Draft 1

Bureaucratic Dilemmas:

Civil Servants between Political Responsiveness and Normative Constraints

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Abstract

Effective governance in democratic societies presumes close interaction between political executives and civil servants. This interaction rests on a delicate balance between civil servants' political responsiveness and the duty of both civil servants and ministers to pay respect to legal and other normative constraints on executive authority. In Danish central government this balance is stressed by the reference to a set of norms defining correct civil service behavior when providing ministers with political advice and assistance. Based on a unique set of vignette data we show how organizational factors strongly mediate civil servants behavior when confronted with dilemmas where they have to balance responsiveness against normative constraints on their role as political advisers. Moreover, civil servants working closely with ministers pay more attention to legal constraints than their peers among agency officials and specialists. However, agency officials and specialists are much more prone to give priority to professional standards. Truthfulness is also seen as key duty of civils servants, but vignette responses indicate that the precise implications of the duty to speak the truth is perceived as more elusive than the constraints following from legality and professional norms.

Political bureaucrats

Danish ministries have two basic characteristics. They are subject to political leadership and control with ministers as political executives. Moreover, the ministries which ministers lead are organized as merit bureaucracies. Civil servants are selected according to merit and they stay in office with change of government. (Christensen, Klemmensen and Opstrup 2014). This is part of a West European pattern, even if Danish central government is close to unique in its reliance on a pure merit bureaucracy (Christensen 2012; Dahlström 2009).

These organizational traits have clear implications for ministerial organization and its internal operation. The modern ministry is a two-level, multi-divisional organization with a ministerial department and one or more agencies. The department acts as a political secretariat to the minister while policy implementation is delegated to agencies having their own management, budgets and staff. Agencies with rare exceptions report to the department, thus being subject to full ministerial control (Binderkrantz and Christensen 2009; Christensen and Yesilkagit 2006).

This basic organization is complemented by an equally clear image of the operation of central government. The department, headed by a permanent secretary, has the double task of providing the minister with advice and support while overseeing the management of the entire portfolio with its several agencies and often a complex set of authorities and institutions, each of them reporting to the minister through one of its agencies. Still, this image is too simple in important respects. First, even if the department and its permanent secretary is responsible for providing the minister with political and policy advice, departments rely on inputs from the agencies when it comes to preparing new policy. Second, even if the responsibility for policy implementation is delegated to agencies, the departments as well as the minister are involved in decisions on policy implementation, be it because the agency solicits a departmental and eventually a ministerial opinion or be it because the department and possibly the minister intervenes. Third, there is a distinct differentiation between departmental and agency staffing. Departmental staff consists with few exceptions of generalists defined as lawyers, economists, and political scientists; agency staff consists of a mixture of generalists and specialists, i.e. engineers, doctors, veterinarians and people with science degrees, the precise mixture depending on the tasks of the agency.

This way of organizing raises a double problem. We have a political executive with a legitimate claim on political support and advice from her civil servants. She also has an equally legitimate claim on civil servants following her political directives. Still considering the extension of the portfolio and the number and complexity of decisions to be made, there is a problem: Can the minister be certain that civil servants follow her political line? This is the problem political responsiveness (Weber 1918; Kaufman 1956; Svava 2001). However, this political executive has wide authority over civil servants, but this authority is not unconstrained. It is subject to constitutional and legal constraints. Similarly, democratic-parliamentary governance places constraints on the political executive. Parliament has a claim on truthful information, including information that meets certain professional standards. Yet, with the strong position of the government and its ministers a problem remains: Can parliament and citizens be certain that the civil service keep within these legal and normative constraints? This is the problem of civil service neutrality.

This ministerial organization creates two risks. One is a politicizing bureaucracy where ministers act as puppets for civil servants. The other is the politicized bureaucracy where civil servants stretch responsiveness to the political executive so far that they compromise the normative constraints placed on them. To what extent ministers and civil servants actually are able to strike a proper balance between the competing, but legitimate demands for responsiveness and neutrality is an empirical question. This paper presents an analysis of this rather complex problem. The analysis is based on a unique dataset where 2,611 civil servants in six ministries have responded to vignettes that confront them with the dilemma that arises when they have to weigh the demand for political responsiveness against the normative constraints placed on civil servants. With this research design we get a novel insight into civil servants' behavior when it comes to providing political support and advice to the government and its ministers. To our knowledge it is the first large-N study moving beyond role conceptions to a behavioral analysis of civil servants interaction with the political executive.

Theoretically, we argue that the bureaucratic dilemmas we analyze constitute a double principal-agent problem. The problem is double because the theory acknowledges the risk that civil servants (the agent) exploits their superior capacity to further their goals at the expense of the minister's (the principal) policy. At the same time it acknowledges that ministers as the ultimate principal can renege on the constraints put on their executive authority and where civil servants may be induced to give in to them to protect or further their careers. The analysis demonstrates that civil servants strongly differentiate between legal constraints and normative constraints referring to truthfulness and professional standards. Where they face legal constraints responsiveness yields, while truthfulness and professional standards tend to yield to responsiveness when civil servants are confronted with a decisional situation where they come up. However, the analysis also demonstrates that civil servants' handling of such decisional dilemmas is strongly mediated by their hierarchical position, their work in departments or agencies, and their generalist or specialist backgrounds.

We present the theoretical framework below. The next section lays out our research design and data. The analysis is undertaken in two steps. First, we present the prevailing norms with which the correct civil servant is obliged to comply. Then, we present the vignette analysis where civil servants respond to the decisional dilemmas arising when the duty to political responsiveness is confronted with the normative constraints on ministerial authority. In the final section we discuss our results in both a research and a normative perspective, taking into consideration earlier research on the interaction between politicians and bureaucrats.

The double principal-agent problem

There is an inherent imbalance in the ministerial organization. One outsider, the minister, is placed at the apex of a complex hierarchy. Her success hinges on the loyal assistance of permanent civil servants. This observation is the starting point for modern principal-agent theory. It asks whether the principal, here the minister, can confidently rely on the agent, here the civil service. The answer is no, thus reminiscing Max Weber's century old theory of bureaucracy (Weber 1918). However, principal-agent theory accentuates the problem much stronger.

According to the theory the problem has two sources (Bertelli 2012; Miller 2005). One is information asymmetry that arises even if the minister as political executive is endowed with ultimate authority and commands a staff of civil servants. Still, her dependence on them is close to total as they have information and knowledge accumulated over time combined with specialized training. This is no serious problem if the minister's policy preferences are clear and if the civil servants share them or are otherwise inclined to follow the minister's policy directives (Waterman and Meier 1998). But the claim is that there is no guarantee for this: The civil service and its individual members may be lazy, they may be obsessed by their own power, and they may pursue institutional, economic and career interests. They may even have their own preferred policies or be captured by vested interests that go against the minister's preferred policy. So, politicizing by the bureaucracy against the minister, who contrary to them has a democratic mandate, is a problem to be taken seriously.

Is the theory right in its one-sided emphasis on the agency-problem? Gary Miller and Andrew Whitford have questioned this in several works. They don't deny that an agency problem may reduce the efficacy of political principals striving to further their program (Miller 1992; Miller and Whitford 2007; Miller and Whitford 2016). But they make two points to reset this theoretical debate. First, they draw attention to the existence of a principal's problem, mirroring the agency problem. This problem becomes real if the principal reneges on prior commitments constraining her full political discretion. This happens if a minister puts pressure on her civil servants to break legal provisions. The same happens if a minister puts pressure on his civil servants to have a piece of policy analysis rigged in a way that compromises established professional or research standards in order to strengthen her own case. Ministers may, among other things, be tempted to act so because the immediate situation creates political incentives to circumvent prior commitments entered by their predecessors or even themselves.

Second, they argue that there is a solution to this problem. It consists in delegation to a classical civil service based on merit. Civil service appointments protect civil servants against sudden political intervention into decisions made in a way that violates declared policy and the rules incorporating it. But this just opens the question: "What are the constraints that keep the public's managers from using their bureaucratic insulation for purely selfish purposes" (Miller 2000: 318)? The solution is a Weberian bureaucracy because it "not only protects original democratic intent from political officials, it also allows the bureaucrats to protect the original democratic intent from political officials" (Miller 2000: 319). Referring to a specific case Miller adds that "[t]he truly amazing thing was that civil servants had the courage to stand up to that kind of political pressure" (Miller 2000: 319). In other words, the solution is to 1) place constraints on the political executive through the merit bureaucracy and 2) boost the integrity of civil servants through a set of bureaucratic norms for correct behavior in their interaction with the executive.

Whether principal-agent analysis focuses on the agency or the principal's problem its main concern is with the proper execution of policy, be it a question of economic or societal efficiency or due respect to the rule of law. However, policy execution and policy implementation rarely is a technical and apolitical problem. Most policies, even policies laid down in formal law, leave room for a considerable amount of political discretion. Still, the political executive delegates the authority to decide on these cases to the bureaucracy on the presumption that they are responsive to the minister's political preferences. At the

same time ministers are dependent on the support and advice from civil servants when it comes to policy development, typically the preparation of new or revised legislation. Again the presumption is that civil servants are responsive to ministers' political preferences when asked to assist in this respect and in doing so can provide ministers with both policy analysis and advice and political-tactical advice.

Again civil servants see themselves placed in situations where they have to balance their duty to be responsive to the demands of their political (and democratic) principal against the constraints placed on political and administrative authority in the democratic *Rechtsstaat*. To strike the right balance is an individual responsibility, but there are situations where it is far from clear what the right decision should be. This may turn a decision into a dilemma for individual civil servants. However, civil servants operate within the context of strongly differentiated organization with hierarchy and fine-tuned specialization. The basic traits of this organization were described in the introduction. We have to take this organization into consideration when empirically we want to analyze the interaction between ministers and civil servants in the double principal-agent perspective presented here.

Our general proposition hence is that civil servants engaged more closely in interaction with the political executive are more likely to give precedence to responsiveness concerns over the normative constraints under which civil servants are assumed to work. This proposition leads us to three testable hypotheses:

H1. Civil servants in higher hierarchical positions compared to their subordinates are more likely to give precedence to political responsiveness when confronted with a dilemma situation where normative constraints are at play.

H2. Civil servants in ministerial departments compared to agency staff are more likely to give precedence to political responsiveness when confronted with a dilemma situation where normative constraints are at play.

H3. Civil servants with generalist backgrounds compared to their specialist colleagues are more likely to give precedence to political responsiveness when confronted with a dilemma situation where normative constraints are at play.

Design and data

In order to test these three hypotheses, we make use of vignettes posed to 3,795 civil servants in Danish central government. Vignettes are short descriptions of hypothetical but approximate real-life decision-making situations to which the respondents are asked to make a choice of action (Alexander and Becker 1978; Finch 1987). This methodology is ideal to study the dilemma situation that civil servants confront when they have to balance demands for political responsiveness and normative constraints on their political assistance to the minister. Vignettes can be formulated as brief, but carefully constructed situations involving a trade-off between the two. They are likely to produce more valid and more reliable measures of the decisions respondents will choose than surveys based on generic questionnaires. This is important because the provision of political advice and support is sensitive what fosters the risk that respondents succumb to social desirability. However, placing them in decisional situations that involve a trade-off between pairwise legitimate concerns this effect is reduced. The technique is developed and much used within psychology, but has previously been used to study city

managers' provisions of political advice and support to mayors in Denmark, the Netherlands and U.S. (Mouritzen & Svava 2002: 136-170).

The vignettes used in this study place respondents in concrete situations where they face a dilemma between their democratic duty to show political responsiveness and their equally legitimate duty to respect the constraints placed on executive authority in the democratic *Rechtsstaat*. What is at issue is when the duty of political responsiveness must yield for the duty to keep within the law, to provide truthful information, and to pay respect to professional standards. Seven vignettes were constructed, six of them on each one normative constraint (legality, professional standards, and truthfulness) and one combining the legality-truthfulness norms. With seven vignettes respondents had to balance the trade-offs involved against each other in clearly differentiated situations. The hypothetical situations were phrased so that there was not one unequivocal answer to the dilemma. They were further phrased to be applicable across ministries, across departments and agencies and regardless of the specific task the civil servants have. This was a precondition for the collection of data allowing generalizable conclusions. Hence, the vignettes are broad simplifications of the dilemmas that the civil servants may meet and does not take into account the specific context in which the dilemma would come up in this or that organization or case specific situation. But respondents were urged to add their clear text comments to the vignettes. An extraordinarily high share of the respondents added their comments, among other things emphasizing that the seven vignettes actually described situations they met in their daily work as civil servants.

For each of the seven vignettes, the respondents were asked to choose between four options. These options reflect the formal range of options that a Danish civil servant according to established administrative law doctrine has when receiving or anticipating a political order from his political or administrative superiors. So, when asked whether, in the situation at hand, they would oblige to the minister's political wishes, the civil servants could answer:

- 1) Yes, without any reservations;
- 2) Yes, but I would raise my concerns to my immediate supervisor;
- 3) Only after a direct order, and I would warn my boss in unequivocal terms;
- 4) I would warn unambiguously and refuse to assist.

Even if the vignette responses do not give us behavioral information basing our analysis on these data offers novel insight into civil servants' reaction when having to balance between their duty of political responsiveness and their duty to respect the constraints placed on executive power. As laid out above we expect civil servants' management of the dilemmas to vary with their organizational characteristics with some civil servants being more prone to be politically responsive and other civil servants being inclined to give priority to legal and other normative constraints. Our independent variables therefore

are measures of hierarchical position, departmental or agency employment and educational background as the measure for generalist and specialist roles.

A number of control variables are included in the analysis. They provide personal background information on civil servants' age, seniority in their present position, and gender. A condition for getting access to the registers listing all civil servants working in the six ministries and their agencies we promised not to publish any results identifying individual organizations. Still, given their very specialized portfolios and institutional histories ministries can be so different from each other that there is no universal pattern in the responses by their civil servants. To control for this we have included dummy variables for the civil servants' ministry affiliation. One (random) ministry was specified as the reference category. With this control the basis for generalizing our results is considerably improved.

Data collection took place in the spring of 2015 as part of an analysis conducted by an independent committee assigned with the task of evaluating the functioning of the Danish civil service (Bo Smith-udvalget 2015: 172). At the time there were 21 ministries. Six were selected for the survey (Employment, Environment, Finance, Food and Agriculture, Interior, and Social Affairs). Only agencies with responsibilities that involve them in policy related tasks were included. Thus, some agencies with technical routine tasks were excluded. All 3,795 civil servants in the ministerial departments and agencies at the levels of rank-and-file case officers and head of office were sent the survey by e-mail. Due to the construction of the vignettes this also gives some information about the role of deputy permanent secretaries and deputy agency heads. 2,611 (equaling 68.8 %) civil servants answered the vignettes and a short number of background questions (age, education, gender, hierarchical level, and seniority).

In our analysis of the hypothesized reactions to the vignettes we apply ordered logistic regressions to account for that the distance between the adjacent actions to the vignettes are unknown (Long 1997)¹.

The correct civil servant

It is a tough job to be a minister (Pedersen, Bhatti & Hjelmar 2016). This is the case even though ministers command the support of a high-capacity bureaucracy. To a large extent this bureaucracy is organized in a way giving priority to ministerial support and advice. It is the organization described in the introduction. Table 1 gives further evidence. First, it shows how top civil servants (permanent secretaries and agency heads) on the average weigh their different tasks. Second, it shows the extent to which ministers report permanent secretaries, respectively agency heads as their primary sources of political advice.

¹ All analyses have also been estimated as traditional OLS regressions. The results do not differ significantly (Christensen, Opstrup and Wang 2016).

Table 1. The provision of political advice

A. The weight given to their tasks by permanent secretaries and agency heads indicating their relative importance by respondents in 2015 ¹ . Percent.		
Task	Permanent secretaries	Agency heads
Political advice of/ contribution to political advice to minister	59.3	9.9
Leadership and coordination, of which	38.1	68.3
• Policy development	13.8	8.6
• Administrative execution	8.0	30.0
• Management and organization	16.3	29.5
Other tasks	2.6	23.2
Total	100.0	100.0
B. Ministers' relative weighting of advice received from permanent secretaries and agency heads 2012 ²		
Adviser	Policy advice	Political-tactical advice
Permanent secretaries	87	87
Agency heads	44	22

¹ Survey undertaken in the winter 2015. Answers: permanent secretaries = 16, agency heads = 37 (Bo Smith-udvalget 2015: 137-140).

² Survey undertaken in the fall 2012 (Bet. 1537 2013). Answers from 23 ministers. The table shows the percentage of ministers responding that they occasionally or often received advice from respectively the permanent secretary or agency heads.

The figures indicate a clear specialization between departments and agencies, and a clear differentiation between the tasks solved by the two types of top civil servants. The permanent secretary is first of all acting as the minister's right-hand man. The main task is the provision of political advice, and even if the permanent secretary is also responsible for overseeing the management of the portfolio he gives prime attention to tasks related to policy development. In comparison agency heads' attention is distinctly directed against managerial tasks related to policy implementation. This does not separate them entirely from the provision of ministerial advice. But their role is that of subcontractors who channel their contributions to the minister through the department, having a combined gate-keeping and coordinative role.

The specialization is even clearer when ministers report their main sources of advice. They make a distinction between the permanent secretary as their primary source to both policy and political-tactical advice. In comparison agency heads contribute to policy advice but they are rarely directly engaged in giving face-to-face advice to the minister takes no part in the provision of political-tactical advice. Policy advice is here defined as factual advice focusing on the analysis of policy problems the drafting of policy, and the estimated consequences of policy interventions. Political-tactical advice focuses on how ministers "mobilize support for their preferred policy, and how they overcome political opposition" (Bo Smith-udvalget 2015: 115). This analytical distinction dates back to the 1970s; it emphasizes how civil servants over time have acted as political civil servants (Christensen 1980: 98-112). This clear division of tasks demonstrates the high extent to which the formal organization of ministries in departments and agencies permeates bureaucratic behavior (Egeberg 2012; Hammond 1996).

The close interaction between ministers and especially departmental civil servants raises the question about the framework within which this interaction takes place. It is the twin question of under- and

over-responsiveness discussed theoretically above. An analysis of this problem presumes the existence of a normative standard followed by a behavioral analysis of civil servants' compliance with this standard. The existence of a normative standard profiling the correct civil servant indicates how it might be possible to cope with the double principal-agent problem theoretically identified above.

Analytically, this was relatively simple if this standard was defined by law or even in the constitution. This is not the case. However, this does not exclude the existence of a set of norms prescribing how the correct civil servant should behave in his or her interaction with the political executive. These norms are double-edged. On the one hand there is an obligation for civil servants to be politically responsive to the demands and needs of the minister. This responsiveness creates a duty to loyally follow orders and directions and to anticipate any step that according to the sound judgment of the civil servant might contribute to the minister reaching her political goals. On the other hand this duty to be politically responsive is constrained. Some constraints are legal in as far as they may involve legal sanctions against the minister and her civil servants (Fenger and Gram 2016). Other constraints are derived from informal norms which together with the legal constraints constitute the set of norms that apply to the correct provision of support and advice to the political executive. This complex set of norms to some extent even regulates the interaction between government and parliament. But also here there are sanctions, some of which are parliamentary, other of them an integral part of civil service law.

It is possible with considerable certainty to identify the existence and content of this set of normative prescriptions defining the correct civil servant for three reasons:²

1. These issues have been subject to repeated parliamentary debate concluding with parliamentary votes and decisions.
2. One result has been the commissioning of committees mandated to analyze and come up with proposals within the field. These committees have mostly been governmental; on two occasions they have been private, set up by the main civil servants' union (The Union of Lawyers and Economists). In either case the membership has been civil servants and academics (lawyers and political scientists). The Union of Lawyers and Economists has also been represented on the governmental committees.
3. The recommendations made by these committees have been
 - a. Followed up by affirmative decisions by subsequent governments and parties in parliament.
 - b. The standards on which independent investigations have based their conclusions as to civil servants' accountability for specific decisions and advice given to the political executive that have given rise public criticism (J.P. Christensen 1997: 389-401).

In all, four specific norms exist for civil servants' provision of political advice and support to ministers. These are summarized in Display 1.

² See Bo Smith-udvalget 2015: 147-171 for an extensive discussion of the origin of the norms. The ministerial reports are: Bet. 1354 1998; R2 2001; Bet. 1443 2004; Bet. 1537 2013. The private reports are the Nordskov-committee 1994 and Bo Smith-committee 2015.

Display 1. Norms for civil servants' provision of political advice and support to ministers

<p>Legality (see Bet. 1443, pp. 141)</p> <p>As public authorities, including ministers, are not allowed to act against the law</p> <ul style="list-style-type: none">• Civil servants must provide ministers with advice and assistance under existing written and unwritten law• The civil service is not allowed to provide any assistance that presume a violation of existing law• Civil servants shall refuse any assistance if they receive a clearly illegal order
<p>Truthfulness (see Bet. 1443, pp. 142 and 156-157)</p> <p>As public authorities are subject to the duty of truthfulness, the civil service can't provide assistance implying</p> <ul style="list-style-type: none">• Communication of incorrect information• Communication of information that is misleading, e.g. because of suppression of other and important information <p>The duty of truthfulness does not imply an obligation when answering questions to reveal deliberations and plans about e.g. economic policy interventions or to give answers violating official secrecy.</p>
<p>Professional standards (see Bet. 1443, pp. 142 and 152-155)</p> <p>Civil service provision of advice and assistance must respect accepted professional standards.</p> <ul style="list-style-type: none">• Their content depend on the established standards within a given field;• It is in no way given that all professionals within a field will come to the same conclusions;• A distinction must be made between situations where we have to do with established knowledge and factual information that are not or rarely subject to doubt and situations where the state of knowledge involves an amount of discretion. <p>Reference to civil service professional standards must not be used</p> <ul style="list-style-type: none">• To endow information with professional certainty when this information actually is based on political preferences for a certain policy position• To legitimize e.g. agency demands for resources and budget increases.
<p>Party political neutrality (see Bet. 1443, pp. 147-151 and 155-156)</p> <ul style="list-style-type: none">• Civil servants are not allowed to take into consideration their own political preferences to influence the assistance to the minister• The civil servants shall for the public keep a neutral appearance in party political terms what<ul style="list-style-type: none">○ Limits its assistance to the party political activities of the minister○ Forbids it to provide assistance to the minister during electoral campaigns e○ And in the period up to a referendum abstain from the provision of advice and assistance to the concerning on the referendum theme.

Source: Bet. 1443 2004 on civil servants' advice and assistance to the government and its ministers. The summary builds on all reports on this issue made public since 1994, but Bet. 1443 has an extensive review of them. As more recent reports don't change the content of the norms Bet. 1443 2004 also cover them.

Thus the origin of these norms points to the importance of both parliamentary control and professional self-regulation within the civil service. The parliamentary control measures have been furthered by the prevalence of minority governments. The accommodating steps by civil service self-regulation have similarly been furthered by civil servants' awareness of the fact that the persistence of the merit civil service presumes its ability to constantly balance the duty of political responsiveness against the duty to keep within the constraints obliging them to keep within the law, to be truthful, and to respect professional standards when providing policy advice.

Bureaucratic norm compliance

With the identification of a well-defined set of legal and organizational norms prescribing the correct behavior for civil servants when met with demands from the political executive the question is how civil servants deal with these norms in their daily work. The theoretical analysis indicates that this is complex problem where the answer is from given. The complexity is due to the fact that civil servants have to

balance two legitimate demands against each other, namely the duty to act responsively to ministers' demands and anticipated political concerns and the parallel duty to keep within the constraints placed on executive authority. In many situations the response is given. But the double duty gives rise to situations which confront civil servants with a dilemma where there is no easy and uncontested response. Moreover, civil servants and the organization they work for may have stakes in the specific issue that influence their interpretation of the role as a correct civil servant. Finally, civil servants work in organizational environments that may influence their response in the specific situation.

The norms identified above have not been written down in a succinct and easily accessible form. They have been distilled from a series of governmental and independent reports, parliamentary votes and declarations of intent by successive governments after consultation with parliamentary authorities.³ At the same time they contain prescriptions for the correct behavior of thousands of civil servants each of them working in distinct organizations with distinct tasks. An initial question therefore is whether civil servants know the norms and how they will act in situations where they perceive the need to balance political responsiveness against the constraints on executive authority. Table 2 shows the results of a logistic regression of civil servants reaction to dilemma situations.

It is only a minority of civil servants that find sufficient guidance in the norms to make a decision themselves when confronted with the dilemma of weighting political responsiveness against the constraints placed on them as ministerial advisors. More than four fifths of civil servants will go to their own chief and with her discuss the appropriate response to the specific dilemma. Still, different groups of civil servants indicate to behave differently in these situations. Table 2 lays out how administrative generalists are more inclined than specialists to manage the dilemmas themselves. There is a strongly significant difference between the behavior of the latter and the behavior of civil servants with law degrees who are the reference group for this analysis. Generalists with economics or political science degrees don't differ significantly from lawyers. Rank-and-file case officers and civil servants with lower seniority are also less self-relying in these situations than their superiors, respectively more experienced colleagues. Both differences are highly significant. Similarly, departmental staff is much more self-relying in these matters than agency officials. This difference is significant, too. Finally there is a rather marked and strongly significant difference between self-relying male civil servants and female civil servants being inclined to refer to their boss.

³ After the collection of data on which this analysis is based the government has issued *KODEX VII – SEVEN KEY DUTIES FOR CIVIL SERVANTS IN CENTRAL GOVERNMENT*.

Table 2. Civil servants' reaction to dilemma situations¹. Logistic regression.

Law degree	Reference group
Economics degree	0.408 (0.228)
Political science degree	-0.034 (0.182)
Other social science degree	0.706*** (0.202)
Other university degree	0.863*** (0.175)
No university degree, e.g. teachers, social workers	1.193*** (0.364)
Department compared to agency	-0.343** (0.142)
Superior compared to case officer	-0.456*** (0.148)
Age	-0.112 (0.012)
Seniority in central government	-0.032*** (0.009)
Male compared to female	-0.388*** (0.122)
Constant	1.804 (0.470)
Cox & Snell R ²	0.067
Nagelkerke R ²	0.110
N (responses)	2178

Note 1: Statistical significance is reported so: * = p<0,10; ** = p<0,05; *** = p<0,01. Standard errors in parentheses.

¹ The dependent variable is constructed from this question: " Which of the statements below do you mostly agree with? 0: I know the norms for civil service advice and support, and they can in most cases provide guidance for me when dilemmas or difficult problems arise on which I have to decide. 1: I consult my immediate superior, when I am confronted with difficult dilemmas or problems, and we spar with each other to find appropriate solutions to be applied." 82,7 per cent of respondents opted for 1.

Display 1 summarized the normative constraints on civil servants' political responsiveness. It is these norms that civil servants in dilemma situations are expected to balance against the democratic duty to be politically responsive to the political executive. In order to analyze the strength of these competing duties and civil servants' handling of them respondents were asked to answer how they would behave in seven hypothetical situations all of them described in brief vignettes. These vignettes all set the duty to be politically responsive up against the duty to comply with the law, to respect proper professional standards, and to speak the truth. The vignettes are shown in Display 2.

Display 2. The vignettes

Lawfulness

V3. Your minister wants a rapid change of the rules within your field of responsibility. He is of the opinion that this can be dealt with through a decree. Your section finds that a revision of the statute is needed, as the law does not provide sufficiently clear authorization to issue a decree. However, the minister insists that the issue is too unimportant to bother Parliament with and insists on changing the rules by a decree. Will you assist in helping him with this?

V5. You work on a specific case and are informed that your minister would be happy to see a decision in favor of the applicant. Media attention to the case is strong, and it is apparent that there is widespread public sympathy for this decision, and that the minister will be met with strong headwind in case of a rejection. In your opinion neither the law nor established practice opens for a decision in favor of the applicant. Will you assist in preparing a positive decision?

Professional standards

V2. The minister has to make a decision in a complex case where the choice is between option A and B. You are of the opinion that it is crucial to present either option as both of them are defensible according to established professional standards, and that there probably will be professionals criticizing the choice of both A and B. Your boss asks you to draft a memo with a recommendation for decision. He adds that the minister has a preference for option A. He asks you to focus solely on option A. Will you follow the directions from your boss?

V7. You work on a policy draft launching new initiatives by the government. Among researchers there is agreement that in particular three focus areas will be crucial for a positive development within the field. However, the minister estimates that it will not be possible to mobilize political support for any of these focus areas. Therefore, he wants to focus on two other measures that in your opinion are less effective. Will you assist in the drafting of a policy paper based on the latter measures?

Lawfulness and truthfulness

V6. Your minister wants to tighten up regulation and intends to present a bill to this effect. In your opinion there is a risk the European Court of Justice will find that the specific changes violate EU-law. Your minister has been informed accordingly, but insists on presenting the bill to Parliament. He will in the comments to the bill provide information on the government's grounds for finding the bill in accordance with EU-law. Will you assist?

Truthfulness

V1. Your minister shall provide Parliament with some statistics concerning a central field of welfare policy. Last week the minister at a hearing in the standing committee covering the field indicated a continued decline in figures, but added that now there are figures available for the past three months indicating an adverse increase in the figures. Your boss argues that the recent figures are subject uncertainty, and that you should wait for further analyses from your economic department before the statistics are made public and that the answer to Parliament therefore should be based on the figures from the previous three months. Will you follow your boss in this?

V4. Your section is responsible for drafting a report which the minister has to give to The National Auditors within short notice. The draft report in your opinion basically gives the information that is relevant, but you also find that it is biased in its focus on the positive aspects of the minister's involvement in the case in question and that it is phrased in a way downplaying the importance of information pointing in a negative direction. Will you contribute to the report in its present form?

The vignettes represent a broad range of situations. They are realistic in the sense that such situations arise in administrative organizations reporting to a political executive. This does not imply that they are frequent and routine. Likewise a civil servant cannot presume that there is one solution to the dilemma that is the correct decision. As is often the case in administrative decision making there may be circumstances pointing in one direction with other circumstances pulling in the opposite direction. The vignettes have been constructed to cover a range of situations where the dilemma may turn up. They cover both decisions in specific cases and policy development. This distinction refers to the classical politics-administration dichotomy. Still, the full range vignettes show how impossible it is to work with this simple distinction. Take e.g. the issue of a decree which is an integral part of policy execution. However, with present day framework legislation that delegates rule-making authority to the minister legislation by decree may involve considerable policy development. It is equally difficult to place ministers' interaction with parliamentary standing committees and the national auditor along the

politics-administration continuum. So, the seven vignettes emphasize the high extent to which decision making in the ministerial organization has a political aspect that case workers and their superiors have to consider whether they have to make a decision themselves or are just contributing to the provision of political advice.

The civil servants had four response options. They could be responsive, either without reservations or after having discussed the issue with their superior. They could also decline, again either unconditionally or give in after having discussed their concerns with their superior who in spite of their reservations issued a direct order to accommodate. The responses differentiate considerably. Table 3 presents an overview of their responses.

Table 3. Civil servants' weighting of political responsiveness against the constraints of legality, professional standards and truthfulness¹. Percent

Responsiveness weighed against:							
	Legality		Professional standards		Truthfulness		Legality/ truthfulness
	V3	V5	V2	V7	V1	V4	V6
Yes, without reservations	1.7	0.4	5.7	31.9	4.1	13.0	19.4
Yes, but I will present my reservations to my boss	25.2	9.4	62.2	57.5	62.3	67.1	54.3
Only after a direct order, and I would warn my boss in unequivocal terms	55.5	49.1	29.2	9.7	30.8	17.2	22.3
I would definitely decline thus not assisting	17.5	41.5	2.9	0.9	2.8	2.7	4.0
N (responses)	2415	2374	2515	2373	2519	2413	2364

Note: ¹ Text of the vignettes is shown in Display 2.

First, there is a marked difference between their responses depending on whether legality, professional standards or truthfulness are at issue. Second, civil servants distinguish clearly between the precise situations outlined in the vignettes. So, their responses indicate how they differentiate between the case where following the minister's anticipated preferences might end up in misuse of powers and the situation where the question is whether an act authorizes the minister to issue supplementary rules by decree or will have to go to Parliament with a bill. Finally, civil servants to a very high extent rely on discussions with their immediate superiors. This is the case both when they are inclined to be responsive to the explicit or anticipated preferences of the minister and when they are reluctant to follow political signals. The spectacular exception is the misuse of powers situation where 41.5 per cent flatly decline to follow political directives.

Our general proposition is that civil servants engaged more closely in interaction with ministers are more likely to give precedence to political responsiveness when confronted with a dilemma situation over the normative constraints on their work. This proposition led to three hypotheses. They are tested in Table 4. The table reveals a clear pattern in civil servants handling of the dilemmas. It gives some, but

not full support to the hypotheses. The general pattern is that it is decisive to the reaction of civil to political orders, be they direct or anticipated, both which constraint is at stake and the precise description of the issue where either a decision or an advice from the civil servant is called upon.

Table 4. Civil servants' response to the dilemma of balancing political responsiveness against normative constraints. Ordered logistic regressions.

	Responsiveness weighted against:						
	Legality		Professional standards		Truthfulness		Legality/ truthfulness
	V3	V5	V2	V7	V1	V4	V6
<i>Generalists/specialists (lawyers are set as reference group)</i>							
Economics	-0.256 (0.180)	0.0459 (0.183)	0.408* (0.192)	0.149 (0.187)	-0.0635 (0.188)	-0.0568 (0.197)	0.414* (0.180)
Political science	-0.463** (0.149)	-0.0575 (0.149)	0.115 (0.158)	-0.0929 (0.151)	-0.165 (0.155)	-0.276* (0.160)	-0.0801 (0.146)
Other social science	-0.728** (0.143)	-0.530** (0.144)	0.169 (0.149)	0.476** (0.148)	-0.206 (0.149)	0.0886 (0.154)	0.0767 (0.141)
Other graduates	-0.768** (0.130)	-0.354** (0.130)	0.604** (0.135)	0.878** (0.137)	-0.0277 (0.133)	0.397** (0.140)	0.222* (0.127)
No university degree	-0.790** (0.222)	-0.611** (0.228)	0.727** (0.221)	0.968** (0.237)	-0.300 (0.229)	0.480* (0.241)	0.351 (0.227)
<i>Organization</i>							
Department compared to agency	0.344** (0.119)	0.324** (0.122)	-0.405** (0.127)	-0.553** (0.124)	0.0888 (0.124)	-0.242* (0.129)	-0.178 (0.119)
Case officer compared to superior	-0.410** (0.120)	-0.352** (0.123)	-0.000653 (0.127)	0.450** (0.126)	-0.0430 (0.125)	0.0452 (0.131)	0.148 (0.121)
<i>Control variables</i>							
Male compared to female	-0.144* (0.0873)	0.0259 (0.0886)	-0.291** (0.0908)	-0.470** (0.0920)	-0.183* (0.0909)	-0.525** (0.0966)	-0.595** (0.0886)
Age	-0.0144* (0.00610)	-0.0227** (0.00622)	0.00453 (0.00624)	0.0100 (0.00654)	0.00721 (0.00635)	0.00709 (0.00662)	-0.00306 (0.00614)
Seniority in central government	0.0151* (0.00660)	0.00711 (0.00672)	-0.0165* (0.00690)	-0.0326** (0.00707)	0.00764 (0.00687)	-0.0196** (0.00717)	-0.00459 (0.00665)
Cut1_cons	-6.121*** (0.407)	-7.560*** (0.515)	-3.138*** (0.390)	-0.190 (0.379)	-3396*** (0.390)	-2.464*** (0.398)	-1.943*** (0.366)
Cut2_cons	-3.012*** (0.372)	-4.245*** (0.381)	0.559 (0.380)	3.021*** (0.386)	0.521 (0.377)	0.986* (0.394)	0.580 (0.363)
Cut3_cons	-0.315 (0.365)	-5.501*** (0.369)	3.499*** (0.400)	5.643*** (0.445)	3.433*** (0.396)	3.162*** (0.411)	2.744*** (0.376)
N	2210	2179	2294	2178	2295	2209	2169

Note 1. * p < 0.10, * p < 0.05, ** p < 0.01, *** p < 0.001 Note 2: A positive/negative sign indicates less/more responsiveness to the political executive.

According to H1 civil servants in higher hierarchical positions compared to their subordinates are more likely to give precedence to political responsiveness when placed in a dilemma situation where normative constraints are at play. The ordered logistic regression shows a strong and highly significant difference between the reaction of case officers and higher civil servants when legal concerns are at issue. However, the response is not the one hypothesized. Higher civil servants are more inclined to take

legal concerns seriously than is the case with their junior staff. This applies both to the misuse of powers situation (V5) and the situation where the extension of the minister's decree authority has been questioned on legal grounds (V3). But in the vignette describing a situation where the minister wants to tighten national regulation and where there might be a risk that the European Court of Justice would see this as a violation of EU-law there is little concern as long as Parliament is informed about the risk of a law suit (V6).

For professional standards the reaction to the dilemmas depends entirely of the description of the situation. So, in a situation where research based evidence arguably finds other policies more effective than the ones the minister prefers because of the better prospect for mobilizing political support in favor of them higher civil servants are much more inclined to follow the minister (V7). The difference is highly significant. In the other situation alternative solutions are at the agenda, both of them subject to critical debate. Here there is no difference, and civil servants are inclined to follow the minister (V2). Similarly the differences are small and insignificant when truthfulness is at issue (V1 and V4).

Thus, support for H1 entirely depends on the type of constraints at play and the precise decision making situation. In situations where there is strict legal problem as is the case with misuse of powers higher civil servants pay more attention to legality than their subordinate staff. However, when professional standards are at stake, typically in a situation where there is conflict between research based policy advice and the minister's political priorities and strategic concerns higher civil servants are inclined to follow orders. For truthfulness there are no clear differences. Therefore, the conclusion is that H1 does not catch the full complexity of the interaction between civil servants and the executive.

In Danish central government there is a basic distinction between ministerial departments acting as political secretariats for their minister and agencies responsible for policy execution but involved in the provision of advice and support to ministers in a sub-contractor capacity. H2 hypothesizes departmental civil servants to be more inclined to political responsiveness than their agency peers when confronted with a dilemma situation. Again the regression reveals a complex pattern with departmental staff paying stronger attention to legal concerns than their colleagues in agencies. The difference is highly significant. The exception is once more the situation where new national legislation might risk being overruled by the European Court of Justice, a risk that departmental civil servants take less seriously than agency staff, as long as Parliament is informed (V6). However, H2 holds for professional standards where agency staff is less inclined to give in to executive preferences than departmental civil servants (V2 and V7). This difference is highly significant and quite strong. It also holds in one situation where truthfulness is at issue, but the level of significance is low (V1 and V4).

Another basic organizational trait is the distinction between generalist civil servants and specialists, with the latter working nearly exclusively in agencies. H3 expects generalists to be more inclined to give precedence to political responsiveness than specialists when placed in a dilemma situation. But again response patterns are more complex than hypothesized. So, specialists are less concerned about legality than generalists; the difference with lawyers as reference group is quite strong and highly significant. Second, when generalists are broken down in educational sub-categories there is no difference in the reaction of economists and political scientists in the misuse of powers situation compared to generalists

with law degrees. However, in the situation where the question is whether the minister can regulate by decree or has to present a bill to parliament political scientists are clearly and highly significantly inclined to follow the minister. Third, compared to generalists, specialists are much more inclined to react negatively to actual or anticipated political demands when they perceive them as a violation of professional standards. Too this is to a much lesser extent the case when the truthfulness of policy relevant information is questioned. Finally, there is some variation in the responses among generalist civil servants indicating the importance of the specific situation described in each vignette. The variation may indicate a distinction between responsive political scientists and economists paying their respect to differing professional standards, for either group with lawyers as the reference group.

For the control variables the analysis basically reveals two things. First, in spite of the rather different ministries in terms of their portfolios, histories, and position in the governmental hierarchy, it is striking that the analysis reveals systematic variation in civil servants' responses to the vignette situations. Second, only the gender variable turns out to reveal a general difference across the vignettes with male civil servants being more politically responsive than their female colleagues non-regarding the norm at issue and non-regarding the specific situation. For the other controls coefficients and the levels of significance are lower. The partial exception is civil servants with higher seniority who tend to show more responsiveness than their less experienced colleagues.

Discussion

The interaction between bureaucrats and the political executives is central to the functioning of the democratic *Rechtsstaat*. At issue is both whether citizens and business can trust that the law is executed without anger and prejudice and whether incumbent political executives can trust civil servants as their prime aids and advisors. These are the questions of over- and under-responsiveness. Both issues open up for a series of problems that continuously attract scholarly attention.

In this paper we have analyzed how Danish civil servants balance the two concerns against each other. Theoretically these concerns come to the fore principal-agent theory is set up against theory claiming that the principal's incentive to renege on prior commitments constitutes a problem equal to the generally accepted agency problem. Consequently, we speak of the double principal-agent problem.

We also argue that to analyze the interaction between political principals and their bureaucratic agents we have to take into consideration the organization in which they operate. Both formal structure with its ordering of the hierarchy and lines of specialization and the principles of staffing and civil service law are important here.

Our general claim was that civil servants engaged more closely in interaction with ministers are more likely to give precedence to political responsiveness when they have to balance the direct or anticipated demands of ministers against the legal and other normative constraints on executive authority. These constraints are part of an elaborate set of norms that have been made explicit during recent decades.

Three hypotheses were tested on a unique data set where central government bureaucrats responded to vignettes confronting them with dilemmas where they had to decide whether they would follow the minister or would raise their concerns, eventually refuse to follow orders. So, it was hypothesized that

higher civil servants, civil servants in ministerial departments, and generalist civil servants were more inclined to be responsive than their rank-and-file colleagues, civil servants in agencies and specialist civil servants.

An ordered logistic regression reveals a complex, but theoretically interesting pattern of responses. The analysis clearly lends some support for the hypotheses. However, civil servants differentiate their response in two interesting ways. First, their response depends strongly on which norms are called upon. Second, they also differentiate between the situations described in the vignettes. Civil servants simply apply considerable discretion where they consider the specific problem described in the vignettes.

There is marked difference between their handling of the duty to respect legality and their duty to apply professional standards. When legality is on the test the hypotheses do not hold. Higher civil servants, departmental staff, and generalists are more prone to warn against what they see as a violation of the law. Still, when professional standards are put to a test the hypotheses hold. The duty to speak the truth is also an integral part of the norms. However, even if the response pattern is quite close to that for professional standards, the analysis shows that truthfulness does not release the same patterned response as do the legality and professional standards norms.

However, civil servants apply considerable discretion when responding to the dilemmas set up in the vignettes. This, is most clearly seen in the distinction they make between the misuse of powers case described in one of the vignettes compared to both a vignette where the scope of the minister's authority to legislate by decree was at issue and a vignette where the question was whether a government bill might risk being overturned by the European Court of Justice. Higher civil servants, departmental staff, and generalists took this much more seriously than their colleagues. They also took it much more seriously than was the case with the latter cases where legality was at issue. A particularly important result here is that while civil servants in agencies and specialist civil servants are not much preoccupied with legal concerns, they consistently call upon professional standards when asked to balance political responsiveness against norm of correct civil service behavior.

The vignette analysis presumes that civil servants are familiar with the norms for correct civil service behavior and can apply the norms when confronted with the dilemmas they may involve. This is hardly the case. More than four fifths of respondents turn their immediate superior to discuss how to cope with the situation. But even within this predominant pattern organizational characteristics turn out to be important. Once more we see that superiors, departmental staff and generalists being more self-relying than rank-and-file case officers, agency officials, and specialists.

Even if the results are based on an analysis of Danish civil servants in a few ministries their general relevance is high. They add new insights to our knowledge of the interaction between political executives and civil servants. Three insights are of particular interest.

First, going back to the seminal study of bureaucratic role conceptions initiated by Aberbach, Putnam, and Rockman and to some extent repeated since the 1970's the role image of the political bureaucrat emerged as empirically quite dominant. This political bureaucrat works in intimate interaction with

political executives assisting them in both substantiating their policies and getting through with it. This analysis, based on quasi-behavioral data, confirms that this political bureaucrat is alive, even in a pure merit civil service. However, an important part played by these political bureaucrats is to include normative constraints into their provision of advice and in doing this also to exercise situational discretion.⁴

Second, a parallel research track has focused on politicization of the civil service with politicization defined as “the substitution of political criteria for merit-based criteria in the selection, retention, promotion, rewards, and disciplining of members of the public service” (Peters and Pierre 2004:2). As mentioned above Denmark has in a comparatively high degree upheld a pure merit civil service. This analysis brings further evidence for the case of functional politicization where merit civil servants stretch far in providing their political principals with both policy and political-tactical advice (Christensen 2012; Christiansen, Niklasson, Öberg 2016; Hustedt and Salomonsen 2014).

Third, while organizational features of central government has not played any important role in these research traditions Norwegian political scientists with their combined interest in political science and organization theory have shown how the formal organization defines relatively distinct roles for civil servants and also how socialization into these roles to a very high extent influence the role conceptions of individual civil servants. The result is that in general civil servants experience little political uncertainty in performing their roles and rare conflicts with their political executives (Lægreid and Olsen 1978; T. Christensen et al. 2010: 109-126). Our analysis, based as it is on data more closely mirroring bureaucratic behavior, brings unequivocal support for paying much more attention to the formal organization when studying the relationship between civil servants and politicians.

Principal-agent theory claims that a serious agency problem limits the de facto power of political principals to effectively set through their political program. However, this position has been disputed by political scientists Gary Miller and Andrew Miller. Their competing claim is that there exists a principal's problem that to an equally important extent threatens good governance. Still, even if they don't deny the existence of an agency problem their argument is that with a merit civil service organized along Weberian lines it is possible to strike a balance between political principals' legitimate demand for political responsiveness and the normative constraints that apply to political and administrative authority in a democratic Rechtsstaat. With our analysis we have demonstrated two important things: First, much is to be gained in our understanding of executive governance when a principal-agent approach is combined with a principal's approach in double principal-agency theory. Second, we have empirically demonstrated how the formal organization mediates civil servants' management of the dilemmas that arise when their political loyalty is confronted with the legal and other normative constraints that have been devised to protect the democratic institutions and the Rechtsstaat against political usurpation.

⁴ An extensive review of this literature is found in Smith and Christensen 2016.

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KODEX VII SEVEN KEY DUTIES FOR CIVIL SERVANTS IN CENTRAL GOVERNMENT.

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