both permitted and required individuals' involvement in running the community and shaping its goals.

In the *Nicomachean Ethics*, Book V, Aristotle observed that the pursuit of justice could be defined to mean "law abiding," or could also mean being equitable or fair. He noted that whatever is unfair is lawless, but not everything lawless is unfair.³⁴ This led him to the conclusion that being a good man is not always the same as being a good citizen. A person with the best character would not only be just and virtuous himself, but would also put justice and virtue into practice within society. Justice involves looking beyond a particular individual's desires, whether good or bad, and considering the viewpoint of the community.³⁵

Aristotle considered whether rules of justice are merely conventional, or are valid everywhere like laws of nature.³⁶ He concluded that justice is both fixed by nature and also is variable in certain ways. Aristotle noted that the rules of justice ordained by man are not the same in all places. He believed that people could see which types of rules were conventional and which were fixed by nature.

The Greek philosophers addressed what it meant to live a good life. They recognized that to do so requires the practice of justice and other virtues within a community, but did not derive a general theory on the best form of government for that community, or on the individual's relationship to it.

The Romans

The Roman Assembly, in 449 B.C.E., ratified the *Duodecim Tabularum*, or the Law of the Twelve Tables, which were erected before the Senate House (*curia*) in the Forum of Rome. They provided that "[a] *judex* or an arbiter legally appointed who has been convicted of receiving money for declaring a decision shall be punished capitally."³⁷ In other words, throw them to the lions.

Christian Testament (New Testament)

Although Christianity is inseparable from Judaism, the origins of these faiths are very different, which influences what they have to say about government ethics. Biblical Judaism, as many readers know, was integrally connected to the land and nation of Israel. Christianity, on the other hand, was from its very beginnings anti-imperial and counter-cultural and largely remained so until it was co-opted by the Roman Empire with the conversion of Constantine and his Edict of Milan in 313 C.E.³⁸ As a result, the Christian Testament, which was completed around 100 C.E., has very little to say about ethical government (as opposed to ethical living), despite repeatedly excoriating the Roman Empire, most notably in the book of Revelation, which calls the Roman Empire "Babylon the great, mother of whores and of earth's abominations."³⁹ Probably not the kind of statement that is likely to win one friend in high places.

So, although the Christian Testament is very useful in overthrowing government, it is far less helpful in governing and, unlike the Hebrew Scriptures, does not have much to say about government ethics in our sense of conflicts of interest.

Islam

By contrast, the Qur'an, revealed in the early 7th century C.E., like the Hebrew Scriptures, has much to say about government ethics, at least in the broader sense. An article by a group of Islamic professors notes that "[t]he essence of Qur'anic guidance on good governance is the understanding of the concept of *amānah* (trust) and *adālah* (justice) within the framework of the Islamic worldview."⁴⁰ They quote the Qur'anic commandment to "render... what is held in trust with you, and... when you judge among the people do so equitably."⁴¹ And, they continue: "The sincere administration of *amānah* has honesty and justice as its prerequisites."⁴²

In the context of government ethics, the virtues of truth and justice are opposed by the notion of corruption. The Qur'an discusses that subject as well. According to Dr. Yassin El-Ayouty, a friend of the authors who is a scholar in Islamic law and very knowledgeable about the Qur'an:

- (1) In the Qur'an, there are about 50 verses enjoining corruption, corruptors, and corrupted. The term in Arabic is *fasad* (corruption).
- (2) *Fasad* is regarded as (a) Evil (to society) and (b) Insurrection (*fitnah*) against society.
- (3) *Fasad*, after reform has been undertaken, is a bigger sin as it represents regression.
- (4) All the prophets (in the Qur'an), beginning with Moses, have warned against corruption.
- (5) Corruptors in the eyes of God are losers.
- (6) God is against corruption as it retards development and chokes off progress.
- (7) Those who lord it unjustly over their subjects are agents of corruption.
- (8) *Fasad* is an instrument of selling people short (ripping them off).⁴³

Charlemagne (742-814 C.E.)

Charlemagne is known—at least to some—as the father of Europe.⁴⁴ His reign included attention to government ethics. Although it focuses on fealty to the Emperor, the Capitulary of Charlemagne of 802, which was the charter of the Holy Roman Empire,⁴⁵ contains some government ethics provisions, such as:

[O]ur judges, counts, or envoys shall not have a right to extort payment of the remitted fine, on their own behalf, from those destitute persons to whom the emperor has, in his mercy, forgiven what they ought to pay by reason of his balm.⁴⁶

Apparently this proscription developed in response to the Emperor waiving a destitute person's fine and an official then collecting it anyway and keeping it for himself.

Before moving on, one should emphasize that, while this article focuses on the history of government ethics in the sense of conflicts of interest, the sacred texts focus far more on ethics in the broader sense, what one would nowadays call social justice or distributive justice⁴⁷ for the oppressed. For example, Jeremiah records:

Thus says the LORD: Go down to the house of the king of Judah, and speak there this word and say:... "Act with justice and righteousness, and deliver from the hand of the oppressor anyone who has been robbed. And do no wrong or violence to the alien, the orphan, and the widow, nor shed innocent blood in this place."⁴⁸

Many similar passages exist in the other scriptural works, and even in "secular" works, such as Charlemagne's Capitulary, which proclaims "the poor, widows, orphans and pilgrims shall have consolation and protection...."⁴⁹

Louis IX's Grande Ordinance of 1254

Jumping forward 450 years from Charlemagne's Capitulary to France of 1254, the High Middle Ages, one finds King Louis IX (a/k/a St. Louis) sitting on the throne. After his return from leading the disastrous Seventh Crusade where he lost his entire army, was captured and ransomed for an amount equal to the annual income of the Kingdom of France,⁵⁰ Louis promulgated the Grande Ordonnance in 1254 to address abuses of power by some of his officials.⁵¹ Some of the provisions of the Ordonnance sound remarkably modern:⁵²

4. The provincial governor will also promise not to receive a gift, or any favor from any person, whether from that person or through others, in money, silver, or gold, or in any other moveable or immovable things, or in personal kindness, except edibles and drinkables whose value in one week does not exceed the sum of 10 whole parisian coins and that they... will apply diligence in good faith, that their wives or other relations (sister, brothers, other relatives, consultants, or household staff) not receive such gifts, but if they do, they will compel them to give restitution [in] good faith to the gift-giver, under judgment.⁵³

5. They will also promise that they will not borrow from their subordinates, nor from those who have a case in their presence, or they whom they know will live nearby—through themselves or through others—beyond the sum of 20 pounds, which they will return on the day of mutual agreement, within two months; it is also allowed that a creditor may wish to postpone the repayment.⁵⁴

6. It will also be added... that the provincial governors will not give or send anything to members of our council, or to their wives, their children, or other household members, or to those whom we will send to visit the land or inquire of their deeds.⁵⁵

13. We will vigorously keep our provincial governors from buying any possessions in their districts, through

themselves, or through another, during their administration, or to put forth anything fraudulently without our permission; but if they do, we wish that the purchase be void and that the possessions thus bought be applied to our treasury, if it pleases us....⁵⁶

Preussisches Allgemeines Landrecht of 1794

The first comprehensive law governing public officials of which the authors are aware may be found in the Prussian General State Law of 1794,⁵⁷ which arose from reforms instituted by Friedrich the Great (r. 1740-1786) and his father Friedrich-Wilhelm (r. 1713-1740).⁵⁸ Among its many provisions, that law prohibited buying one's office or position⁵⁹ and also prohibited misusing one's office for private gain: "No one shall misuse his office to injure or benefit another."⁶⁰

Empire Public Officials Law of 1873

A century later, in 1873, Bismarck's Germany enacted a separate, comprehensive law governing (the relatively few) officials of the German Empire.⁶¹ This law included specific conflicts of interest provisions, including:

- A prohibition on disclosure of confidential government information, even after leaving government service;⁶²
- A prohibition on receipt of gifts from certain sources;⁶³ and
- Restrictions on holding other government positions and on engaging in certain private business or employment, absent a waiver—namely

No Reich's official shall without prior approval of the highest official hold another public office or engage in private employment that provides ongoing compensation or run a business. This same approval is required for a Reich's official to serve on the board of a company that engages in purchasing [e.g., serving pro bono on the board of a nonprofit such as the Y would not require permission but serving pro bono on the board of a manufacturing company would]; but permission may not be given if the position is directly or indirectly compensated. The permission may be revoked at any time. These provisions shall not apply to honorary consuls or retired officials.⁶⁴

So an official, without getting permission, could serve pro bono on a not-for-profit board but would

need a waiver to serve pro bono on a for-profit board. Compensated board service, however, was strictly prohibited, although a waiver was available to hold an outside job or have an outside business.

This law remained in effect until January 26, 1937, when it was repealed by the Nazi regime, which enacted in its place a new German Public Officials Law⁶⁵ that, among other things, required that every public official at every level of government swear an oath of loyalty and obedience to "the Führer of the German Reich and people, Adolf Hitler,"⁶⁶ thereby, in the words of one commentator, "radically contradicting all of the tradition of German public officials."⁶⁷

This ends Part I of our survey of government ethics law through the ages. In Part II, to be published in the next issue of the *Municipal Lawyer*, we will describe the history of government ethics laws in the United States and New York City as well.

Endnotes

1. This article is based on a panel conducted by the authors at the 19th annual Ethics in New York City Government Seminar, co-hosted by the New York City Conflicts of Interest Board and New York Law School on May 21, 2013.
2. See generally Mark Davies, *The Public Administrative Law Context of Ethics Requirements for West German and American Public Officials: A Comparative Analysis*, 18 GEORGIA J. INT'L & COMP. L. 319 (1988); Mark Davies, *A Practical Approach to Establishing and Maintaining a Values-Based Conflicts of Interest Compliance System* (2011), at http://www.nyc.gov/html/conflicts/downloads/pdf2/international/DaviesArticle_final.pdf.
3. For a discussion of how conflicts of interest, particularly favoring one's family, can lead to political decay, see Francis Fukuyama, *THE ORIGINS OF POLITICAL ORDER: FROM PREHUMAN TIMES TO THE FRENCH REVOLUTION* (2011), especially pp. 453-454.
4. Translated by L. W. King, at http://avalon.law.yale.edu/subject_menus/hammenu.asp.
5. See <http://www.sanskrit.org/www/Hindu%20Primer/dharma.html>; <http://www.vmission.org.in/vedanta/articles/4puru.htm>.
6. Tirukkural, Part 6, at <http://www.google.com/url?sa=t&rc=t&url=http%3A%2F%2Fxa.yimg.com%2Fkq%2Fgroups%2F15025843%2F1475161935%2Fname%2FTirukkural&ei=ktpdUbrlJtbh4APH2YDACA&usq=AFQjCNFR7gxXJiSArXxRT-IXc-NLgfMq8w>.
7. Bukkyo Dendo Kyokai. *THE TEACHINGS OF BUDDHA*, Kosaido Printing Co., Ltd. p. 153 (2004).
8. Gunaseela Vitanage, *Buddhist Ideals of Government*, at <http://www.bps.lk/olib/bl/bl011-p.html>; Venerable K. Sri Dhammananda Maha Thera, *Buddhism and Politics*, at <http://buddhanet.net/budsas/ebud/whatbudbeliev/229.htm>.
9. Shyamon Jayasinghe, *The Current Relevance of Dasa Raja Dharma*, at http://sannasa.sinhalajukebox.org/2011/Oct/2011Oct_page14.pdf.
10. Guide to Buddhism A to Z, Bribery, at <http://www.buddhism2z.com/content.php?id=474>.
11. C.F. Aiken, *Confucianism*, *THE CATHOLIC ENCYCLOPEDIA* (1908), at <http://www.newadvent.org/cathen/04223b.htm>.
12. See Jeffrey Riegel, *Confucius*, *STANFORD ENCYCLOPEDIA OF PHILOSOPHY* (2013), at <http://plato.stanford.edu/entries/confucius/#ConEth>.

13. ANALECTS 2:3, at <http://nothingistic.org/library/confucius/analects/>.
14. See, e.g., *A Practical Approach to Establishing and Maintaining a Values-Based Conflicts of Interest Compliance System*, pp. 10-12, at http://www.nyc.gov/html/conflicts/downloads/pdf2/international/DaviesArticle_final.pdf.
15. N.Y. PUB. OFF. LAW § 74(3)(h).
16. ANALECTS 12:7, at <http://nothingistic.org/library/confucius/analects/>.
17. 2 Samuel 11.
18. See, e.g., N.Y.C. Charter § 2604(b)(3) (“No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant”).
19. 2 Samuel 12:13-18.
20. Esther 3:13.
21. Esther 7:10. The JPS translation of the Tanakh reads “stake” instead of “gallows.” Esther 5:14, 7:10. For a review of some of the eerie parallels between Haman and Hitler, see Liz Paratz, “A Tarantino Purim?” <http://galusaustralis.com/2010/02/2724/a-tarantino-purim/>.
22. 1 Samuel 2:27-3:14.
23. Deut. 16:19-20. See also Exodus 23:8 (“You shall take no bribe, for a bribe blinds the officials, and subverts the cause of those who are in the right”).
24. Jeffrey H. Tigay, THE JPS TORAH COMMENTARY: DEUTERONOMY, p. 161 (5756/1996). See, e.g., N.Y.C. Charter § 2604(b)(13) (“No public servant shall receive compensation except from the city for performing any official duty or accept or receive any gratuity from any person whose interests may be affected by the public servant’s official action”).
25. Isaiah 1:23-25. See also Proverbs 17:8, 29:4.
26. 2 Kings 5:1-16.
27. 2 Kings 5:19-27.
28. 2 Kings 5:27. The authors gratefully acknowledge Yehuda Shapiro for calling their attention to this example of misuse of office.
29. See, e.g., N.Y.C. Charter § 2604(b)(5) (“No public servant shall accept any valuable gift, as defined by rule of the [ethics] board, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the city, except that nothing contained herein shall prohibit a public servant from accepting a gift which is customary on family and social occasions”).
30. See, e.g., N.Y.C. Charter § 2606(b) (authorizing New York City’s ethics board to impose civil fines up to \$25,000 per violation and to recommend to the appointing authority or other appropriate body disciplinary action, including suspension or removal from office or employment).
31. Gisela Striker, *Greek Ethics and Moral Theory*, The Tanner Lectures on Human Values (Stanford University, May, 1987), 183.
32. *Id.* at 189.
33. *Id.* at 190.
34. Aristotle, *Nicomachean Ethics*, Book V, Sec. 2 (Tr. by W.D. Ross).
35. “[W]e call those acts just that tend to produce and preserve happiness and its components for the political society.” *Id.*, Book V, Sec. 1.
36. “[S]ome think that all justice is of this sort, because that which is by nature is unchangeable and has everywhere the same force (as fire burns both here and in Persia).” *Id.*, Book V, Sec. 7.
37. Yale Law School, The Avalon Project, *Twelve Tables*, Table IX, 3, at http://avalon.law.yale.edu/ancient/twelve_tables.asp.
38. Harvey Cox, *THE FUTURE OF FAITH*, pp. 5 (“Emperor Constantine the Great (d. 367 CE) made his adroit decision to commandeer Christianity to bolster his ambitions for the empire”), 6 (“The empire became ‘Christian,’ and Christianity became imperial”), 63 (“Early Christianity was a fiercely anti-imperial movement, and for good reason”), 70 (“It is undeniable that from the outset Christianity was both anti-imperial and counterimperial”).
39. Rev. 17:5.
40. Ibrahim M. Zein, Abdullah Al-Ahsan, & Muhammad Arif Zakaullah, *Qur’anic Guidance on Good Governance*, p. 3 (2008), at http://www.csrnyc.com/images/Guidance_in_the_Koran_on_Human_Rights,_Governance.pdf.
41. Qur’an 4:58 (Ahmed Ali translation 1984).
42. Ibrahim M. Zein, Abdullah Al-Ahsan, & Muhammad Arif Zakaullah, *Qur’anic Guidance on Good Governance*, pp. 9-10, 12 (2008), at http://www.csrnyc.com/images/Guidance_in_the_Koran_on_Human_Rights,_Governance.pdf.
43. April 14, 2005, fax from Dr. Yassin El-Ayouty to Mark Davies, on file with Mr. Davies. See also <http://quranictopics.blogspot.com/2010/04/fasadmischief.html>.
44. See <http://www.history.com/topics/charlemagne>.
45. As has been pointed out, the Holy Roman Empire was neither Holy, nor Roman, nor an Empire. Voltaire, *ESSAI SUR L’HISTOIRE GENERALE ET SUR LES MOEURS ET L’ESPRIT DES NATIONS*, Ch. 70 (1756) (“Ce corps qui s’appelait et qui s’appelle encore le saint empire romain n’était en aucune manière ni saint, ni romain, ni empire.”).
46. Yale Law School, The Avalon Project, Capitulary of Charlemagne, ¶ 29 (802), at <http://avalon.law.yale.edu/medieval/capitula.asp>.
47. Maurianne Adams, Lee Anne Bell, & Pat Griffin (eds), *TEACHING FOR DIVERSITY AND SOCIAL JUSTICE*, p. 1 (2007); Julian Lamont & Christi Favor, *Distributive Justice*, *STANFORD ENCYCLOPEDIA OF PHILOSOPHY* (2013), at <http://plato.stanford.edu/entries/justice-distributive/#Welfare>.
48. Jeremiah 22:1-3. See also Exodus 22:21-24; Deut. 10:17-19, 24:17, 27:19; Job 29:12-17; Psalm 82:3-4; Isaiah 1:17, 10:1-2; Zechariah 7:9-10; 2 Esdras 2:20-22.
49. Yale Law School, The Avalon Project, Capitulary of Charlemagne, ¶ 14 (802), at <http://avalon.law.yale.edu/medieval/capitula.asp>.
50. See Stephen Batchelor, *MEDIEVAL HISTORY FOR DUMMIES*, p. 233 (2010).
51. See <http://www.britannica.com/EBchecked/topic/348849/Louis-IX/4284/Achievement-of-peace-and-administrative-reforms>.
52. The authors thank Thomas Colton, retired chair of the Latin Department at Sleepy Hollow High School, for his translation of the medieval Latin.
53. Cf. N.Y.C. Charter § 2604(b)(5), *supra* n. 29.
54. Cf. N.Y.C. Charter § 2604(b)(14) (“No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant”).
55. Cf. N.Y.C. Ad. Code § 3-225 (“No person required to be listed on a [lobbyist] statement of registration pursuant to [N.Y.C. Ad. Code § 3-213(c)(1)] shall offer or give a gift to any public servant”).
56. Cf. N.Y.C. Charter § 2604(b)(3), *supra* n. 18.
57. *Allemeines Landrecht für die Preußischen Staaten*, Theil 2, Titel 10 (1794), at <http://ra.smixx.de/Links-F-R/PrALR/PrALR-II-10.pdf>; http://dlib-pr.mpier.mpg.de/m/kleioc/0010/exec/wrapsmallpage/%22129325_00000053.gif%22/big/%221%22. See also <http://www.britannica.com/EBchecked/topic/480984/Prussian-Civil-Code>.
58. See Mark Davies, *The Public Administrative Law Context of Ethics Requirements for West German and American Public Officials: A Comparative Analysis*, 18 *GEORGIA J. INT’L & COMP. L.* 319, 335 (1988).

59. Allgemeines Landrecht für die Preußischen Staaten, Theil 2, Titel 10, §§ 72-74 (1794). Cf. N.Y.C. Charter § 2604(b)(10) (“No public servant shall give or promise to give any portion of the public servant’s compensation, or any money, or valuable thing to any person in consideration of having been or being nominated, appointed, elected or employed as a public servant”).
60. Allgemeines Landrecht für die Preußischen Staaten, Theil 2, Titel 10, § 86 (1794) (“Niemand soll sein Amt zur Beleidigung oder Bevortheilung Anderer mißbrauchen”). Cf. N.Y.C. Charter § 2604(b)(3), *supra* n. 18.
61. Das Reichsbeamtengesetz von 31 März 1873, at https://play.google.com/store/books/details/Germany_Das_reichsbeamtengesetz_vom_31_m%C3%A4rz_1873_u?id=Qc8OAAAAAYAAJ&hl=en and [http://books.google.com/books?id=KM4OAAAAAYAAJ&pg=PA134&lpg=PA134&dq=reichsbeamtengesetz+1873+pflichten&source=bl&ots=RCDGNGLawU&sig=SngYTkd0P4t40nRG9WBwBhp8ywyY&hl=en&sa=X&ei=aCNnUdyYCMPI4AO66YDABQ&ved=0CEQQ6AEwAg#v=onepage&q=reichsbeamtengesetz%201873%20pflichten&f=false](http://books.google.com/books?id=KM4OAAAAAYAAJ&pg=PA134&lpg=PA134&dq=reichsbeamtengesetz+1873+pfllichten&source=bl&ots=RCDGNGLawU&sig=SngYTkd0P4t40nRG9WBwBhp8ywyY&hl=en&sa=X&ei=aCNnUdyYCMPI4AO66YDABQ&ved=0CEQQ6AEwAg#v=onepage&q=reichsbeamtengesetz%201873%20pflichten&f=false).
62. Das Reichsbeamtengesetz von 31 März 1873, § 11, Reichsgesetzblatt (“RGBl.”) 61 (1873) (“Ueber die vermöge seines Amtes ihm bekannt gewordenen Angelegenheiten, deren Geheimhaltung ihrer Natur nach erforderlich oder von seinem Vorgesetzten vorgeschrieben ist, hat der Beamte Verschwiegenheit zu beobachten, auch nachdem das Dienstverhältnis ausgelöst ist”). Cf. N.Y.C. Charter § 2604(b)(4) (“No public servant shall disclose any confidential information concerning the property, affairs or government of the city which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public, or use any such information to advance any direct or indirect financial or other private interest of the public servant or of any other person or firm associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest”) and § 2604(d)(5) (“No public servant shall, after leaving city service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest”).
63. Das Reichsbeamtengesetz von 31 März 1873, § 15 (“Die vom Kaiser angestellten Beamten dürfen Titel, Ehrenzeichen, Geschenke, Gehaltsbezüge oder Rumunerationen von anderen Regenten oder Regierungen nur mit Genehmigung des Kaisers annehmen”). Cf. N.Y.C. Charter § 2604(b)(5), *supra* n. 29.
64. Das Reichsbeamtengesetz von 31 März 1873, § 16 (“Kein Reichsbeamter darf ohne vorgängige Genehmigung der obersten Reichsbehörde ein Nebenamt oder eine Nebenbeschäftigung, mit welcher eine fortlaufende Remuneration verbunden ist, übernehmen oder ein Gewerbe betreiben. Dieselbe Genehmigung ist zu dem Eintritt eines Reichsbeamten in den Vorstand, Verwaltungs- oder Aussichtrath einer jeden auf Erwerb gerichteten Gesellschaft erforderlich. Sie darf jedoch nicht ertheilt werden, sofern die Stelle mittelbar oder unmittelbar mit einer Rumeration verbunden ist. Die ertheilte Genehmigung ist jederzeit widerruflich. Auf Wahlkonsuln und einstweilen in den Ruhestand versetzte Beamte finden diese Bestimmungen keine Anwendung”). Cf. N.Y.C. Charter §§ 2604(a), (c)(6), and (e), which provide as follows:

N.Y.C. Charter § 2604(a)(1):

1. Except as provided in paragraph three below [which authorizes the ethics board to grant orders permitting the interest],
 - (a) no public servant shall have an interest in a firm [that is, either a position with the firm or an ownership interest in the firm] which such public servant

knows is engaged in business dealings with the agency served by such public servant...

(b) no regular employee shall have an interest in a firm which such regular employee knows is engaged in business dealings with the city, except if such interest is in a firm whose shares are publicly traded, as defined by rule of the board.

N.Y.C. Charter § 2604(c)(6):

This section [2604] shall not prohibit:...

a public servant from acting as attorney, agent, broker, employee, officer, director or consultant for any not-for-profit corporation, or association, or other such entity which operates on a not-for-profit basis, interested in business dealings with the city, provided that:

- (a) such public servant takes no direct or indirect part in such business dealings;
- (b) such not-for-profit entity has no direct or indirect interest in any business dealings with the city agency in which the public servant is employed and is not subject to supervision, control or regulation by such agency, except where it is determined by the head of an agency, or by the mayor where the public servant is an agency head, that such activity is in furtherance of the purposes and interests of the city;
- (c) all such activities by such public servant shall be performed at times during which the public servant is not required to perform services for the city; and
- (d) such public servant receives no salary or other compensation in connection with such activities....

N.Y.C. Charter §§ 2604(e):

A public servant or former public servant may hold or negotiate for a position otherwise prohibited by this section, where the holding of the position would not be in conflict with the purposes and interests of the city, if, after written approval by the head of the agency or agencies involved, the board determines that the position involves no such conflict. Such findings shall be in writing and made public by the board.

65. RGBl. I, 39 (1937), at <http://www.verfassungen.de/de/de33-45/beamte37.htm>.

66. Deutsches Beamtengesetz (DBG) § 4(1) (1937).

67. W. Thiele, *DIE ENTWICKLUNG DES DEUTSCHEN BERUFSBEAMTENTUMS* 62 (1981). That said, ironically, scrubbed of the extensive Nazi overlay—as the allies did after the War—the German Public Officials Law (Deutsches Beamtengesetz or DBG) contains the core of a modern public officials law for a democratic state. See Mark Davies, *The Public Administrative Law Context of Ethics Requirements for West German and American Public Officials: A Comparative Analysis*, 18 *GEORGIA J. INT’L & COMP. L.* 319, 342-345 (1988). In regard to government ethics, the DBG regulated conflicts of interest (§ 5), confidentiality (§§ 8-9), outside business activities (§§ 10-11), gifts (§ 15), and penalties (§§ 21-23).

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