

# The Future of Governance

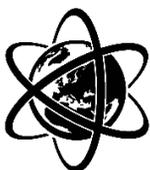
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Taco Brandsen ■ Marc Holzer  
EDITORS

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Selected Papers from the  
Fifth Transatlantic Dialogue  
on Public Administration

**GEAP/IISA**  
Groupe Européen  
pour l'Administration Publique



**EGPA/IIAS**  
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Selected Papers from the Fifth Transatlantic Dialogue on Public Administration

**5TAD ■ ■ ■ FIFTH TRANSATLANTIC DIALOGUE**

11-13 June 2009 ■ Washington, D.C.

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## **EDITORS:**

Taco Brandsen, Radboud University Nijmegen

Marc Holzer, Rutgers University-Newark

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Published by the National Center for Public Performance (NCPP)  
on behalf of the European Group for Public Administration (EGPA)  
and the American Society for Public Administration (ASPA).

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ISBN: 978-0-942942-21-7



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National Center for Public Performance (NCPP)  
School of Public Affairs and Administration (SPAA)  
Rutgers, The State University of New Jersey, at Newark  
Center for Urban and Public Service  
111 Washington Street  
Newark, New Jersey, 07102

<http://spaa.newark.rutgers.edu>

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# The Future of Governance in Europe and the U.S.

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**Taco Brandsen**, Department of Political Science and Public Administration,  
Nijmegen School of Management, Radboud University Nijmegen

**Marc Holzer**, School of Public Affairs and Administration, Rutgers University-Newark

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**T**his edited volume is an outcome of the 5th Transatlantic Dialogue, held in Washington on June 11-13, 2009. This conference continued the successful series of forums that have previously been hosted at Leuven (2005, 2006), Delaware (2007) and Milan (2008). This initiative is a joint effort of the European Group of Public Administration (EGPA) and the American Society for Public Administration (ASPA), with the support of the ASPA-EGPA Secretariat at the School of Public Affairs and Administration, Rutgers University-Campus at Newark. Its aim is to produce small, high-quality conferences that raise the bar in public administration research and reinforce collaboration between the European and North American associations.

The theme of the 2009 conference, “The Future of Governance in Europe and the U.S.,” addressed the emergence of new forms of governance that have become key topics in recent public administration research. Governments increasingly deliver public services in collaboration with business and not-for-profit organizations. Technological innovations and privatization have encouraged citizens to become more active as consumers and co-producers of services. These developments reflect back upon governments and raises basic issues of legitimacy, accountability and control.

The term ‘governance’ has not only become a central notion in our discipline, but has also come to represent a wide variety of meanings. While no one book can hope to incorporate this rich diversity, we have singled out six key themes that stand at the forefront of progress in public administration research. Each part of this book represents one of these themes.

## PART 1

Part 1 addresses the question whether, in an era of declining public trust, the public sector can reestablish its legitimacy. Although the recent financial crisis has reaffirmed the importance of government, the long-term trend

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has been one of declining trust. Trust is the “glue” or cement for governing societies, conferring upon government its basic source of power. In contrast, dissatisfaction, disenchantment, distrust can undermine that legitimacy. A lack of trust may, therefore, undermine the ability of governments to perform.

## **PART 2**

Part 2 discusses government’s long-term commitments, a topic that has become even more salient in the current economic downturn. Governments in fact face various simultaneous commitments, which require a delicate balancing act. They give rise to tensions such as a short-term versus long-term orientation; balancing the welfare state with fiscal responsibility; and realistic expectations versus instant gratification.

## **PART 3**

Part 3 assesses the contribution of other disciplines to the debate on governance. Governance has of course been studied not only by public administration scholars, but also by researchers from several other disciplines such as finance, economics, management, political science and sociology. Bringing these various insights is essential to future theoretical development. The contributions to this theme address themes such as decision-making models, the implications of new public management based reforms, and issue framing and sense making.

## **PART 4**

Part 4 discusses the evolving concepts of accountability for governmental and non-governmental actors. These raise issues such as challenges in implementing transparency initiatives, conflicts between reform initiatives and agency goals, the effects of institutional changes on accountability requirements and the lessons from government interventions. The contributions to this section testify to the complex dynamics at play between transparency, accountability and governance.

## **PART 5**

Part 5 examines how emerging technologies transform governance and give rise to new forms of public deliberation and collaboration, the implications of which need to be further explored. These new forms include the use of web-based tools for citizen and agency deliberation, and co-production on public policy issues and debates, which are addressed by the papers in this section.

## **PART 6**

Part 6 concludes the book with an analysis of collaboration, hybrid governance and networking. Interorganizational collaboration and joined-up government not only raise interesting questions of policy design, but also challenge our discipline to develop new theories adequate to capture the complex and shifting nature of newly emerging arrangements.

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## ACKNOWLEDGEMENTS

We thank Sheela Pandey and Madelene Perez for their invaluable contribution to the conference and the book. Of course, none of this would have been possible without the support of the ASPA and EGPA secretariats. Finally, we are grateful to participants for maintaining the tradition of lively and high-quality TAD conferences.

## ABOUT THE EDITORS

**Taco Brandsen** is Associate Professor at the Department of Political Science & Public Administration at Radboud University Nijmegen, The Netherlands. Over the past years, his research has focused on issues of governance, service delivery and urban regeneration. Recently, he has initiated the cross-national comparative project Welfare Innovation at the Local level (WILCO), funded by the European Union, and set up and directed the International Master Programme on the Coordination of Transition (IMPACT). His latest publications include *Co-production, the Third Sector and the Delivery of Public Services* (with Victor Pestoff, 2008) and *Civicness in the Governance and Delivery of Social Services* (with Paul Dekker and Adalbert Evers, 2010). He is co-director of the EGPA Study Group on the Public Governance of Societal Sectors and formerly Secretary of the EGPA Study Group on the Third Sector. In 2009, he was the European co-chair of the 5th Transatlantic Dialogue in Washington DC.

*Contact information:* Taco Brandsen; Nijmegen School of Management; Department of Political Science & Public Administration; Radboud University Nijmegen; PO Box 9108 6500 HK; Nijmegen, The Netherlands; t.brandsen@fm.ru.nl; phone: + 31 24 36 11973

**Marc Holzer** (M.P.A., Ph.D. University of Michigan) is Dean of the School of Public Affairs and Administration and Board of Governors Professor of Public Affairs and Administration at Rutgers University's Newark Campus. He is a Fellow of the National Academy of Public Administration and of the World Academy of Productivity Science.

Since 1975 he has directed the National Center for Public Performance, and he is the founder and Editor-in-Chief of the journals *Public Performance and Management Review* and *Public Voices*, and is the co-founder/co-editor of the *Chinese Public Administration Review*. He has also recently founded the Public Performance Measurement and Reporting Network. His recent publications include *Performance Measurement; Citizen-Driven Government Performance, the Public Productivity Handbook; Restoring Trust in Government: The Potential of Digital Citizen Participation*, and *Building Good Governance: Reforms in Seoul*. He has published well over one hundred books, monographs, chapters and articles.

*Contact information:* Marc Holzer, PhD; Dean and Board of Governors Professor; School of Public Affairs and Administration (SPAA); Rutgers University-Newark; Center for Urban and Public Service; 111 Washington Street; Newark, NJ 07102; mholzer@andromeda.rutgers.edu; phone: 973-353-5268; fax: 973-353-5907



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**■ PART 1 . . . . . 1**  
**Can the Public Sector Reestablish its Legitimacy?**

**CHAPTER 1 . . . . . 3**  
**Why a Rational Move Toward “Governance” May Destroy the Soul of Public Administration:  
 Or Why Governance Isn’t Concerned with Government Anymore**  
 Matthew R. Fairholm

---

**■ PART 2 . . . . . 19**  
**Financing Governance: Managing Commitments over the Long Term**

**CHAPTER 2 . . . . . 21**  
**No Pay - No Cure! The Evolution of Cost Containment Policies in Dutch Healthcare**  
 Jan-Kees Helderma and Patrick Jeurissen

**CHAPTER 3 . . . . . 37**  
**Local Collaborative Public Management and Local Performance in the UK**  
 Peter Watt

---

**■ PART 3 . . . . . 53**  
**Public Administration and Multidisciplinarity:  
 The Contribution of Other Disciplines to the Debate on Governance**

**CHAPTER 4 . . . . . 57**  
**The Change and Reform of the Civil Services in the EU of 27**  
 Christoph Demmke, Thomas Henökl, and Timo Moilanen

**CHAPTER 5 . . . . . 101**  
**Using Research into Valuing to Enhance the Value of Rational Initiatives to Improve Performance**  
 George Julnes

**CHAPTER 6 . . . . . 117**  
**Policy Regimes and Governance: Perspectives from Political Science**  
 Ashley E. Jochim and Peter J. May

**CHAPTER 7 . . . . . 135**  
**Constructing Meaning: Looking at Examples of Dialogue in Citizens Forums  
 and in Inherently Governmental Policy**  
 Larkin Dudley

---

<b>■ PART 4</b> .....	<b>149</b>
<b>Transparency and Accountability in Governance: Evolving Concepts of Accountability for Governmental and Non-Governmental Actors</b>	
<b>CHAPTER 8</b> .....	<b>151</b>
<b>The Swiss Federal Law on Transparency: Much Ado about Nothing?</b>	
Sarah Holsen and Martial Pasquier	
<b>CHAPTER 9</b> .....	<b>169</b>
<b>Transparency and Accountability in Economic Development Efforts: Causes with Consequences</b>	
Jeremy L. Hall	
<b>CHAPTER 10</b> .....	<b>187</b>
<b>Changing Modes of Official Accountability in the UK</b>	
Karen Johnston Miller, Duncan McTavish, and Robert Pyper	
<b>CHAPTER 11</b> .....	<b>207</b>
<b>Accountability Pressures and Financial Rescue Plans: Insights from the US and UK Bailout Proposals</b>	
Eric A. Scorsone	
<b>■ PART 5</b> .....	<b>229</b>
<b>How Will Emerging Technologies Transform Governance: Emergent Forms of Public Deliberation and Collaboration</b>	
<b>CHAPTER 12</b> .....	<b>231</b>
<b>User and Community Co-Production of Public Services and Public Policies through Collective Decision-Making: the Role of Emerging Technologies</b>	
Tony Bovaird and Elke Loeffler	
<b>CHAPTER 13</b> .....	<b>253</b>
<b>Agency-Based and Agency-Related Blogs as Public Forums</b>	
Julianne G. Mahler and Priscilla M. Regan	
<b>■ PART 6</b> .....	<b>275</b>
<b>Collaboration, Hybrid Governance and Networking</b>	
<b>CHAPTER 14</b> .....	<b>277</b>
<b>Gordian Knot or Integrated Theory? Critical Conceptual Considerations for Governance Network Analysis</b>	
Christopher Koliba, Jack Meek, and Asim Zia	
<b>CHAPTER 15</b> .....	<b>301</b>
<b>Contexts, Hybrids and Network Governance: A Comparison of Three Case-studies in Infrastructure Governance</b>	
Joop Koppenjan, Myrna Mandell, Robyn Keast, and Kerry Brown	



# Can the Public Sector Reestablish its Legitimacy?

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In an era of declining public trust, the first section addresses the important question whether the public sector can reestablish its legitimacy (Fung, 2006; Koppell, 2008; Lynn, 2009). This legitimacy refers to a general acceptance/support/acquiescence of the government (and its public servants) by the people. It is affected by a number of factors. These include “how” public services are delivered, the performance of public sector agencies in delivering those services, the extent to which the government and its public service are “trusted” by the people, the level and type of participation by citizens, and the flow of information from government to its citizens.

Trust in government increases a sense of public sector legitimacy (Goodsell, 2006). Trust is the “glue” or cement for governing societies, conferring upon government its basic source of power. In contrast, dissatisfaction, disenchantment, distrust can undermine that legitimacy. A lack of trust may, therefore, undermine the ability of governments to perform. Governments have worked frantically to explore ways to restore legitimacy. Yet, some approaches in the public sector may actually decrease the public’s sense of legitimacy. The increased use of nongovernmental actors (both the private sector and NGOs) to deliver public services has given rise to the concept of “governance.” In addition there are questions regarding the role of government. Is it changing to one of “conductor” and “mediator” between the nongovernmental actors and citizens?

Fairholm argues that the concept of “governance” gives us the language of change and “legitimizes” a movement away from public administrators as benevolent public servant working within and protecting regime values. Instead public actors now are involved in shaping and guiding the structures and purposes of social collectivities. The author makes the case that this shift in thinking may ignore important governmental and constitutional principles and values (e.g., in the United States, the concept of representative democracy). Fairholm calls for the need to be cognizant of both the “body” (technique, process, activity) and the “spirit” (purpose,

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meaning, values) of public service. While much of the New Public Management movement was designed to “restore” trust in government through better productivity, the blurring of the distinction between the public and private sector may paradoxically create more distrust, as citizens are confused as to who represents their interest to government.

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## WORKSHOP CO-CHAIRS:

**Jed Kee**, Trachtenberg School of Public Policy and Public Administration,  
George Washington University, Washington, D.C., U.S.A., [jedkee@gwu.edu](mailto:jedkee@gwu.edu)

**Steven van de Walle**, Erasmus University Rotterdam, Faculty of Social Sciences,  
Department of Public Administration, Rotterdam, The Netherlands, [vandewalle@fsw.eur.nl](mailto:vandewalle@fsw.eur.nl)

# Why a Rational Move Toward “Governance” May Destroy the Soul of Public Administration: Or Why Governance Isn’t Concerned with Government Anymore

Matthew R. Fairholm, University of South Dakota

## ABSTRACT

This paper is an initial exploration into how governance may cause American public servants to no longer be concerned about the foundations of Constitutional government they have traditionally (at least purportedly) tried to protect and administer. It presents definitional elements of governance, the impact of those elements on foundational principles of American government, and tries to underscore significant areas of further research, analysis, and supposition by both scholar and practitioner about what American public administration should and should not do. Three broad categories outlining governance definitions are presented with corresponding implications for American Constitutional government that may follow from those definitions of governance: governance reshapes government institutions and processes; governance repositions government institutions and processes; and governance replaces government institutions and processes. It is noted that governance gives us the language of change and legitimizes a movement away from American public administrators as benevolent public servants working within and protecting regime values/constructs, towards public actors involved in shaping and guiding the structures and purposes of almost any and all social collectivities. The paper ends by surmising that governance has no need to ground itself in foundational principles, that governance has no intention to ground itself in foundational principles, and that governance has no way to ground itself in foundational principles. Therefore, embracing the governance context in American Public Administration as a rational way of legitimizing the field or expanding its influence in society may actually move public servants away from a historical embrace of Constitutional and foundational principles of American government. Public administrators may then become merely another set of powerful, expert social actors unbounded by any sense of Constitutional or political restraint.

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## INTRODUCTION

This paper attempts to uncover and explore the implications of the term and notion of “governance” as it may impact Public Administration’s attention to Constitutional frameworks and principles. Discussing and defining governance is not a new effort (Frederickson, 1997; Frederickson & Smith, 2003; Hill, 1991; Krahnmann, 2003; Lowery, 1993; Peters & Pierre, 1998; Rhodes, 1996). The intent in this paper is to show how governance may cause American public servants to no longer be concerned about the foundations of Constitutional government they purportedly and traditionally tried to serve, protect and administer. New exigencies are moving public administrators away from government concerns towards public concerns writ large and the Constitution may be the most dramatic victim. In one sense, the term governance is about trying to maintain some legitimate role for Public Administration because it can be argued Public Administration is always trying to figure out its role. In another sense, the term governance is used to expand or perhaps simply better explain what it is that public administrators do in the modern world. While often couched in terms of the field’s evolution or the exposing of the recognition of the field’s current state, governance language may also be an attempt to figure out whether non-profits and private concerns are doing public administration or not or whether current processes and structures of our republic are up to the task of governing in today’s world. That may be a crucial calculus because we in the field may still not really know what Public Administration really is at its core.

Is governance about service delivery in new and collaborative ways; about interorganizational or intersectoral networks of socially relevant services allowing; about borderless government where jurisdictional boundaries are found to be irrelevant and frankly a hindrance to good service delivery? Is government about delivering services to the public; about protecting the essential identities and values of a collective; about serving the public interest? Explorations of these types of questions may reveal that governance, as for example, theory (Frederickson, 1997) or as a research construct (Lynn, 2001), may simply be a rational response to a quest for increased influence and legitimacy in society no matter the cost to identity and self-discipline as a field. Such a response may indeed lead to a loss of integrity as a field and a lack of purpose and meaning about the field’s role in society, especially the field’s connection to Constitutional ideals (see Hart, 1987; Nigro & Richardson, 1992; Rohr, 1986). These essential, even soul-searching, questions about expansion, evolution, collaboration, re-identification and Public Administration, then, are the material of this exploration paper.

## LEGITIMACY: CAN WE EVER GET PASSED IT?

Questions of the legitimacy of the field are a recurrent theme in the literature and conferences of American public administration. That the field of study exists and has survived in one form or another for a hundred years (or so) is enough evidence that some legitimacy has been achieved. However, more than just existence, the questions of legitimacy might more accurately be defined as questions of purpose, of importance, of placement in society. That Public Administration is legitimate is a less important question (as it perhaps has been answered) than the question of what exactly *it* is. Certainly one cannot claim legitimacy without claiming some

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definition of the field that is legitimizing. However, while we continue to define the field, there has been much literature over the years separating this field of study from other fields of study. At issue is that practitioners and theorists alike cannot agree on the factors that separate, distinguish, and unify.

Interdisciplinarity is the plight of Public Administration. Hence, concrete separation of theory and practice is more difficult. It is also the genesis of the many approaches taken to create definitions, theories, and practices. At heart then, is to figure out the soul of public administration. Public administration has body (technique, procedures, forms, means) and spirit (purpose, meaning, ethic, ends). Perhaps together, the body and spirit of public administration make up its soul. It is in the defining of the body and the spirit that we find ourselves having legitimacy debates and so the soul suffers. Since governance theory seems to be an attempt to further refine a definition of Public Administration, the effort sits squarely in the realm of soul-searching to include understanding body (technique and activity) and spirit (purpose and meaning).

## **QUICK REVIEW OF GOVERNANCE IDEAS**

Over the last decades, the term governance has emerged in the literature. While defined in multiple ways, many conclude it is short hand for collaboration or innovative quality service delivery (see Rhodes, 1996), and others use the term to describe more bureaucratically-controlled government (see Hill, 1991; Lowery, 1993). Perhaps the term governance really is a substitute for the term public administration caused by constant soul-searching in the field which has led to more confusion and less resoluteness. Reviewing the issues of governance may allow us to understand the body and spirit of Public Administration more completely. The various views of governance over time deal with both body and spirit aspects of the field. Perhaps, however, such a review may cause even more existential questioning.

From Frederickson's attempts to define governance (see Frederickson, 1997; Frederickson & Smith, 2003), or at least to provide an umbrella under which many definitions may fall, this quote might be an appropriate way to begin: "public administration has always been about governance, not merely management. The great scholars of our field, as well as our leading role models from practice, have always emphasized the broader issues of governance to include the Constitution, the interplay of democratic institutions, the well-being of the community, the public interest, and the morality of administrative actions" (1997, p. 93). Perhaps a distinction here too is made between the body (management) and something more of the field. The field concerns itself with broader issues and those broader issues help us see that "governance" is and always has been lurking within the questions of legitimacy, practice, and theory. Heinrich and Lynn (2000) suggest a definition that is broad enough to capture these ideas, when they defined governance "as the regimes of laws, administrative rules, judicial rulings, and practices that constrain, prescribe, and enable government activity, where such activity is broadly defined as the production and delivery of publicly supported goods and services" (p. 210; see also Lynn, Heinrich, & Hill, 2000).

To give some clarity or detail to that definition, Heinrich and Lynn (2000) suggest governance functions on three different levels: first, the institutional level which is a set of formal and informal rules which operate

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along with hierarchies and procedures, focusing on public policy making; second, the organizational level or managerial level including the bureaus, departments and councils, concerned mainly with the management of the public policy; and lastly, the technical level where the public policy is actually carried out. This helpful categorization allows us to see rather clearly what we often ignore: governance is really about public policy, perhaps, not about public administration per se.

This is reinforced by John, et al (1994) who said “especially at the national level, most of the advocates for new governance are public policy specialists rather than students of public administration, and they have come to new governance out of frustration about the implementation of policy ideas in their fields. As a consequence, ideas about how to reinvent the federal government are often framed in terms like human service integration, school reform, or "Third Wave" economic development rather than as cross-cutting ideas about public administration” (p. 170). Governance emerges as a major redefinition of or perhaps challenge to the field. In focusing mostly on techniques of public policy formulation and implementation and public service delivery, the traditional purpose and intent of the field of Public Administration as reviewed in Frederickson’s quote above begins to be pushed to the back at best or in a more extreme way redefined entirely. John, et al (1994) begin to identify elements of governance and use the language of public policy to help them do it. They focus on four main ideas that should help define governance: who participates in policy making and implementation, the purposes of public activity including the ultimate goals, the means through which agencies of government (or other entities) accomplish those ends, and the politics that helps decide the previous things, suggesting that governance is more about a politics of engagement rather than a politics of announcement.

Much earlier, Bailey (1980) introduced what are not the full-blown governance notions of today, but perhaps a kernel of the movement when he offered suggestions to improve “Federal Governance.” His remedy, which is illustrative of the time, involved a stronger presidential presence and a reinforced centralization of authority grounded in Article II of the Constitution. So in this sense, governance was not a replacement of traditional governmental structures, just a reprioritizing and reemphasizing of them. However, in his argument is found a list of conditions that called forth such reforms. These conditions exist still today and now push us towards an even more dramatic rethinking of governance. In summary they involved:

- Increased stakes and risks of government decisions,
- Science and technology issues in almost all facets of social policy giving rise to more moral and philosophical concerns,
- Public spending dimensions that require a focus on economic principles,
- People problems in the bureaucracy,
- Shorter decision intervals and reaction times to meet citizen demands, even as we rely more and more on information systems and technology,
- Relentless social criticism and dissatisfactions with quality of life and political leadership, and
- Sheer growth in federal grant programs and a drastically changed view and practice of federalism.

These conditions and others that more contemporary thinkers can generate are the fodder for the gover-

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nance movement. Not all views of governance, then, are couched in public policy terms. Some are broader in scope. Krahmman (2003) admits to the limited usefulness of the term governance because it is defined in many different ways, emerging from many different agendas. Her analysis and definitional work focuses on similarities across the definitions and ultimately concludes that governance is about the fragmentation of political authority. A very useful definitional work on governance by Peters and Pierre (1998) reviews much of the European literature, applies it to American public administration, and offers “the debate over governance may simply be the academic community catching up with the reality of the public sector in the contemporary world” (p. 240). They acknowledge, though, that governance without government is a serious idea with serious implications (see also Rhodes, 1996). Peters and Pierre conclude from part of their analysis that, “taken together these elements [of governance] would amount to a prescription for steering society through less direct means and weakening the power of the State to control policy. These changes would, in turn, have implications for the meaning of democracy in the contemporary political system” (p. 225).

The paper will describe three different claims that governance may now be making in an effort to clearer on what the development of “governance” in Public Administration may mean. All three are related, but differences are sufficient enough to make some distinctions. Which of the claims prevails in the end or whether a combination should be encouraged is not the topic of this current effort. The three claims include a notion that governance is nothing less than a redefinition of democracy and democratic processes to limit or supplant the impact of formal government, a notion that governance is simply a way to explain better, more efficient way of doing the government’s business, and a notion that governance is describing a new way of conceiving the government’s business in that traditional government structures are relatively irrelevant.

## **CLAIM 1: MORE THAN JUST MANAGEMENT OF (THIS TRADITIONAL) GOVERNMENT - A SPIRIT OF THE FIELD ISSUE**

This is the most bold and perhaps provocative claim and in sequence may better be placed last. However, for the sake of boldness and because it is squarely a “spirit” issue for the field it comes first. In this claim governance is described as something beyond the traditional, “old school” ideas of public administration as managing government, or the execution of public law (see Moe, 1997; Moe & Gilmour, 1995). Rather governance encompasses the delivery of public goods and services in public ways involving the public like never before and using various mechanisms in society at large to make it all happen. What is public is up for debate, is up for expansion, and is up for implementation by whoever thinks they should do it and can do it better - and “the doing” is ripe for mergings, partnerships, and blurring of lines. Such a definition involves the ideas of issue networks, new forms of public action like partnership arrangements with nongovernmental actors, supervision of proxies who perform direct service delivery, and a recognition that what is public and what is a public good and/or service is not always controlled or controllable by the government. Hence Public Administration must be involved in shaping and guiding and partnering with multiple social entities to make sure traditional “government stuff” is done and done well, and recognize that traditional government stuff is not all that the field

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has to be concerned with. Hence public administrators are found in sectors and entities other than governmental. Formal (even informal) governmental principles, processes and institutions that reflect our Constitutional republic are less important if important at all.

But a natural evolution of practical changes over the years into government by “self-organizing, interorganizational networks” (Rhodes, 1996, p. 660) is only part of the story. In fact, it may not be the story at all in this claim of governance. Some researchers see a more fundamental shift, a profound rethinking of social activity underlying these networks and collaborations across sectors. Dillon and Valentine (2002) explain this more nuanced, but deeply significant view of governance when they state,

“We would argue instead that it [governance] marks a change in the correlation of power relations and the conduct of politics; one, moreover, that both foregrounds culture and problematizes the critical political project of Cultural Studies to the degree that it transforms the operations of power and politics. Governance is, for example, an organizational form that challenges the operation of hierarchical modes of power understood as the necessary outcome of the psychological and material dispositions of individual and collective actors (c.f. modern rationalist Weberian and market accounts of hierarchies) and their common assumption of a clear distinction between the public state sector and the private realm of civil society. One significant outcome of governmentalization has, for example, been the radical erosion of both the formal and the practical distinctions once made between politics and the private realm, and thus of the ethical dispositions through which these can be identified” (p. 6).

Dillon and Valentine are most influenced by the experience of Great Britain, and the international or global dimension of the definitional work in governance is significant. This global rethinking is critical to definitional work on governance. Kettl (2000) calling for a rethinking of how we educate public servants who will work in and outside of government, contends that governance has emerged because of two major trends: devolution and globalization. Provocative because seeming opposites, these two trends suggest first, government (especially local governments) is too rigid and cash and resource strapped to be able to handle the increased demands of government service delivery, so they rationally choose to enter into contracts and partnerships with private and nonprofit entities to do that service delivery; and second, that the increased influence of transnational corporations and the global market place allow for traditional government to be overcome or surpassed by the interconnectedness of people.

To the globalization argument we can add O'Toole and Hanf (2002) who discussed the emergence of not just governance in America but a global governance. They suggest “the multiple forms of transnational cooperation that have emerged both limit national ‘autonomy’ and also facilitate effective national action” (p. 159). They discuss how governmental services and programs have been delivered more and more by nongovernmental organizations (NGOs) and point out “international NGOs ... have become particularly visible and sometimes influential on transnational issues, including the development and execution of agreements. Many INGOs have become aware of the growing importance of international agreements and have become active participants in the negotiations” (p. 165). Such extra-governmental structures lead Kettl to conclude that “globalization has sparked an emerging system of governance without government, management, or control” (2000,

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p. 492). Werlin (2003) even suggests that smaller, poorer nations of the world would benefit not from enhancing their governmental structures, but by focusing on governance capacity to harness the power of the global economy and non-governmental arrangements for public service delivery.

Hence a larger focus on the private sector, non profits and non-governmental entities is logical in a world of governance. Denhardt & Denhardt, (2006) suggest that such entities “must be considered not only for their part in implementing public programs, but also their growing influence in raising issues to the public agenda, lobbying for particular policy alternatives, and guiding political and administrative decision making” (p. 108). It is the very nature of the increased participation as described that forms a foundation or illustrates the essence of governance in this section. The traditional branches of government and processes therein are not so much being subsumed by a growing civic involvement, but are being overshadowed by the power of collaborative networks, policy webs, and multi-sector partnerships. In many ways this view of governance relates to Moulaert and Nussbaumer’s (2005) explication of the social innovation movement. Such innovation depends upon twin pillars of “institutional innovation (innovation in social relations, innovations in governance including empowerment dynamics) and innovation in the sense of the social economy – i.e. satisfaction of various needs in local communities” (p. 2071).

Vigoda (2002) describes how a focus on new ways to both recognize and engage citizens and citizen participation changes the very nature of public administrator interaction with “clienteles” and is shaping the ideas of governance (see also Stivers, 1994). This approach is “more alert to the need to encourage a flexible, sensitive, and dynamic public sector” (Vigoda, 2002, p. 528). It recognizes that because direct citizen participation often is counter to bureaucratic norms of traditional Public Administration, the engagement of citizens as people and as participants in collective action is actually changing the practice of public administration. Quoting King, Feltey, and Susel (1998) in their description of traditional public administration’s reluctance to embrace citizen participation, Vigoda (2002) makes the bold statement “thus, the new generation of public administration will need a different spirit, perhaps a combination of communitarianism, institutionalism, and energism - but in any case, one that successfully fosters mutual effort. This movement from a “they” spirit to a “we” spirit is perhaps the most important mission of public administration in our era” (p. 538). Reinforcing this idea are various citizen led groups, connected by technology and mutual interests, to deal with the social issues of the day despite, or in spite, of formal governmental activity. An example may be the Democracy 2.0 project which, “has taken the feeling of exclusion that members of the millennial generation have felt from the political process and created a network of social entrepreneurs who are working to institutionalize a citizen-centered approach to solving the problems in American government” (Gagnier, 2008, p. 32).

Governance, then, really is about non-governmental or extra-governmental, or supra-governmental processes of interaction (see Piper, 2007). The public administration required then is not one of government management, but one of collaboration, pragmatic deliberation, and the creation of services and service delivery mechanisms that often expand or go beyond typical government responses and traditional democratic structures and processes. It allows for an increased role of public service delivery in the lives of people in general

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and an increased role of public administrators helping in that delivery (see Wolfish & Smith, 2000), but there is no necessary tie to traditional Constitutional government ethos or essentials.

## **CLAIM 2: PUBLIC MANAGEMENT INNOVATION - A BODY OF THE FIELD ISSUE**

Closely related but surprisingly different, is the claim that governance is the new way of doing government business. In this claim, governance is about governmental stuff, but it is about providing traditional government service in non traditional ways (see Dillman, 1989). Here we talk of contracting out, innovative entrepreneurial government, third sector service delivery, and even the hollow state. Here too, we take on the issues of public and private sector differences, especially the perceived differences in capacity for efficiency, responsiveness, and innovation. Once those differences are understood, they demand that the two work together in public-private partnerships in the performance of government responsibilities or nothing would get done at all (see Schaeffer & Loveridge, 2002; Teisman & Klijn, 2002). As Peters and Pierre note, “it appears that whatever the State does it does poorly, while the private sector (for profit and not for profit) is more effective” (1998, p. 225).

Such a position grounds the demand for governance to overcome the weaknesses of government. A concern is raised by Haque (2001) that such a reliance on public management innovation is taking the public service out of public service delivery. However, this view of governance answers that the savior is the private sector (here defined as for profit and not for profit); those entities that are more agile, more connected to the people and their needs, more attuned to changes in preferences and technologies, and more capable of reaching more people in more profound ways, and frankly more efficiently.

Here we have a connection with the previous section in that networks and collaboration are key. The difference is that the impetus for such interaction still comes from the results of governmental processes and institutions. This view is complimentary of the New Public Management movement, where strong, entrepreneurial government agents involve themselves with non-government agents to perform what government has been asked to do even if the request wasn't very clear or didn't take into account all of the nuances and necessities of the customers in its mandate of implementation. Contracting reforms and innovations are central and the role of the executive and the activities of measuring, and hence improving, interactions with the citizen-customer and (re)allocating resources to maximize the usefulness of collaborative networks become immediately relevant (see McGuire, 2002; Robinson, 1998; Vincent-Jones, 1998; Vogelsang-Coombs & Miller, 1999). An increased regulatory state is sometimes the result of this rethinking because regulatory functions take the public administrators out of direct service delivery but maintain for themselves an active role in shaping the services offered. Such an increase in the regulatory state is also an impetus of growth in innovative governance structures (see Majone, 1997). Certainly, the traditional bureaucrat has a role in this view of governance and begin to interact more and in more depth with nongovernmental providers.

Feldman and Khademian (2002) discuss elements of and issues surrounding the quality of the relationships between the collaborators. They state “public managers play a key role in determining the nature (who partici-

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pates and how) and quality (the impact of participants on out-comes) of the relationships” (p. 551). They recommend that the public administrators need to be transparent in these collaborative relationships and need to continuously review the outcomes of the relationship. Notions of performance based management, performance measurement, outcome based contracting, and the like are, therefore, tools of the trade in governance as defined in this claim. Technology advancements, too, become both a catalyst and an excuse for new forms of interaction that impact social arrangements and interactions with government (see (Shriner, 1973).

In its simplest form, then, governance is privatization and may have smaller government in mind. As Denhardt and Denhardt (2006) reviewed, some of this move towards governance may be ideological in that government should be doing less. As they say, “some people simply felt that services should be provided by those outside the government wherever possible. But the movement has also been stimulated by recent restrictions on government spending and a resulting effort to find more efficient ways to conduct the public’s business” (p. 110). Considine and Lewis (1999) observe in a related comment that “this concern with new ways to organize public bureaucratic work overlaps with the widespread adoption of strategies of privatization, decentralization, and contracting-out..., notwithstanding the obvious conflict involved when policymakers attempt to improve public organizations while simultaneously proposing to sell or abolish them” (p. 468). Ironically, however, if the door was opened by an ideological desire for smaller government, it was swung wide by another ideology that government itself needs not to be restricted, but rather rethought entirely, freeing itself of the fetters of Constitutional framework, and republic ideals. Indeed, the partnerships between government entities and private concerns demand new ways of both analyzing the delivery of public goods and the defining the public goods themselves (see, for example, Frederickson & LaPorte, 2002; Mabbett & Bolderson, 1998; Mitchell & Shortell, 2000; Walker, 2002). Such arrangements may have the odd effect of not making government smaller, but rather increasing government’s sphere of influence – and perhaps with a government that looks much different than the one traditionally emerging from Constitutional frameworks.

The impact of governance as connected to the New Public Management principles is unknown fully, but certainly has the ear of practitioners and scholars alike. Not all are sympathetic (see Moe, 1994; Terry, 1995, 1998), but governance with claims presented in this section is a definite part of the field.

### **CLAIM 3: BORDERS MATTER NOT - A BODY AND SPIRIT OF THE FIELD ISSUE**

Frederickson offers another nuanced view of governance, similar to both outlined above, but distinct enough to allow for a new claim. Noting that governance may be “a word and concept that performs a kind of rhetorical distancing of public administration from politics, government, and bureaucracy” (1997, p. 78), he describes governance as “administrative conjunction” (see Frederickson and Smith, 2003). Administrative conjunction is “the array and character of horizontal formal and informal association between actors representing units in a networked public and the administrative behavior of those actors” (Frederickson, 1999, pg. 708). Frederickson and Smith (2003) state, “governance refers to the lateral and interinstitutional relations in administration in the context of the decline of sovereignty, the decreasing importance of jurisdictional bor-

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ders, and a general institutional fragmentation” (p. 222). Further, they offer this picture to help define this claim of governance, “if these hierarchical structures are thought of as buildings that house the politics of a given jurisdiction, then administrative conjunction can be thought of as a series of pedestrian bridges that connect these buildings. The bridges will not stay up if the buildings come down. And although any given bridge gives the impression of a small carrying capacity, considered as a whole the bridges are strong and capable network for coordination” (2003, p. 224).

While more encompassing than a mere explanation of regionalism or interjurisdictional cooperation, this view broadens the units of analyses in the political, policy, and administrative functions. Shadows of regionalism persist in this claim and some linkages to that literature are natural. Interestingly, Norris (2001) offers a counterpoint that regionalism is nearly impossible, but the argument is somewhat based on the fact the borders and jurisdictions and traditional democratic process and structures work against such borderless, regional cooperation and co-public service delivery. That is the very point that this claim of governance is trying to overcome.

Feldman and Khademian’s (2002) exploration of governance relates to this notion. Their argument is not specifically about the idea of borderless public structures per se, but they do focus on the significant role public administrators are asked to have and to take on consciously to reshape and rethink the relationships across jurisdictions. They state, “. . .relationship structures can be as important a result as policy outcomes for which public managers are held accountable. From this perspective, the public manager’s responsibility rests not only with policy outcomes, but also with making visible and continuously evaluating the appropriateness of the nature and quality of the relationship structures they create and recreate through their actions” (p. 545). Indeed, their argument is that such interaction in the policy world allows for and even encourages public administrators to be involved in influencing how *democracy* is carried out in the country, not just bureaucracy.

Again, this conception is linked to previous ones in that collaboration and networking seem to be the panacea for effective public action, and in that a rethinking of democracy and how to run it seems to be at the core. However, here the difference lies in the nature or structure of the collaboration (see Piper 2007). In this idea, governance is about dismantling and reshaping the government structures like borders, and jurisdictions. If dismantling is too string a word, it at least intends to ignore those structures, to work around them because they are troublesome to good service delivery at best and hindrances to running a democracy as mature as ours at worst.

## **TO BROADER ISSUES: CLAIMING GOVERNMENT AND THE CONSTITUTION MATTERS**

To be bold, from the above we can see that part of the movement toward governance theory and research is to divorce at least a little if not completely, the practice and theory of public administration from the traditional framework of Constitutional democracy, i.e., government. If governance is not about government per se, then should public administrators even care about the Constitutional principles that ground our governmental processes and structure? The question is significant. Defining public administration away from government foundations and into any and perhaps every social interaction or collectivity by using the term and notions of

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governance may help to legitimize the field (and expand our importance) in social circles, but it may also cause a crisis of conscience as we no longer find ourselves the guardian of and servants to the Constitutional principles from which the field emerged and to which the field used to be accountable.

Peters and Pierre (1998) remind us of some of the problems of accountability and governance when they talk of the role of elected officials within new governance structures: “If elected political leaders have such limited control over the public administration, is it reasonable to hold them accountable for the decisions and actions of the public service, and if elected officials should not be held accountable, who then is accountable?”(p. 228). It is indeed the notion of accountability that is a sticking point in governance ideas just as it has always been in traditional public administration ideas. Only this time, governance does not give us any normative grounding (like the Constitution and regime values do for public administration) to debate accountability issues. Rather it suggests (and with a small voice) the need to create grounding principles and a conscience of the field on the fly, as we go – pragmatic in the philosophical tradition – but not grounded in traditional (might I say time tested) Constitutional ideals. This is the dilemma (and potential concern) of governance: if not the Constitution, what governs the governors (especially if the governors are not accountable in traditional ways because they decided to go beyond or ignore the traditional mechanisms of political accountability)?

It may be rational to see the expansion of public administration into the theories and supposed practices of governance. Things change. People and how people organize change. What people *think* are rights and entitlements change. How services are viewed and delivered change. We servants of the public, the argument goes, should therefore change too and alter not only our methods of doing things (the technical body of things), but the very foundations of why we do them (the spirit of things). Governance gives us the language of change and legitimizes a movement away from public administrators as benevolent public servant working within and protecting regime values and constructs, towards public actors involved in shaping and guiding the structures and purposes of social collectivities.

It may not, however, be rational to try to understand public administration as more than government stuff, like the governance claims allow. As we try to, we may change what government is and does, and we may confuse the different functions and foundations of various sectors of society. Consequences of that activity may alter the application and nature of foundational principles, the roles and responsibilities of citizens, and the roles and constraints of civil servants. If the spirit of Public Administration involves the ideals inherent in running a Constitution by establishing and executing governmental functions within republic principles, than placing a body of technique that diminishes that spirit and confuses and conflates the governmental functions and responsibilities by dismissing or forgetting Constitutional foundations, may be an activity that is doomed to destroy the soul of the field.

To summarize this concern, we learn from the claims above three things that governance does to traditional American government:

- 1) Governance reshapes government institutions and processes (Claim 3)

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2) Governance repositions government institutions and processes (Claim 2)

3) Governance replaces government institutions and processes (Claim 1)

Interestingly, very few, if any, of the claims of governance have any need to begin their defense or explain their usefulness to society in terms of Constitutional foundations of democratic government. Claims of enhanced democracy are clearly made. However, the claims are beyond, or aloof from, or necessitated by a view of the limitations and restrictions of, current traditional Constitutional principles of government. There is little discussion in these claims of individual sovereignty and individual rights, but a lot is said of collective good through collective means. Little is said of separation or limitation of governmental powers, either via clear federal lines or separated branches of government or cumbersome formal processes intended to protect rights, but much is said of merging entities to gain efficiencies, blurring sectoral lines, and enhancing the power of people and entities to make decision without a clear indication of accountability systems. Little is said of the rule of law and/or a moral system establishing criteria for decision-making and much is said of the need to interpret pragmatically and respond quickly to the real needs of the people without much clarity as to how those needs are determined or prioritized. Perhaps this argument is too dramatically stated, but governance may have no need for foundational principles that government administration found within framing documents like the Constitution. In any of the three cases above, there is little discussion of such foundational ideas. In fact, three surmises may be made concerning governance evolving from the claims above:

a) Governance has no need to ground itself in foundational principles (because, for example, it is those very principles that have impeded efficiencies and responsiveness in the first place),

b) Governance has no intention to ground itself in foundational principles (because, for example, pragmatic consensus of need at the time and place make for a better starting point for responsiveness, innovation, networking, and cooperation), and

c) Governance has no way to ground itself in foundational principles (because, for example, those principles are only foundational in the United States and so useless in a global context).

For American public administration, then, an unthoughtful, evolutionary, or inevitable embrace of governance has a real potential to diminish the nation's public service tradition of defending and protecting Constitutional principles that form the foundation of our practice and our ethos. Again, this paper is an exploration of both the definitional elements of governance and the potential deleterious impact of those definitions on traditional government foundations upon which American Public Administration presumably is grounded. As a starting point it underscores significant areas of further research, analysis, and supposition by both scholar and practitioner. It seems a highly relevant topic, though, as moving towards governance practice and theory may overtake, overcome, and/or overshadow the body and spirit (the very soul) of Public Administration that drew many of us who desire to serve the public to the profession. Therefore, embracing the governance context in American Public Administration as a rational way of legitimizing the field or expanding its influence in society may actually move public servants away from a historical embrace of Constitutional and foundational principles of American government. Public administrators may then become merely another set of powerful, expert social actors unbounded by any sense of Constitutional or political restraint.

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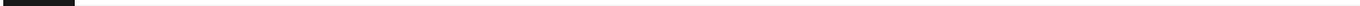
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## ABOUT THE AUTHOR

**Matt Fairholm** is an associate professor with a joint appointment in the Department of Political Science and the W. O. Farber Center for Civic Leadership at The University of South Dakota. His academic and professional interests focus on public administration, leadership theory and practice, organizational behavior, and American government. Prior to arriving at USD, he worked at the Center for Excellence in Municipal Management at The George Washington University and in the US Department of Energy (serving for part of the time as a Presidential Management Intern). He received his PhD in Public Administration from The George Washington University, with an emphasis in leadership theory and practice. He publishes in both leadership and public administration journals. Most recently he is the author, with his father, of the book *Understanding Leadership Perspectives: Theoretical and Practical Applications* (Springer, 2009).

*Contact information:* Matthew R. Fairholm; Associate Professor; University of South Dakota; 414 E. Clark Street; Dakota Hall 131; Vermillion, SD 57069; matthew.fairholm@usd.edu; phone: 605-677-5705





## Financing Governance: Managing Commitments over the Long Term

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**P**ublic sector organizations face three simultaneous commitments: i) keeping the economic house in order; ii) maintaining legitimacy and satisfying citizens; and iii) coping with crises. There are inherent tensions in these concurrent commitments that require a careful balancing act (Patrick, 2001). These tensions include: i) short-term versus long-term orientation; ii) balancing the welfare state with fiscal responsibility; and iii) realistic expectations versus instant gratification.

Helderman and Jeurissen begin their chapter by acknowledging that every government in Europe is facing similar competing goals and commitments. The authors present a study of the evolution of cost containment policies in the Dutch healthcare system. When compared with other countries with Bismarchian social health insurance, the Netherlands have a reputation of initiating and implementing successful cost containment policies. Nevertheless, the authors offer a comprehensive and critical examination of the cost containment policies in the 1990s, for this is the time period in which major institutional changes were introduced into the Dutch healthcare system. The study findings have practical implications for maintaining “equal access,” an essential value in Dutch healthcare. The authors recommend that the onus of cost containment cannot be on the government alone; reallocating responsibility and spreading financial risk is essential for long-term cost containment.

Watt's paper provides another perspective on the complexities in the institutional makeup of public organizations. This chapter focuses on reforms initiated by the central government in the UK. The target of the reforms is the performance management system. The authors note that Comprehensive Performance Assessment initiatives, introduced at the local government level, did not factor in the reality that delivery of services at the local government level is a collective endeavor that involves the local authorities as well various other entities (Ewoh and Zimmerman, 2010). The Comprehensive Performance Assessment initiative has been replaced more

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recently by Comprehensive Area Assessment. This novel approach for performance measurement is in line with increased emphasis on cooperation and strategic partnerships at the local area levels. Recognizing that there are two sides to every coin, and that collective action has its share of conflicts, the author examines the experience of various actors and entities as they explore collective/collaborative initiatives.

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## WORKSHOP CO-CHAIRS:

**Philip Joyce**, Trachtenberg School of Public Policy and Public Administration,  
George Washington University, Washington, D.C., U.S.A., [pgjoyce@gwu.edu](mailto:pgjoyce@gwu.edu)

**Jan-Kees Helderman**, Radboud University Nijmegen, Nijmegen School of Management,  
Department of Political Science and Public Administration, The Netherlands, [j.helderman@fm.ru.nl](mailto:j.helderman@fm.ru.nl)

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# No Pay - No Cure!

## The Evolution of Cost Containment Policies in Dutch Healthcare

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Jan-Kees Helderma, Department of Political Science and Public Administration,  
Nijmegen School of Management, Radboud University Nijmegen

Patrick Jeurissen, Dutch Ministry of Health, Welfare and Sports (VWS)

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### ABSTRACT

Everywhere in Europe, governments are struggling to meet the competing goals of an efficient, equitable and affordable healthcare system. In this paper, we analyze the evolution of cost containment policies in Dutch healthcare. Compared to other Bismarckian social health insurance countries, the Netherlands has been relatively successful in cost containment policies. But from the mid 1990s onwards, Dutch healthcare has been radically reformed. The former bifurcated health insurance system has been transformed into a national health insurance together with the introduction of competition between health insurers and healthcare providers. Given that uncontrolled total healthcare cost inflation may eventually erode universal access to basic health services; we argue that cost containment measures cannot be relaxed. But the recent reforms in Dutch healthcare, including the introduction of a regulated market, have important consequences for the feasibility of effective and legitimate cost containment policies in Dutch healthcare.

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## INTRODUCTION

Each year, the Netherlands spends between 9.2 and 13.5 percent of its GDP on healthcare, depending on what we choose to include under such care. Healthcare also accounts for an increasingly large share of economic growth (currently, 20 percent), as well as for the increase in taxes and premiums, with almost 35 percent spent on healthcare. Moreover, virtually every year, healthcare expenditures exceed the budget agreed to in the coalition agreements signed by most recent Dutch governments, with the gap tending to increase over the course of the government's term in office. The government itself has insufficient control over this process, and political parties only have limited insight into how funds allocated for healthcare are spent.

Cost containment is not the most popular element of any health policy program, since it will inevitably create scarcity in available resources and services. Excessive cost containment strategies will even have adverse effects on the amount of equity and efficiency in healthcare. There are additional factors that must be taken into account when assessing the problem of public expenditures on healthcare, such as the critical threshold of social willingness-to-pay, economic growth and the danger of inflation, standard levels of care, an adequate level of improved health (do we get value for money) and international agreements such as the EMU budget criteria that the Netherlands has agreed on (RVZ, 2008). Hence, from a policy perspective, the institutional design of a healthcare system and the instruments needed to contain public expenditures on healthcare without violating other health policy goals is extremely complex.

In this paper, we argue that cost containment measures cannot be isolated from questions concerning equity and efficiency in healthcare, nor can they be isolated from the overarching institutional configuration of the health care policy system. We start our analysis by focusing on the necessity of cost containment in healthcare and the need to assess the effectiveness of cost containment measures in relation to other elements of health-care policy. In our empirical analysis of the evolution of cost containment policies in the Netherlands, we relate the evolution of these policy measures to the evolving institutional configuration of Dutch healthcare. From the late 1980s, successive Dutch cabinets have worked on the development of a system of regulated competition, together with a statutory (national) health insurance in which the different schemes of private insurers and sickness funds would have to converge into one basic package. Given the fact that the market in healthcare is plagued by severe market-failures, we ask the consequences of regulated competition are for cost containment strategies? We end this paper with the conclusion that there still is an incentive problem in Dutch healthcare when it comes to sustainable cost containment strategies

## THE PATHOLOGY OF HEALTHCARE POLICY

More than in any other area of the welfare state, altruistic concerns (the role of giving) play an integral role in healthcare in the sense that it is generally acknowledged that healthcare should be excluded from economic calculus arguments. Nevertheless, as Nicholas Barr explains, although we conceive of these altruistic arguments in healthcare often as morally superior to the economic calculus argument, we should beware of excessive reliance on altruism. In contrast to, for example, the donation of blood (Titmuss's famous case), the

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marginal social cost of healthcare is not only positive, but also large (Barr, 1998). Time spent with one patient cannot be spent with other patients, and the (public) resources devoted to healthcare come at the expense of other areas. Hence, whether we like it or not, given the scarcity of public resources and the ongoing increase of demand for healthcare, altruism would run healthcare into serious allocation problems. In *‘Speaking Truth to Power’*, Wildavsky once argued that the ‘pathology’ of healthcare policy is that the past successes of medicine are likely to lead to future failures in healthcare policy. For, as life expectancy increases, only partly as the result of medicine, a nation’s healthcare system is faced with an older population whose ailments are more difficult to treat, sending the costs of treatment ever higher while each improvement in health and medicine becomes more expensive than the last. In the end, this will undermine solidarity, since, again in the words of Wildavsky: *‘the rich don’t like waiting, the poor don’t like high prices, and those in the middle tend to complain about both.’* (Wildavsky, 1979: 285). Without any control over the public expenditures on healthcare, the solidarity so triumphal achieved in nearly all western healthcare systems, will inevitably get exhausted.

Until the end the 1960s, governments were mainly concerned with promoting equal access on the basis of equal needs. The issue of universal coverage and the enactment of national health insurance have led to long during conflicts between medical practitioners, insurers, employers, employees and the government. Once these conflicts had been largely settled – by the second half of the twentieth century – two dominant healthcare systems could be discerned in the post-war welfare state; a tax-funded National Health Service (Beveridge-system) and a Bismarckian social insurance system, often complemented with private health insurance (Korpi, 1989; Immergut, 1992; Blake and Adolino, 2001). Today, with the important exception of the United States, healthcare has attained the status of a universal social program in almost all welfare states. But the equity-efficiency balance, the classic trade-off in the economics of the welfare state, has been thrown into conflict by the fundamentals of the medical care market itself (Cutler, 2002). During the post-war period of welfare state expansion, expenditure on healthcare increased rapidly, partly because technological innovations were expanding both the capability of, and demand for, medical treatment.<sup>1</sup> It is against the background of the economic crises of the 1970s that governments became more and more concerned with cost containment by means of rationing healthcare services and controlling access to healthcare. It turned out that some countries were better cost-controllers than others and to a large extent; this could be attributed to the institutional design of their healthcare systems.

Both economic theory and empirical evidence support the view that a purely private market for medical care and medical insurance will not only be highly inequitable, but also very costly (Arrow, 1963; Mossialos and Le Grand, 1999; Hacker, 2002). It is in this respect important that the United States, the only OECD country that has not yet established universal health insurance coverage, spends on average 30 percent more on healthcare than the other OECD countries (Cutler, 2002; Hacker, 2002). OECD health data (OECD, 2007) for example, demonstrate the continuing success of Canada as compared with the US to control total costs. The vital difference between the US and Canada was that Canada introduced universal coverage from the early 1970s, hospital services became free at the point of delivery, while the US continued with incomplete coverage and high user charges. The outcomes were, in Canada, not just greater equity of access to hospitals but also

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that the Canadian government had discovered the potential of a single payer system for more effective cost control than the US (Bevan et al, 2010). During the fiscal crises of the late 1970s and early 1980s, the model in which government acted as insurer in a single payer system offered the attraction of a capacity to contain total costs of healthcare. At least until the early 2000s, the UK was in this respect an exemplar of the effectiveness of a single payer system in controlling total healthcare costs too much (Bevan, at al, 2010). In the family of social health insurance countries, the Netherlands has been quite successful in containing public expenditures on healthcare, but this was mainly achieved by combining a corporatist system with a manifold of supply side interventions from the state (Helderman, et al, 2005). Cost containment may be better served by a state-controlled system than in corporatist social health insurance systems or competitive market systems.

While governments were indeed able to limit the growth of their healthcare budgets to some extent, by the 1990s, skepticism increased about the consequences of supply-side regulation in healthcare. The ageing of the population, technological progress and economic growth continued to raise public expectations and, consequently, public expenditures on healthcare, while cuts in healthcare spending by means of expenditure caps and supply-side and demand-side rationing were provoking strong opposition. What is more, the instruments being used to contain costs in healthcare (expenditure caps and supply rationing policies) were adversely affecting the efficient allocations of resources in healthcare provisions. Having achieved a high degree of solidarity in terms of both vertical and horizontal equity, governments still had to find answers on the question of how to control the public expenditures on healthcare while at the same time, allocating resources as efficient as possible. This, in turn, created a window for a third generation of reforms in which some countries, including the Netherlands, looked for market-oriented solutions in order to contain overall healthcare expenditure while at the same time enhancing the efficiency in healthcare delivery (Cutler, 2002). Well-functioning markets are generally good in stimulating innovation and efficiency. And although the medical market is plagued by virtually all the basic market failures that one can think of, it is no surprise that in order to stimulate a more efficient healthcare system, governments started to rediscover the possible benefits of the market.

Incorporating the ideas of the American Health Economist Alain Enthoven's (Enthoven, 1978, 1993) about 'managed competition', competition in healthcare was being introduced as an alternative to regulatory limits on healthcare costs and implicit or explicit rationing policies. In the UK, the introduction of the quasi market was promoted in the early 1990s with reference to the need of making welfare providers more responsive to the needs and wants of users of welfare, but without distorting the solidarity fundamentals and cement of social policy programs. Competition and economic incentives were added to the repertoire of governance arrangements and were thought to be complementary to the existing system of command-and-control in which healthcare costs were successfully contained. In a similar vein, regulated competition has been introduced in Dutch healthcare together with a national health insurance, providing a basic package for all citizens, in order to enhance the efficiency of healthcare provision. Yet, the introduction of market-type incentives in the form of an internal market or regulated competition in a system of universal coverage is likely to alter the entire configuration of a healthcare system (Helderman, 2007).

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In the remaining sections of this paper, we concentrate our analysis on the Netherlands. We describe and analyze the evolution of cost containment policies in relation to the evolving institutional configuration of the Dutch healthcare system. We first describe the introduction and evolution of cost containment in the Dutch corporatist healthcare system. This is followed by a description of the market-oriented reforms in Dutch healthcare in the 1990s. We then analyze the consequences of this new institutional configuration for cost containment strategies.

## **COST CONTAINMENT IN A CORPORATIST HEALTHCARE SYSTEM**

Dutch healthcare is based on the two constituting principles of the Dutch welfare state. First, the principle of 'subsidiarity' implies that what can be delivered in the private sphere should not be undertaken by government. Hence, although the Dutch state has major constitutional responsibilities for the efficiency, accessibility and quality of healthcare, it is not equipped to accomplish these responsibilities under its own strength but always dependent on the willingness and capacity of private non-profit actors to cooperate. The second principle is that of solidarity on an organized basis, actively supported by the government. The combined result was a corporatist structured healthcare system with predominantly public financing and private delivery of healthcare in which national associations of healthcare providers, insurers, trade unions, and employers play an important intermediary role (Helderman, 2007).

The insurance arrangements in the Dutch healthcare system display the classic characteristics of the corporatist Bismarckian welfare state. The Sickness Fund Decree (*Ziekenfondsbesluit*) enacted in 1941, introduced mandatory sickness fund participation, an income-related contribution to be paid by employees (50 percent) and employers (50 percent), and a broad coverage of services, including hospital care, uniform rules and state control for all funds (Van der Hoeven, 1983; Okma, 1997). In the years that followed, compulsory insurance was gradually extended to cover both new types of benefits and new groups of non-employees. The insurance system was more or less completed with the enactment of The Exceptional Medical Expenses Act (AWBZ) in 1967. The AWBZ covers the risks of long-term care and mental health care. Originally, it was developed in order to insure the population against those health-related risks that could not be covered by an actuarial health insurance scheme. In the course of its operation, however, the AWBZ scheme was considerably expanded. As long as private health insurers were able and willing to deliver around the same level of social protection as the sickness fund scheme, the bifurcated system could be viewed as being *de facto* a universal system of health insurance. Nevertheless, compared to other Bismarckian SHI countries, the income threshold for social health insurance was relatively low. Nearly 30 percent of the Dutch population had to insure themselves privately, as opposed to 10 percent in Germany.<sup>2</sup>

Immediately after the war, the reconstruction of the industrial infrastructure meant that government control of hospital fees and capacity was imperative (Schut, 1995: 54). By means of the Reconstruction Act of 1947, the government could determine the total budget for hospital construction whereas hospital fees were regulated on the basis of the general price regulation of 1939, which had also been the basis for rent regulation in the social rental

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sector. Until 1965, hospital per diem rates were based on guidelines from the Ministry of Economic Affairs; sickness funds and private health insurers were not involved in the determination of hospital prices. The reimbursement levels of physicians and general practitioners, by contrast, were set by means of periodical negotiations between the associations of sickness funds and physicians. It was not until the 1960s that government control over hospital rates and hospital capacity could be liberalized. But the combination of economic growth and a *laissez-faire* corporatist policy style resulted immediately in an expansion of hospital and healthcare expenditure.

The first attempts at cost containment were aimed at constraining the discretionary freedom of the various corporatist arrangements and governing boards in Dutch healthcare. In 1965, the Hospital Prices Act (WTZ) was adopted, under which hospital price setting was to be determined by a process of negotiation between the sickness funds and hospitals, and approved by the Central Office on Hospital Prices (COZ), which consisted of the representatives of sickness funds, hospitals and a number of independent experts. But because sickness funds had neither expertise in negotiating prices nor any incentive to control hospital costs, and the government lacked any instruments to control hospital capacity, the COZ was largely dominated by the hospitals that had no interest in containing the costs of their provisions. Hospital costs escalated by more than 20 percent a year and healthcare expenditure increased from about 4 percent of GNP at the beginning of the 1960s to about 7 percent in the early 1970s (Schut, 1995; Helderma, 2007).

In the 1970s, the COZ and its successor, the COTG, had already undergone a gradual transformation from a corporatist – self-governing – organization that was dependent on negotiated agreements, towards a more quasi-governmental organization. Consultations between the COZ and the government were intensified at the cost of the dominant position of hospitals and the government's budgetary constraints increasingly influenced the formulation of guidelines for determining hospital rates. However, it turned out that the government's right to give binding instructions to the COTG was very limited. The increasing necessity for cost containment in the 1970s and 1980s, therefore, caused governments of varying political coalitions to a more radical shift in their orientation from *laissez-faire* corporatism towards an etatist style of supply side regulation (Schut, 1995).<sup>3</sup>

In 1982, the first centre-right Cabinet of Prime Minister Ruud Lubbers took office. The new Cabinet took a fundamentally different direction in socio-economic policy making and adherent policy areas such as healthcare. For its budgetary policy program, it adopted an austere policy style which meant the government's global budget simply could not be exceeded. Most important and effective in terms of controlling healthcare spending, were several ad hoc interventions during the 1980s which put an end to the open-ended financing of hospitals and other healthcare institutions and enforced a reduction of excess hospital capacity. It is mainly because of these interventionist ad hoc measures that the government indeed succeeded in gaining substantial control over healthcare expenditure, as a result of which the proportion of GDP spent on health services has remained stable at around 8.5 percent since the 1980s (OECD, 2007). But these etatist measures, which were different for each echelon of the healthcare system, not only led to continuous conflicts between the government and healthcare providers, but also seriously undermined the efficiency of the Dutch healthcare system. In the 1980s, doubts about the effectiveness of these various etatist interventions increased. Yet, healthcare could not

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as simply be liberalized as other policy areas in the welfare state. Healthcare was not immune to the more generalized discontent with state intervention as a means of governance, which resulted from the dismissal of Keynesian macro-economic policy making; however, neither could healthcare be made to work without any governmental controls on healthcare expenditures. More fundamental reforms were needed to restore the efficiency-equity tradeoff in Dutch healthcare.

## **BRINGING THE MARKET BACK IN: REGULATED COMPETITION**

It is against this background that, from the late 1980s, successive Dutch cabinets have worked on the development and implementation of a system of regulated competition, together with a national health insurance in which the different schemes of private insurers and sickness funds would converge into one basic package. In 1986, the center-right government of Prime Minister Ruud Lubbers installed the Dekker Committee. The Dekker Committee was based on independent expertise rather than corporatist representation of health insurers, hospital, physicians and social partners (Helderman, 2007). The committee was explicitly asked to build its recommendations on Enthoven's model of 'managed competition' and it took the Committee just seven months to come up with unanimous recommendations. In March 1987, it published its report under the significant title '*Willingness to Change*' in which it proposed replacing all separate healthcare financing schemes with a comprehensive mandatory national health insurance scheme, provided by both the sickness funds and the private (for-profit) health insurers. In order to encourage health insurers and providers to become more efficient, it proposed a regulated competitive environment for health insurers and providers. In this way, it aimed to incorporate the market *within* a universal system in order to enhance efficiency in the health insurance market and the healthcare provision market.

Given this mixture of social and market elements, the Dekker Plan was a politically ingenious plan, as evidenced by its survival, relatively unchanged, from the transition from center-right government to center-left government in 1989. The official White Paper became known as the Simons Plan, named after the new Social Democratic Secretary of State for Health, Hans Simons. Simons wanted to realize the national health insurance scheme by means of a gradual expansion of the prevailing (tax-funded) Exceptional Medical Expenses scheme (AWBZ). Gradually all the benefits covered by both insurance schemes would then be brought under the scope of the AWBZ. It should be emphasized at this point that Simons had in fact little choice. Many of the necessary instruments that are needed for a universal but competitive health insurance system, such as a more sophisticated and better-developed risk-equalization scheme, were simply not available at that time. Next to this, there turned out to be political controversies between the Social Democrats and the Christian Democrats about the scope of coverage proposed by Simons. In the Simons Plan, the national basic insurance scheme would cover 95 percent (instead of the 85 percent that was proposed by the Dekker committee) of the total expenditure on healthcare and social services. In addition, the economic recession at the beginning of the nineties made employers and the Ministry of Finance increasingly wary of the introduction of competition and choice, fearing that this would result in uncontrollable cost inflation (Helderman et al, 2005). In 1993, the Christian Democrats therefore effectively blocked any further approval of the Simons plan and in 1994 a disillusioned Simons re-

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signed just before the fall of the center-left Cabinet.

But what the Dekker-Plan had accomplished was that it had initiated the development of a new set of policy ideas in healthcare. In the early 1990s, these new ideas about how to incorporate competition and choice in a social health insurance system began to inform institutional adjustments of the healthcare system, and as a consequence, the incentive structure for both health insurers and healthcare providers gradually changed. A revision of the Sickness Fund Act in 1992, for example, made it possible for sickness funds to selectively contract with healthcare professionals and to compete for enrollees. In 1993 the system of retrospective reimbursement of sickness funds was replaced by prospective risk-adjusted capitation payments, so that the sickness funds began to bare some of the risk for the medical expenses of their enrollees. The change in the reimbursement system was accompanied by the introduction of choice in the health insurance market. In 1992, sickness funds were required to have open enrollment periods, during which enrollees were free to switch between sickness funds, irrespective of their health status. To enable price competition, finally, sickness funds were permitted to charge a flat rate (community-rated) premium to their enrollees in addition to the income-related contribution. As a result of these incremental adjustments of the incentive-structure, health insurers and healthcare providers began to ‘cultivate’ the market from within the path dependent boundaries of the Dutch healthcare system.

After the fall of the center-left Cabinet in 1994, the ‘purple’ coalition took office. The color purple reflected the novel coalition of left (red) and right (blue) political parties, excluding the Christian Democrats from government for the first time since 1917. The new Social Liberal Minister of Health, Els Borst, took office under tough budgetary constraints in order to combat high unemployment figures and an economic recession. The 1995 healthcare programme “*Cost containment in the healthcare sector*” reflected the budgetary priorities within healthcare. Learning from the demise of the Simons Plan, Minister Borst stressed that she was in favor of incremental changes rather than comprehensive blue prints. Nevertheless, as in the early 1990s, the two Purple Cabinets never abandoned the market-oriented program. The gradual improvement of the risk-adjustment equalization scheme in the second half of the 1990s, made it possible to give the sickness funds more liability for the medical expenses of their enrollees. Consequently, the financial incentives for sickness funds to act as a prudent purchaser of health services increased substantially (Helderman, et al, 2005). By allowing individual providers and insurers more autonomy in exchange for larger risk bearing, the locus of power in Dutch healthcare shifted from the national associations of insurers and providers towards individual healthcare providers and health insurers. At the same time, many of the necessary instrumental and institutional preconditions for a national health insurance scheme were gradually realized and implemented. In January 2000, the Sickness Fund Council that administered the sickness fund scheme was converted into the Healthcare Insurance Board (CVZ) which became responsible for the administration of the Central Health Insurance Fund from which risk-equalization subsidies are paid to the health insurers. All these gradual transformations paved the way for a national health insurance system in combination with competitive relations between health insurers and providers.

It was only at the end of its second term in office, in 2001 that the Cabinet dared to speak again in terms of comprehensive healthcare reforms. In its justification for a new health insurance system, the Cabinet explicitly

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mentioned the threat of the diminishing solidarity of the old system which could not longer be tackled with *ad hoc* corrective measures (Ministry of Health, 2001: 17). But having learned from the failure of the Simons Plan, the government now proposed a different transition path. Rather than using the AWBZ as a vehicle for reforms, reforms should start with the integration of the sickness fund scheme and private health insurance into a national insurance scheme for curative healthcare services. The new scheme would have to be modeled on the sickness fund scheme where the conditions for regulated competition were largely fulfilled. As in the early 1990s, there were still a number of ideological obstacles on which the social democrats and the liberals were unable to reach compromises. The coalition parties strongly disagreed about the method of premium-setting within a national insurance scheme. The Social Democrats adhered to a largely income-related contribution and a relatively small flat rate premium, as already existed in the sickness fund scheme. The Liberals, meanwhile, were in favor of a fully community-rated premium with tax compensation in the form of individual healthcare allowances for income effects. As well as this classical issue, the Liberals and Social Democrats quarreled about how equitable the new health insurance scheme should be and whether it should be a competitive 'social' health insurance scheme or a regulated 'private' health insurance scheme. Reaching the end of its term, the Cabinet decided to postpone the actual enactment of the reform proposals after the general elections of 2002.

The (three) centre-right coalition Cabinets that succeeded the Purple coalition were in a much better political position to enforce a breakthrough in the reforms. With the Social Democrats in opposition, the Cabinet could freely choose for a nominal premium that would cover 50 percent of the costs and implement an individual healthcare allowance to compensate the lower incomes. The new Minister of Health in the second Balkenende Cabinet, the Liberal Hans Hoogervorst, set up an ambitious program of legislation in order to prepare the final enactment of the new Health Insurance Act, in which he quite deliberately built on the foundations laid by his predecessor in the previous coalitions. With the enactment of the new health insurance act on January 1st, 2006, the bifurcated insurance system was finally been converted into one mandatory national health insurance scheme, guaranteeing universal access to basic healthcare services and provided by both the former sickness funds and the private health insurers. For this purpose, the Netherlands has developed one of the most sophisticated risk-equalization schemes, which is a necessary condition for providing universal coverage of the basic package by private for-profit and non-profit health insurers (Van de Ven, et al, 2003). Meanwhile, regulated competition had been gradually implemented in the years preceding the formal reforms. Competition now is strategically located in the health insurance market and the healthcare provision market. The competitive trick in the new national health insurance system is that the risk-adjusted capitation payments from the Central Fund do not cover all individual expected costs and that health insurers are permitted to recover residual expenses by charging a community-rated premium. Hence, if health insurers are able to manage healthcare more efficiently than their competitors, they can make more profit or charge a lower premium and thus attract more enrollees. Switching health insurers (choice) has been made possible by mandatory open enrollment periods on an annual base, during which enrollees are free to choose another health insurer at its prevailing community-rated premium.

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## COST CONTAINMENT IN A REGULATED COMPETITIVE ENVIRONMENT

The current Dutch model, in which universal coverage is guaranteed within a competitive health insurance and healthcare provision market, certainly is among the most revolutionary systems in the world. Ironically, the initial ideas for a system of regulated competition were imported from the United States while at this time, as well as in the mid-1990s during the Clinton healthcare reforms, the Dutch model attracts interest not only from its neighboring SHI-countries, but from the United States as well (Enthoven and Van de Ven, 2007).<sup>4</sup> But does regulated competition also provide solutions for the problem of cost containment? Healthcare expenditures are paid by the aggregate sum of premium payers (i.e. employers and individuals) and taxpayers (government contributions), but this is not the same as being able to control the expenses made in healthcare. How sustainable in terms of cost containment is this newly created healthcare system? Our preliminary answer to this question is that it is hardly more sustainable than the old system since it does not address the question of cost control consequentially enough. Although the new healthcare system is still in an experimental stage of its development, lessons can be learned from the practice of cost containment that has developed from 1995 when successive Dutch Cabinets have worked with multi-year global budgets for healthcare, the so-called Budgetary Framework for Healthcare (BKZ).

Table 1 shows the overruns that have since then occurred in relation to the expenses specified in the various Government Agreements. It emerges that actual expenditure has been consistently higher than was agreed under the Government Agreement and this gap increases as the government term progresses. The fact that successive governments have allocated increasingly more funds towards healthcare has not affected this process in any significant way. In fact, the contrary is true: the overruns only appear to have grown. The fact that the size of the public health expenditures as a percentage of GDP has remained just above the nine percent is also misleading in this respect since part of it can be contributed to the high economic growth achieved in most of this period. The most significant strategy that helped to contain the macro-costs in healthcare was transferring benefits from the basic health insurance packages to the additional insurance packages (e.g. physiotherapy and dental care) and certain ‘technical’ changes and window dressing that had an optical diminishing effect (mainly shifts to the governmental budget): including funds for university clinics, public health. In practice, the Budgetary Framework for Healthcare has turned out to be a calculation-unit that was strongly subject to downward definition change.<sup>5</sup> Although in some cases, the budget was exceeded deliberately in order to facilitate new policies, most budget overruns were caused by the fact that providers and medical professionals delivered more than was agreed. Moreover, as these overruns often manifested themselves too late, it was not always possible to redress them. Although the government occasionally has tried to redress the budget overruns by means of hierarchically imposed or negotiated efficiency deductions, more often, overruns have simply been taken for granted and dealt with by raising the global budget for healthcare.<sup>6</sup>

To conclude the budget model has run into troubles due to the increasing lack of cost compliance and due to the fact that nearly any production incentives were rendered subservient to the need for cost control. Given the fact that until now, budget overruns have been too easily accepted and compensated, there seems to be no

**Table 1 - Global Budget and Overruns in Billions of EUR**

	Public expenditures	Budgetary Framework for Healthcare	Overrun	Year of global budget set	Volume in global budget	Price increases in global budget
1995	24.2	23.8	0.4	1994	1.3%	1.2%
1996	24.8	24.7	0.1	1994	1.3%	2.0%
1997	25.7	25.4	0.4	1994	1.3%	2.1%
1998	27.3	26.1	1.2	1994	1.3%	3.1%
1999	29.1	29.4	-0.3	1998	2.3%	3.6%
2000	31.3	31.1	0.2	1998	2.3%	2.9%
2001	35.1	33.3	1.8	1998	2.3%	1.8%
2002	38.3	34.2	4.1	1998	2.3%	2.1%
2003	41.9	38.9	2.3	2002	2.5%	3.7%
2004	42.8	41.1	1.7	2003	2.5%	1.6%
2005	42.8	41.7	1.1	2003	2.5%	1.8%
2006	44.8	43.5	1.3	2003	2.5%	1.9%
2007	47.6	45.7	1.9	2003	2.5%	2.4%

Source: VWS-FEZ, RVZ, 2008

real sense of urgency for taking responsibility for the global healthcare budget by other actors than the government. Over the past several years, the global budget has been overrun virtually every year. Paradoxically, this situation did not change when the amount of available resources increased. This indicates to problems that are related to the institutions and incentives at work in Dutch healthcare. More specifically, the shift to more decentralized autonomy is currently occurring at a faster rate than the increase in financial risk, which means more rights without the concomitant obligations. The problem of healthcare costs being not in control is to a large extent related to the moral hazard that the current system produces.

Professionals, patients, clients, care providers, health insurance companies, assessment bodies and healthcare administration offices all barely carry the financial risk of their actions. None of these parties has an institutional embedded self-interest in controlling expenditure. For providers, more expenditures mean higher remuneration, higher salaries and better fringe benefits, more career opportunities, more research opportunities, more social influence and reduced work pressure. The healthcare providers (hospitals, nursing homes) are often supported by patients and clients, who believe that higher expenses guarantee better health. And since patients themselves do not bear any financial risk – with the exception of small out-of-pocket payments – they will be pleased to accept additional treatments, as long as they benefit from it in some way. Insurance companies, finally, are focusing primarily on attracting new customers and on downsizing their administrative costs.

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Selective healthcare purchasing (managed care) and differentiation in the insurance packages are slowly getting off the ground. Budgetary problems are routinely resolved at the decentralized level by means of ‘grey’ agreements between insurers and providers. Volume risks are too easily shifted to the patients, resulting in longer waiting lists and an increase in the price-per-unit of service.

The risk borne by health insurance companies depends on a complex risk equalization scheme. If the risk equalization system is designed in such a way that insurers receive only a standard risk-adjusted amount for each policyholder based on aspects they cannot control, the insurance company bears full risk. This is referred to as ‘ex-ante equalization’. However, since these risk-adjustment subsidies are still under development and do not (yet) adjust for all the predictable losses, the model also includes a wide range of compensations for budget results achieved – the ex-post equalization. In stark contrast to the ex-ante equalization, this reduces health insurers’ risk liability, and in some cases it is eliminated altogether. An insurance company that reduces its claim levels by implementing an effective purchasing strategy, e.g. managed care would then not see this reflected in its operating profit at all. Actors thus enjoy the benefit of liberalization without bearing the financial responsibility of their strategies. Hence, what is needed is that a larger proportion of the financial risks are devolved to the health insurers. This surely will meet a fair amount of resistance, because even though the sector is in favor of deregulation, actors soon reconsider their support when they learn about the risks involved. Nevertheless, increasing the risks devolved to health insurers together with an improved risk-adjustment scheme is probably the most effective way to keep expenses in check in a system of managed competition. Insurers should be provided with more opportunities to control their risk portfolio, e.g. greater opportunities with respect to individuals covered by group insurance schemes. And secondly, insurers must be given more freedom for selective healthcare purchasing, such as capitation fees for primary care and managed care strategies. In addition, insurers must be given more opportunities to reward good quality and penalize poor quality.

In its current form, it seems fair to conclude that without additional measures, the provisions of the global budget are likely to be continuously exceeded (RVZ, 2008). As a consequence, the healthcare system drives the level of acceptable levels of risk solidarity to its limits. If cost containment runs out of control, solidarity transfers are likely to increase significantly as a result of the ageing of the population and social and cultural trends (i.e. the divorce rate, migration, unhealthy lifestyles, growing technological possibilities and a growing demand for ‘prosperity-proof’ facilities, particularly under the Exceptional Medical Expenses Act (AWBZ)). More and more solidarity transfers will be required to continue to fund the healthcare system in the current manner. In twenty years’ time, an average net payer will pay approximately € 3,600 (in real terms) more for a net receiver than is currently the case, an increase of more than 100 percent. In other words: the ‘average Joe’ (but in the Netherlands, we call him Jan) will need to pay approximately 15 percent of his salary (€29,500 in 2006) to healthcare consumers, compared to 10 percent now. While income solidarity is ‘limited’ due to low thresholds, risk solidarity is pushed to its maximum level. Employers already have stated that they have a problem with their automatic contributions to healthcare, as this undermines their competitive position (RVZ, 2008).

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## CONCLUSIONS

From a welfare economics perspective, Kenneth Arrow once argued that the problem with healthcare is that the social adjustment towards efficiency will always put obstacles in its own path because of the uncertainty and non-marketability of the bearing of risks and the imperfect marketability of information. As a consequence, healthcare systems will always be confronted with second-best solutions in the form of compensatory institutional structures (Arrow, 1963). Arrow's point was that the medical market was in need of compensatory institutional structures that not only mitigated the negative effects of the market, but that also transformed the working of these markets in a more fundamental and equitable way. As such, Arrow's argument provided the rationale for compulsory insurance arrangements in healthcare. But these compulsory insurance arrangements are on their turn vulnerable for problems of moral hazard and over-consumption. Institutions fulfill certain purposes (they help to solve problems of collective action) but given the multiplicity and sometimes irreconcilability of policy goals, it is more useful to think of institutions in terms of institutional configurations that define a set of interrelated incentives and constraints which are likely to influence the individual agent's strategies. Any understanding of the governance of modern healthcare systems, therefore, requires the study of how different institutions and their accompanying governance arrangements and policy instruments are complementary to each other.

In the history of Dutch healthcare, three policy programs can successively be discerned in the twentieth century: a corporatist policy program, that was particularly dominant until the 1970s, aimed at universal access based on equal needs; an etatist policy program, that became dominant since the eighties, aimed at cost containment by means of supply side regulation; and a market-oriented program that was developed during the 1990s in response to the alleged inefficiency of healthcare provision (Helderman, et al, 2005; Helderman, 2007). Together, these three programs constitute the institutional configuration that is needed to sustain at least to some extent the equity-efficiency balance in Dutch healthcare.

But cost containment remains problematic. This will not be without consequences since uncontrolled public healthcare expenditures are likely to have an adverse effect on the amount of equity that is legitimated and the efficiency of healthcare provision. In this paper, we have explored ways in which a strategy based on controlled expenditures within a system of regulated competition could follow the consequential logic of the competitive market; transferring the financial risk from the central level to the decentralized level, particularly healthcare insurers. Essentially, market reforms are based on the devolution of 'benefits' and 'costs'. When the various parties do not run any actual financial risk on their activities, expenditure will continue to increase and there will be no other option than to implement major cost cuts each time. In such case, the shadow system of global budgets cannot be dismantled much further. Cost containment cannot be the responsibility of the government alone, since it is not always equipped to deal with all the various countervailing powers. Under the endemic conditions of scarce collective resources for healthcare, the proliferation of technological possibilities in medical care, the import of new pharmaceuticals and an ever increasing demand for medical services, there will be a lasting need to contain collective expenditure on healthcare. Equal access to reflect the equal needs of all citizens is still a key value in Dutch healthcare. But in order to maintain this key-value in the long term, cost containment is in-

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evitable. Reallocating the responsibilities in healthcare together with some of the financial risks is needed. After all, in the capitalist welfare states, there is no such thing as a free lunch, not even in their hospitals.

## ENDNOTES

<sup>1</sup> Empirical estimates suggest that technological change accounts for at least half of overall cost growth, the remainder cost growth results from increased prices of services and increased use of existing technologies because of the spread of insurance (Cutler, 2002: 887).

<sup>2</sup> But already in the early 1980s, the Dutch system had become extremely vulnerable for solidarity undermining rent-seeking strategies of private health insurers. Problems of risk selection escalated in the 1970s when private health insurers started to introduce age-related premiums. In order to maintain cross-scheme equity in healthcare, the Christian Democrat / Liberal Cabinet of Prime Minister Lubbers therefore forced the private health insurers in 1986 to institute a risk pool and to offer all applicants of this scheme a legally standardized policy, offering comprehensive benefits at a legally determined maximum premium (known as the Access to Health Insurance Act, WTZ). In the years that followed, the scope of this risk pool was steadily expanded by the government. With hindsight, the enactment of the WTZ accomplished two things in Dutch healthcare. It brought an end to the gradual exhaustion of cross-scheme solidarity in Dutch healthcare by enforcing private health insurers to institute a risk pool and it paved the way for a gradual convergence between the private health insurers and social health insurers.

<sup>3</sup> The gradual transformation of this formerly corporatist organization did not stop here. In 2000, the COTG was converted into the CTG which then in 2006 the CTG became part of the new Dutch Healthcare Authority, which is independent from sectoral interests and an autonomous governmental organization.

<sup>4</sup> We should, however, not be overly optimistic about the prospects for successful policy transfer between the Netherlands and the United States. Starting from an already structured healthcare system in which (nearly) universal access already had been realized, regulated competition is easier to accomplish than in a system that is still in need of a universal coverage (Hacker, 2007; Helderman, 2007).

<sup>5</sup> TK 2003 – 2004, no. 28852, Onderzoek naar de Zorguitgaven, p. 16.

<sup>6</sup> The increase in healthcare expenses is primarily due to an increase in ‘residual’ volume and a real increase in wages. Both of these increases can be steered through policy; however the budgetary regulations related to the Budgetary Framework for Healthcare do not appear to provide for this (RVZ, 2008).

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## ABOUT THE AUTHORS

**Jan-Kees Helderman** works as assistant professor at the Department of Public Administration and Political Science, Institute of Management research, Radboud University Nijmegen, the Netherlands. His has won the

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G.A. van Poelje award for best doctoral thesis in Flemish and Dutch public administration for his Ph.D. thesis *Bringing the Market Back In? Institutional complementarity and hierarchy in Dutch housing and healthcare* (Erasmus University Rotterdam, 2007).

*Contact information:* Jan-Kees Helderman; Radboud University Nijmegen, the Netherlands; Institute of Management Research, Department of Public Administration and Political Science; PO Box 9108; 6500 HK Nijmegen, the Netherlands; j.helderman@fm.ru.nl; phone: +31(0)24 3612031

**Patrick Jeurissen** works as a senior civil servant at the Dutch Ministry of Health, Welfare and Sports (VWS). His PhD thesis is a comparative analysis of the for-profit hospital sector in four Western countries. This article does not reflect opinions of the Ministry of VWS.

# Local Collaborative Public Management and Local Performance in the UK

Peter Watt, University of Birmingham

## ABSTRACT

In England the Labour Government that was in power from May 1997 to May 2010, made a series of reforms to its system of performance management aimed at improving performance for local residents. It also introduced reforms designed to increase collaboration between local public service bodies. In general it is not obvious that central government should need to intervene in such local matters. However, in the UK, the need for a central system of performance management arises as a consequence of the centralised system of funding for local bodies (Watt, 2004). The new Coalition Government elected in May 2010 has abolished some of the system of performance assessment, but many of the problems of central funding, including the need to encourage local collaboration, remain. In recent years, local authorities had been subject to a system of Comprehensive Performance Assessment that assigned star ratings to authorities according to their performance. Yet local authorities are not the only public organisations that are responsible for delivery of services in local areas. In two tier areas, there is the upper-tier county containing a number of lower-tier districts. And there are local public bodies include health trusts, the police, national parks, probation boards, the environment agency, the learning and skills council, the Sports Council, the Arts Council. There are also local charities. Many commentators have argued that performance would be improved if local services were more ‘joined up’ (Bogdanor, 2005). Accordingly, recent UK legislation has imposed a “duty to cooperate” on local public bodies in each area (defined by the upper tier or unitary authority) and to form a Local Strategic Partnership and agree upon a Local Area Agreement, which will include the selection of a set of local performance indicators. New Local Area Agreements have been in place from June 2008. The success of the each Local Strategic Partnership in delivering local services was subject to a new and short-lived system of performance measurement called Comprehensive Area Assessment, and the Labour government also provided £340 million of Performance Reward Grant to incentivise local performance. Members of each local strategic partnership therefore faced incentives that included being collectively judged on the outcomes of their collaborative efforts to deliver local services and receiving grant conditional on the achievement of targets. This paper examines early experiences of the collaborative management of local strategic partnerships and the assessment of their performance against a theoretical background of collective action problems (Olson, 1971).

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## INTRODUCTION

In June 2009, when this conference paper was presented, the UK had a Labour government which had been in power since 1997. The centralised system of local government finance had led the then government, and previous governments to seek ways of examining the performance of local government (Watt, 2004) and to encourage local bodies to work together to provide services to local residents (CLG, 2006). Part of the encouragement for working together was provided by the newly introduced system of Comprehensive Area Assessment (CAA) as well as arrangements for collaborative working provided by Local Strategic Partnerships (LSPs).

Since then, a new government, formed by a coalition of the Conservatives and the Liberal Democrats has come to power. This new Coalition Government has moved speedily to abolish CAA<sup>1</sup> but plans to build on local strategic partnerships (LSPs) in relation to, “joining up the commissioning of local NHS services, social care and health improvement” (DoH, 2010). The problems of local collaboration discussed in this paper remain for the new government, but the local inspection approach exemplified by CAA is likely to have less emphasis, at least for the time being. Other initiatives towards local collaboration are likely to have a more permanent place, although nomenclature is likely to be subject to some change.

We now discuss of the issues of local collaboration and the previous Government’s initiatives on this front.

In recent years there has been growing emphasis on the need for government organisations to work together in delivering services. In many ways this emphasis is not new. Mulgan (2005, p. 176) argues that the problems of coordination, organisation and integration “faced all the big imperial bureaucracies whether Roman, Ottoman, or Chinese and every military command attempting to co-ordinate complex forces.”

In the UK growing emphasis on the need for joined-up services at a local level has resulted in recent developments in policy. An influential argument, adapted from Rittel and Webber (1973) is based on the idea that organisations need to come together to tackle “wicked issues” (Clarke and Stewart, 1997a).

Clarke and Stewart (1997a) give a list of examples of what they see as wicked issues:

- “environmental issues and aspiration to sustainable development
- problems of crime and aspiration to safe communities
- problems of discrimination and an aspiration to an equitable society
- problems of poverty and an aspiration to a more meaningful life” (Clarke and Stewart, 1997a, p. 1).

They go on to argue that:

“The challenge is to find horizontal and holistic ways of working. The wicked issues require a style of policy analysis and of management that breaks out of the narrowing imposed by focus on particular objectives without regard for the interaction with other objectives. There is a parallel need to develop approaches to the whole which seek to understand and emphasis overlaps and inter-relationships (Clarke and Stewart, 1997a, p. 2).

In recent years the UK Labour government of 1997 to 2010 has developed a framework for local bodies to work in partnership. An important component has been government encouragement of the formation of local strategic partnerships (LSPs). DETR (2001) defined a local strategic partnership as a body that:

- brings together at a local level the different parts of the public sector as well as the private,

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business, community and voluntary sectors so that different initiatives, programmes and services support each other and work together;

- is a non-statutory, non-executive organisation;
- operates at a level which enables strategic decisions to be taken and is close enough to individual neighbourhoods to allow actions to be determined at community level; and
- should be aligned with local authority boundaries (DETR, 2001, p. 10).

The Labour government also introduced local area agreements (LAAs) (ODPM, 2004). LAAs were initially voluntary agreements that would attempt to reconcile national and local priorities and set outcome-based targets that local bodies would work towards jointly.

More recently, since April 2008 the government has placed LAAs on a statutory basis, with current ministerial directions running until March 2011. Based on principles set out in the White Paper *Strong and Prosperous Communities* (CLG, 2006) the *Local Government and Public Involvement in Health Act 2007* places a duty on the upper tier or unitary authority (termed the “responsible authority”) in an area to cooperate with named partners to agree local targets in the LAA.

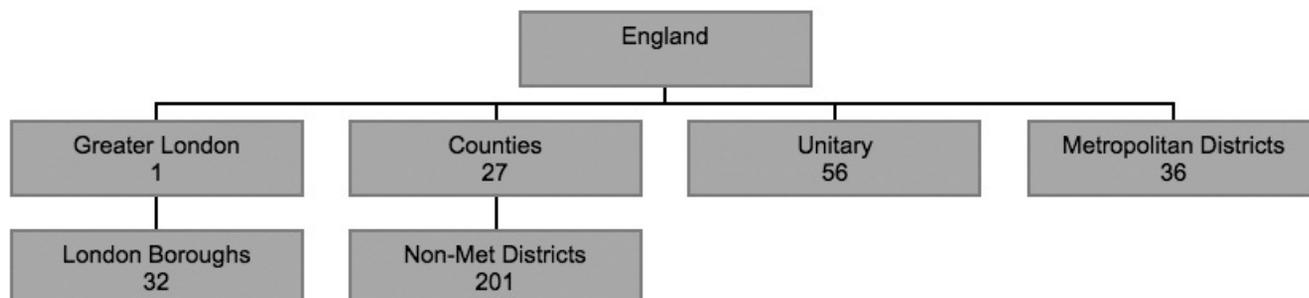
Until the new Coalition Government came to power in May 2010 there was an added incentive to co-operate in that local outcomes, including locally agreed targets, were assessed by the Audit Commission in the system of Comprehensive Area Assessment, and Performance Reward Grant (PRG) of £340million was payable – an average £2.2m for each LAA.

Under the 2007 legislation, each responsible local authority in England has been placed under a duty to co-operate with other public bodies in their area in drawing up an LAA. The *Local Government and Public Involvement in Health Act 2007*, requires that, in drawing up an LAA the responsible authority “consults and cooperates” with the following bodies, who in turn have a duty to cooperate with the responsible authority:

- National Health Service trusts;
- The Arts Council of England;
- The English Sports Council;
- The Environment Agency;
- The Health and Safety Executive;
- The Historic Buildings and Monuments Commission;
- The Learning and Skills Council for England;
- The Museums, Libraries and Archives Council;
- Natural England;
- The Secretary of State, but only in relation to –
  - o his functions under section 2 of the Employment and Training Act 1973 (c. 50) (arrangements with respect to obtaining etc employment or employees);
  - o functions which he has as highway authority by virtue of section 1 of the Highways Act 1980 (c. 66); and
  - o functions which he has as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984 (c. 27).

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**Figure 1: Structure of Local Authorities in England**



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- Any district council which is not a responsible local authority;
  - a fire and rescue authority;
  - a National Park authority;
  - the Broads Authority;
  - a police authority;
  - a chief officer of police;
  - a joint waste authority established under section 207(1);
  - a waste disposal authority established under section 10 of the Local Government Act 1985 (c. 51);
  - a metropolitan county passenger transport authority established by section 28 of the Local Government Act 1985 (joint arrangements);
  - Transport for London;
  - a Primary Care Trust;
  - a development agency established by section 1 of the Regional Development Agencies Act 1998 (c. 45);
  - a local probation board established by section 4 of the Criminal Justice and Court Services Act 2000 (c. 43);
  - a youth offending team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

## **LOCAL SERVICE PROVISION AND ACCOUNTABILITY**

Why should these bodies need to be required to cooperate in drawing up a Local Area Agreement? The reason is bound up in the centralised accountability of local public services in the UK. In order to explain this statement we set out below some key features of local organisations and their funding and accountability, focussing on the case of England as a reasonably representative example. Local services are provided by a wide range of public sector, voluntary and private sector organisations. In England, with the exception of voluntary organisations, funding and accountability is vertical, channelled from and to central government. Despite the fact that local government in the UK is democratically elected, local government largely fits this pattern of central accountability, as argued below.

**Table 1: Services Currently Delivered by English Local Government**

Service	Services Delivered
Education	Schools - nursery, primary secondary and special Preschool education Youth, adult, family and community education Student support
Transport	Highways - construction and maintenance of non-trunk roads and bridges, Street lighting Traffic management and road safety planning services Public transport, Airports, harbours and toll facilities
Social services	Children's and family services - support; welfare; fostering; adoption Youth justice - secure accommodation; youth offender teams Services for older people - nursing, home, residential and other day care; meals Services for people with physical disability; sensory impairment; learning disabilities or mental health needs Asylum seekers; Supported employment
Housing	Council housing; Housing strategy and advice; housing renewal Housing benefits; welfare services Homelessness
Culture services	Culture and heritage - archives, museums and galleries; public entertainment Recreation and sport; tourism Open spaces- national and community parks; countryside; allotments Libraries and information services
Environmental services	Cemetery, cremation and mortuary services Community safety; consumer protection; coast protection Environmental health - food safety; pollution and pest control; housing standards; public conveniences; licensing
Planning and development	Building and development control Planning policy - including conservation and listed buildings Environmental initiatives Economic development
Protective services	Police services Fire and rescue services Court services - coroners etc
Central and other services	Local tax collection; Registration of births, deaths and marriages Elections, including registration of electors Emergency planning Local land charges

Source: CLG (2007a)

**Table 2: Local Authority Responsibility for Major Services in England**

	Metropolitan areas		Shire areas			London area		
	Single purpose authorities	District councils	County councils or unitaries	District councils or unitaries	Single purpose authorities	City of London	London boroughs	GLA
Education		✓	✓			✓	✓	
Highways <sup>(a)</sup>		✓	✓			✓	✓	✓
Transport planning		✓	✓			✓	✓	✓
Passenger transport	✓		✓					✓
Social services		✓	✓			✓	✓	
Housing		✓		✓		✓	✓	
Libraries		✓	✓			✓	✓	
Leisure and recreation		✓		✓		✓	✓	
Environmental health		✓		✓		✓	✓	
Waste collection		✓		✓		✓	✓	
Waste disposal <sup>(b)</sup>	✓	✓	✓			✓	✓	
Planning applications		✓		✓		✓	✓	
Strategic planning		✓	✓			✓	✓	✓
Police	✓				✓	✓		✓
Fire <sup>(c)</sup>	✓		✓		✓			✓
Local taxation		✓		✓		✓	✓	

(a) Transport for London (TfL) is the highways authority for about 5% of London roads.  
(b) Waste disposal for some areas of London is carried out by separate waste disposal authorities. The GLA has strategic, but not operational, responsibility for municipal waste.  
(c) Combined fire authorities are responsible for fire and rescue services in the shire areas affected by reorganisation from April 1996.

Source: CLG (2007a)

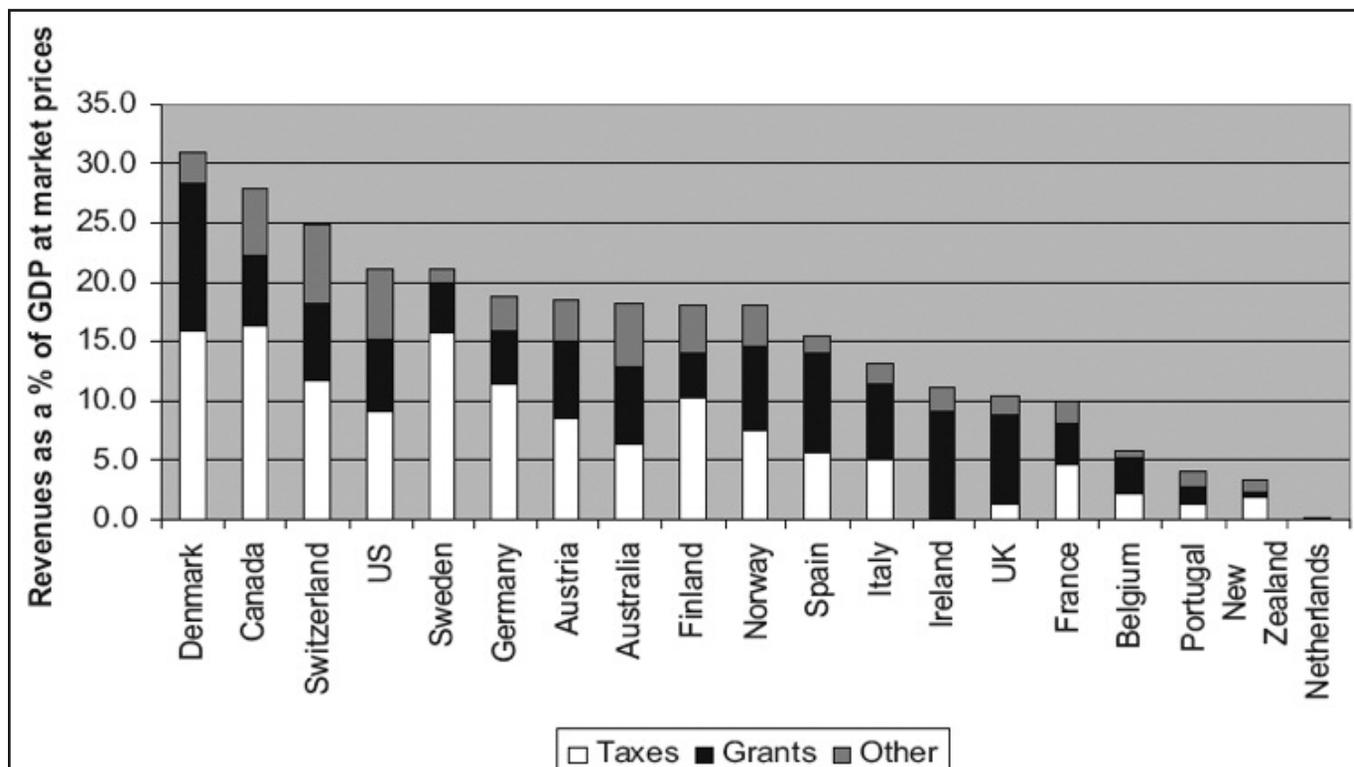
In England, as shown in Table 1, local authorities provide education, highways, roads and transport, social care for adults and children, housing, cultural services and environmental services such as food safety, trading standards, waste collection and disposal, planning and development, and police and fire (CLG, 2009a).

In much of England, as shown in Figure 1, particularly in the less densely populated areas, there is a two-tier system of local government organisation, with services provided by shire counties and shire districts. In urban areas, in contrast, local government is usually organised in the form of unitary authorities.

Table 1 shows the current range of functions of English local government and Table 2 shows how these functions are distributed across tiers.

Local authorities receive, on average 75 per cent of their funding for current expenditure<sup>2</sup> from central government. Figure 2 shows subnational<sup>3</sup> revenues as a percentage of GDP for a wide range of OECD countries. The height of each bar shows the importance of subnational governments in each economy.

Figure 2: Subnational Revenues as a Percentage of GDP



Source: King and Watt (2005)

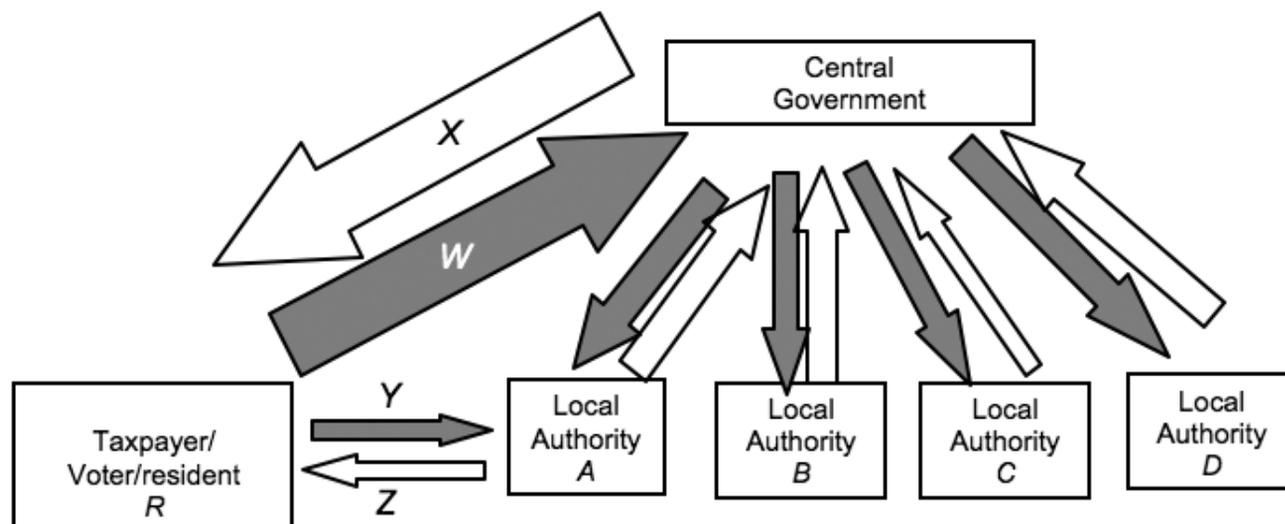
In Figure 2 the relative heights of the bars show the relative importance of local government as a component of each country’s overall economy. When the bar is high, therefore, this reflects either a high preference for subnational government spending, or the inclusion of major functions such as health in local spending.

The share taken by the white part of each bar shows the importance of local taxation in local revenues, and it can be seen that, with the exception of Ireland and the Netherlands, the UK has the lowest proportion of local tax finance of local government spending of the countries shown.

Figure 3 illustrates the main structure of local government accountability. Consider an average taxpayer  $R$ , shown in the bottom left hand side of the figure, who lives in local authority  $A$ . Seen in a principal-agent framework, the accountability of an organisation requires information to flow along the same route as funding but travelling in the opposite direction (Watt, et al, 2002). The citizen/taxpayer principal is asking the agent, “What am I getting for my money?” Local accountability for the, on average, 25 per cent of a local authority’s funding that is met by local taxation is shown as flowing along route  $Y$  in the figure in return for funding  $Z$  and this element of accountability revolves around local democracy.

The major path of accountability, however, is to central government. Seventy-five per cent of funding flows via central government along route  $W$  and is distributed to each of the 353 local authorities in England. This form of funding gives each citizen a concern with what is happening in every local authority, and account-

**Figure 3: Resource Flows and Accountability in Local Government**



*Source: adapted from Watt (2004)*

ability therefore requires performance information to flow from every local authority to central government and then on to each national voter as shown by arrow *X* leading to taxpayer *R*.

Routing the majority of funding for local government through the centre thus entails a centralised system of accountability and explains Labour government's enthusiasm for the series of central inspectorates that examine local government and other local services' performance. The inspectorates that examine the provision of local services are:

- The Audit Commission
- The Care Quality Commission<sup>4</sup>
- HM Inspectorate of Constabulary
- HM Inspectorate of Prisons
- HM Inspectorate of Probation
- Ofsted (Office for Standards in Education).

The pattern of accountability for other local public services not supplied by local government is simpler, with funding almost entirely provided by central government. Primary Care Trusts (PCTs), which account for around three quarters of the National Health Service (NHS) budget, receive their funding from central government through a weighted capitation formula<sup>5</sup>. The allocation for a PCT is determined by a combination of incremental movement from the previous year's funding and central decisions on how fast this should move towards the funding that the formula would indicate (Hansard, 2007). Despite some localist rhetoric, NHS bodies are subject to strong central direction, as Appleby, for example, argues.

“It may seem unfair to point this out, but although the Framework [DoH, 2007] presents a pyramid, the small apex of which is labelled ‘national priorities’ and the much wider base ‘local action’,

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it then goes on to devote 10 pages to detailing said national priorities (with 29 instances of the phrase ‘we expect’) and only one paragraph on priorities determined locally” (Appleby, 2007).

An important mechanism of the system of accountability that this centralised funding system has engendered has been the Comprehensive Performance Assessment (CPA) system for local government that operated from 2002 to 2009. CPA provided a summary measure of performance which onwards from 2005 took the form of a star rating for each local authority, with the number of stars awarded ranging from zero to four and with more stars indicating higher performance (Audit Commission, 2009a).

CPA was, to a large extent, based on a centrally-determined system of performance indicators. The number of performance indicators grew to as many as 1200 but from April 2008 this was reduced to 198 (CLG, 2007b) and later 188 (CLG, 2009b). CPA just looked at the local government contribution to local service provision without taking into account interactions with other local bodies. It can therefore be seen as part of a top-down, silo approach to services. The rhetoric of the new Comprehensive Area Assessment system introduced by Labour in 2009 was of providing a more locally orientated and joined-up system, although commentators argue that it “can turn the attention of the local authority away from its local community to meeting the requirements of central government...” Jones and Stewart (2009, p. 61).

We do not go into detail here about funding and accountability for the other public service providing bodies listed earlier in this paper, but argue that funding and accountability is largely vertical and to the centre.

“The ‘tubes’ or ‘silos’ down which money flows from government to people and localities have come to be seen as part of the reason why government is bad at solving problems” (Mulgan, 2005, p.177).

Why should this central funding model cause a problem? The problem is essentially that of central planning as set out by Hayek (1945), with the centre becoming overwhelmed by the need to receive and take account of a massive amount of local information. Instructions to local bodies in the form of targets and requirements to be met for receipt of specific grants should ideally be adjusted to take account of differences in local circumstances. For example in a certain location a specific grant for activity *X* might be far more productively spent supporting *Y* if *X* is already plentiful in that location. Central ministries struggle to take account of this information with regard to their “own” local bodies. It is therefore not surprising that they often fail to take the further step of allowing for possible synergies between their local bodies and other local bodies.

The problem is therefore one of a top-down silo system working against the advantages of collaboration. What are the advantages of collaboration? We examine the likely advantages of local collaboration, before returning to the question of how this relates to local inspection.

## **ADVANTAGES OF COLLABORATION**

The advantages of collaboration stem from the fact that there will normally be gain from organisations interacting and collaborating when there is an externality between them. The following definition is for an externality between persons, but it equally applies to organisations.

“An externality exists when a person’s actions affect others’ welfare and the first party does not

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have an incentive to recognize this impact in decision-making, so that he or she does not account for all the costs and benefits in selecting actions. Because of this, externalities lead to inefficiencies” (Roberts, 2004, p. 80).

In these circumstances working together to internalise externalities can lead to major benefits.

“The purpose of partnership is to add value or to create a potential for adding value. Partnerships should enable the partners to achieve more than can be achieved by acting independently” (Clarke and Stewart, 2007b, p. 4)

It is worth examining how this might happen in some detail. Figure 4 shows a simple example where working together may enable the same result to be achieved with less resource. Suppose, initially, that a local authority and an NHS health trust in a locality are working independently and are producing a given level of a set of outcomes – say  $L$ . This situation is represented by point  $X$  in the figure. The cost to the local authority of contributing to this overall outcome is 7, and the cost to the health trust is 10. The total budget to achieve the outcomes  $L$  is 17.

Suppose now that there are gains to working jointly on the project, and that a joint team could produce the same outcome,  $L$  with a budget of 13. If the joint team were funded wholly by the local authority, this would correspond to the point marked 13 on the vertical axis of the graph, or if the team were funded wholly by the health trust this would correspond to the point marked 13 on the horizontal axis. These are the two extreme cases and the line joining these two points represents all the possible ways in which the joint funding could be shared: 13-0, 12-1, 11-2, 10-3 etc.

The dark shaded part of the line is of interest as this represents possible budget-sharing positions where the previous level of outcomes,  $L$  can be achieved, but both bodies can reduce their budgets. This is possible with a range of contributions shown by the bold line. For instance, at the point marked by the dot the local authority would contribute 6 to the joint budget, making a saving of 1 and the health trust would contribute 7, making a saving of 3. The bold line therefore represents possibilities for savings and also shows scope for potential conflict over the distribution of these savings between the two partners.

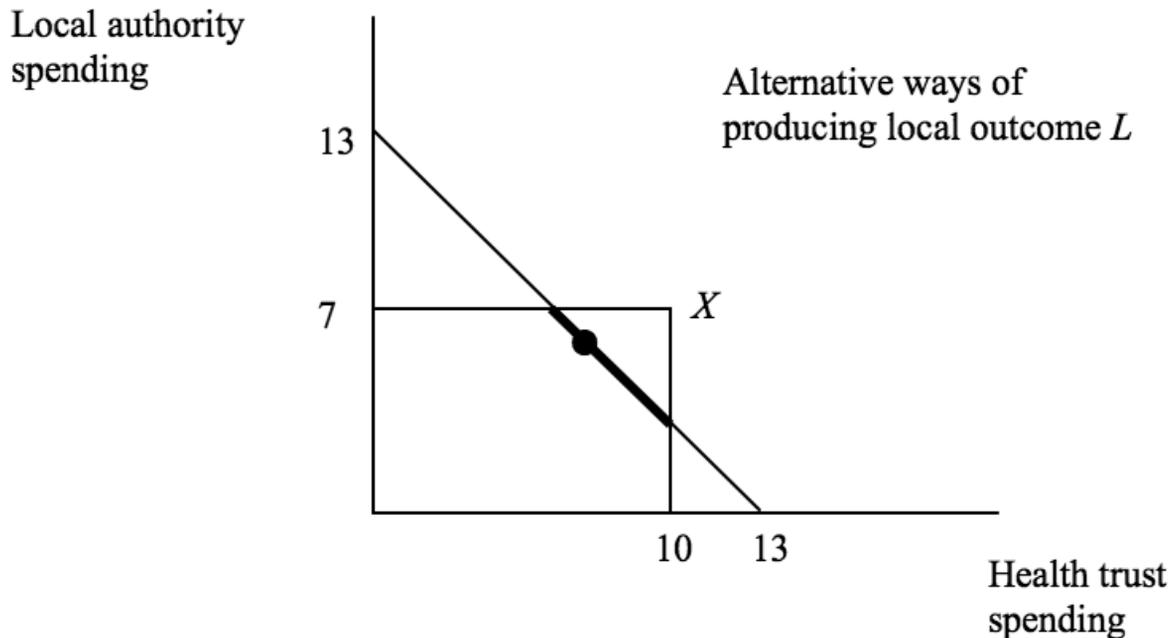
## PROBLEMS OF COLLABORATIVE WORKING

From the analysis illustrated by Figure 4 we can see that if there are collaborative gains to be shared, there nevertheless can be conflict between partners over how these gains might be shared. Whilst the potential collaborators’ interests coincide in preferring arrangements that save resources, their interests can conflict in how these savings are shared.

If one organisation seeks to take all, or the lion’s share of the savings from collaboration, this may lead the other organisations to refuse to collaborate. This problem is known as the prisoners’ dilemma in game theory.

For example, suppose the local authority could collaborate with the health trust, by increasing spending on a service that generates savings for the health trust. Suppose that the savings to the health trust are more than the extra spending made by the local authority. An example might be of the local authority considering providing some preventive social services for older people such as exercise classes designed to reduce the likelihood of a participant falling and possibly breaking their hip. If such an initiative were successful it could provide significant savings to the health trust (Watt and Blair, 2007) that might more than equal the extra spending by the local authority. In

**Figure 4: Collaborative Advantage**



this case the joint spending would be less in total, but the local authority would not enjoy any of the savings and would actually be spending more, with all the savings going to the health trust. If the health trust could find some way of reciprocating both organisations could be better off, but if the health trust was expected just to accept the gains without contributing something in return, the local authority might decide not to go ahead with the initiative. Such an outcome corresponds to a non-co-operative outcome of a prisoners’ dilemma game. Game theory predicts that the prisoners’ dilemma game is likely to lead to non-cooperation if possible collaborators have limited contact and do not have the opportunity to develop trust through repeated interaction (Binmore, 2009, p. 28).

Certainly, cooperation between local government and the health service has been problematic.

“An underlying theme throughout the past 25 years has been the relative imbalance between the NHS and social care sectors. The NHS has consistently played a dominant role, taking actions more or less unilaterally whose consequences have become the responsibility of (and often problems for) local authority social care services. Thus NHS responsibilities for the long-term care of older people and others with long-term health problems have increasingly been transferred to local authority social care services” (Glendenning et al. 2005, p. 250) .

This is a somewhat pessimistic conclusion – even more pessimistic than the view of a local partnership worker quoted by Rowe and Devanney:

“Partnership working in practice consists of the temporary suppression of mutual loathing in the interests of mutual greed. (Local partnership worker) (Rowe and Devanney, 2003 p. 375)

One solution to the problem is the use of pooled funding (Audit Commission, 2009b) first made possible by the 1999 Health Act (Evans and Forbes, 2009, p. 69). Despite enabling legislation the Audit Commission (2009b, p. 19) found that “pooled funds are not common” for older people’s services.

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When the prisoners' dilemma game is *repeated*, there is the possibility of avoiding a non-cooperative outcome. Partners in local area agreements are generally operating in a long term situation where they can choose to cooperate to mutual advantage instead of defect. Thus LSPs may be an important component of a process of establishing mutually advantageous collaboration.

The importance of securing cooperation between partners was intensified by the short-lived system of Comprehensive Area Assessment (CAA).

The two main components of CAA were

- “an area assessment focusing on how well local people are served by local public services, and the prospects for better outcomes on those issues most important to the area; and
- organisational assessments of individual public bodies linking the various assessment frameworks for different sectors into a coherent whole (Audit Commission, 2009a, p. 76).

CAA assessed councils' organisational performance with a score ranging from one to four out of four. Fourteen councils achieved four out of four in the December 2009 assessments, with eleven councils scoring the lowest score one out of four (LGC, 2009, p. 4).

The cross-sector performance of public services was also assessed across the council area. This assessment is in part driven by a subset of 35 the 188 national indicators selected as particular local priorities by the LAA as guided by the local government office for the regions. The assessment awarded “green flags” if the inspectors considered that there was “exceptional performance or outstanding improvement in outcomes from which others could learn” and red flags if they considered that there were “key agreed outcomes that are not on track, given the current activities underway, or planned by partners” (Audit Commission, 2009c, p. 54). The abolition of CAA by the new Coalition Government has removed one of the incentives towards local collaboration.

## CONCLUSIONS

This paper has discussed the problem of collaborative management of provision of local services in the UK, focussing on England as a particular example. A new system of performance assessment – CAA – was introduced and the first results announced, before being abolished by the new Coalition Government in May 2010.

The rhetoric of the system asserted that it would lead to greater attention to local priorities. Now CAA has been abolished and the system of central inspectorates is under question. However, the system of very largely central funding is likely to continue to encourage local public service providers largely to face towards their central funders and inspectors rather than the local residents they are intended to serve. The exception to this may be the new Government's move to funding of health through General Practitioner's Consortia<sup>6</sup>, although the details of how this will impact on collaboration between local government and health remain to be worked out.

## ENDNOTES

<sup>1</sup> Although CAA has been abolished, the government does not at present have plans to address the centralised system of funding that caused the problem that CAA was intended to solve, so the system is likely to be subject to further change.

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<sup>2</sup> Net of fees and charges.

<sup>3</sup> The term subnational is used as the different countries have different combinations of regional and local governments

<sup>4</sup> Replacing from March 2009 the Healthcare Commission, Commission for Social Care Inspection and the Mental Health Act Commission)

<sup>5</sup> The new Coalition Government is pledged to abolish PCTs by April 2013 and instead fund health through allocations to General Practitioners' Consortia via a an NHS Commissioning Board (DoE, 2010).

<sup>6</sup> In the UK the first port of call for a person seeking non-urgent health care is their local doctor, labelled their general practitioner.

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## ABOUT THE AUTHOR

**Peter Watt** is Reader in Public Sector Economics at INLOGOV – the Institute of Local Government Studies in

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the School of Government and Society at the University of Birmingham, Birmingham, B15 2TT, UK.

*Contact information:* P. A. Watt; Institute of Local Government Studies; University of Birmingham, UK;  
p.a.watt@bham.ac.uk





# Public Administration and Multidisciplinarity: The Contribution of Other Disciplines to the Debate on Governance

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It is essential that researchers go beyond their primary research boundaries and examine if perspectives from other disciplines can contribute new theoretical insights or provide interesting empirical findings. The topic of governance has been studied by public administration scholars and scholars from several other disciplines such as finance, economics, management, political science and sociology. Accordingly, the papers in this section look for insights on governance within and outside the Public Administration domain. The intellectual history of our own field (certainly in the United States) is founded on scientific, rational principles. Many domains of policy-making, especially those promoting “market-like arrangements,” assume forms of rationality in the behavior of actors. But governance is fundamentally about the citizen-state exchange and service-delivery – “people-work” that involves both art and science. The papers in this section address a range of themes relevant to public administration – rational decision making models versus pragmatic decision making models, implications of new public management based reforms, and issue framing and sense making by various public sector actors.

Demmke, Henökl and Moilanen revisit the new public management debate and offer an interesting study of change, reform and reorientation in public administration in Europe. The authors note that over the last decade major reforms have been introduced at various levels in European nations. However, the effectiveness of these reforms is generally contentious, with little supporting evidence as to successful outcomes. This observation is consistent with other studies that have questioned the new public management paradigm (Lynn Jr., 2001; Wu and He, 2009). The authors offer a comprehensive examination of the evolution of the traditional bureaucratic career system in Europe by focusing on the “Civil Service Systems in the EU of 27.” The authors find that reforms aimed at improving efficiency and performance have in practice resulted in reduction in staff and outsourcing of services to external agencies. The authors conclude that the present financial crisis has highlighted the situation that, across

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the globe, governments are indispensable. Therefore, reforms based on the new public management paradigm, which have significantly reduced the size of public agencies, are not in line with governance realities. Perhaps, as the authors claim, it is time for a "comeback for the State."

Julnes' chapter addresses efforts to improve performance in government. Instead of reforms modeled on private-sector practices, this chapter focuses on rational analysis which entails information collection and use to support decision-making. Program evaluation and performance management are two familiar examples of rational analysis. The author notes that instances have been reported in which performance data were collected but remained unused (or were poorly used) for performance management purposes. Julnes argues that an over emphasis on rational decision making and poor understanding of our value-judgments as to options foster unsatisfactory decision-making in the public sector. The author uses principles of pragmatism and research in cognitive and neurosciences to develop a more nuanced and balanced model that sufficiently recognizes the role of value judgments in decision-making.

Jochim and May examine the concept of boundary-spanning policy regimes in the context of messy problems such as deteriorating infrastructure, global climate change, and the threat of terrorism. The authors begin their chapter by reviewing different research streams and traditions – international relations, urban politics, comparative politics, American political development, historical institutionalism, and policy process – to highlight the application of the concept of policy regimes in various contexts. Further, two examples of messy problems – pollution control and homeland security – are used to illustrate how issues, ideas, interests, and institutions influence the emergence, viability, strength and durability of boundary-spanning policy regimes. This chapter calls for a paradigm shift – from structural and implementation reforms targeted at fragmented sub-system levels to a holistic boundary-spanning policy regimes perspective – for solving messy problems that today's policy makers have to address.

Dudley proposes exploring methodological approaches from communication studies to examine the framing of policy issues. As the author notes, communication studies is a broad research area that includes sub-disciplines e.g. technological communication, small group study, and rhetoric. This chapter focuses, in particular, on the sub-discipline of contemporary rhetoric which involves the study of texts and speeches, to explain the discourse. Dudley applies rhetorical analysis to describe two different discourses: i) citizens participating in forums on health care costs ii) dialogue between the Congress and the Executive on the meaning of "publicness" in the "inherently governmental" debate. The study reports interesting findings that highlight differences in issue-framing and sense-making by various actors. How these findings can inform the theory and practice of public administration are discussed at length.

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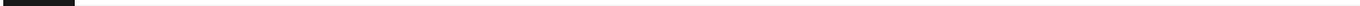
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## **WORKSHOP CO-CHAIRS:**

**Meredith Newman**, School of International and Public Affairs, Florida International University,  
*newmanm@fiu.edu*

**Wim van de Donk**, Tilburg School of Politics and Public Administration, Tilburg University, The Netherlands,  
*donk@wrr.nl*



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# Change and Reform of the Civil Services in the EU of 27

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Christoph Demmke, European Institute of Public Administration

Thomas Henökl, European Commission

Timo Moilanen, University of Helsinki

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## ABSTRACT

Public administration is moving through a fascinating but also disorienting period of change throughout Europe. During the last decades almost all national (and sub-national) public services have introduced major civil service reforms. The discussion of what has been achieved by restructuring public service is most controversial. However, there is little evidence on the outcome of these reforms, as well as on the evolution of working conditions, attractiveness of public sector employment, recruitment, career development, and salaries in comparison to the private sector (nor, for that matter, between the public services of the EU 27). This article is presenting the results of a study on the “Civil Service Systems in the EU of 27”, based on empirical data from the EU Member States, and realised within the European Public Administration Network (EUPAN), on the evolution of the classical bureaucratic career system in the Europe.<sup>1</sup>

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## INTRODUCTION

Since the beginning of the twentieth century, the European States have developed specific civil service systems. Later, these systems were further specified and developed into highly sophisticated and complex organisational structures.<sup>2</sup> For a lengthy period, European societies believed that civil servants were linked to the authority of the state and could not be compared to employees in the private sector. This group of public employees were seen as agents intended to uphold the rule of law and to implement government policies. Consequently, civil servants had to have high standards of integrity and be entrusted with a single task: working for the common interest. In this conception, where the state was separated from society and citizens, it was inconceivable that civil servants should have the right to strike or the right to conclude collective working conditions agreements.

In all countries, public administrations were supposed to be neutral, and one of the most important obligations of civil servants was the duty to maintain that neutrality and pledge allegiance. These obligations were put into concrete terms by rules on impartiality, incorruptibility, allegiance to the constitution, obedience to the law, and loyalty. To enable civil servants to fulfil these functions, they needed a protected employment relationship, so that a job for life and a secure career path are intended to protect civil servants from social and political influences and help them perform their duties in a neutral manner. Therefore, when establishing their civil services in the nineteenth century, many European States established the model of the career system.

Almost all European States were convinced that civil service career systems were the “incarnation” of a bureaucratic organisation and guaranteed a maximum of stability and efficiency. The development of specific civil services structures was the consequence of the theory that working conditions are influenced by *work organisation* and the organisational structure.<sup>3</sup>

Although the implementation of a career model was closely connected with the country’s own national tradition and political system, almost all organisational features were comparable. Almost all European countries had developed specific career systems. Compared with the the seventies and eighties there exist nowadays a variety of administrative models. Consequently it becomes even questionable even to group different countries by region. For example, the Baltic States have very different civil service structures, and a comparison between the Czech Republic, Slovakia and Hungary would also reveal few commonalities. These three countries have decided to adopt different models for their civil services, which are of course closely connected with their own history, national tradition, civil service culture and (to some extent) geography. Another possibility would be to compare Member States by geographical and administrative traditions, e.g. Scandinavian Position systems. However, as we will see later on also countries like Sweden, Finland and Denmark are not easily comparable.

During the beginning of the new century, a number of the ten new EU Member states opted for structures with classical career paths, in which there is a hierarchical structure for groups of civil servants, who (can) gain advancement in accordance with the seniority principle. One major reason for establishing a career system was to “fight” the problem of political influence and patronage which had resulted from the Communist period. However, only after few years many new Member States reformed and changed their systems, again. These developments showed that it is still very difficult to predict where reforms will lead in some countries. Verheijen

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## Characteristic Elements of Bureaucratic Career System

Civil servants have a public law status (nomination, oath)

The existing civil service rules (constitutional provisions, civil service law, regulations, statutes) are applicable to most public employees

The civil service is centralised, hierarchical, and structured in careers or corps

Different recruitment requirements and recruitment generally at the lowest level

No possibility to recruit managers from the private sector

Higher job security (dismissal only possible for disciplinary reasons)

Specific salary and pension schemes (regulated by law); wage system governed by seniority principle

Distinct disciplinary and ethical rules

Different social dialogue

No right to strike (or restricted for some civil service categories)

Professional experience in the private sector is not taken into account for the calculation of salary and pension rights

No possibility to promote candidates to the mid- or top level of the hierarchy -normally, promotions take place to the next higher grade

No or limited mobility between the public and private sector

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makes this very clear: “civil service developments has in most states been limited to the development and adoption of civil service legislation (...) The adoption of civil service laws in a large number of states in the region, however, has not resolved the problems of instability and politization and has rarely led to the development of a well-working system of long-term career development.”<sup>4</sup> “Where political institutions were reformed and started to operate, administrations were left behind.”<sup>5</sup>

Today, it seems to be only a question of time before the existing models are also reformed and new civil service laws being adopted. However, this is not to say that comparisons are impossible.<sup>6</sup> But it is likely that a trend towards Europeanisation can be identified. Rather, it is likely that tradition, geography and institutional memory play an important role in the reform process. In our study we have analyzed the national civil service systems according to a pure career system model. If a national system would fulfil all approximately 30 indicators for a career system it can be identified as a pure career model. The less indicators exist in one country the less a national system can be characterised as a career system (but rather a hybrid or position system).

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## THE HISTORICAL FOUNDATIONS OF THE CAREER SYSTEM

Max Weber attributed the following characteristics to a “bureaucrat” and a bureaucratic organisation: as a rule the official normally holds tenure. Independence should be legally guaranteed by tenure, but should not constitute a source of increased status for the official.<sup>7</sup> Contrary to this, the “function of security of tenure, pensions, incremental salaries and regularized procedures for promotion is to ensure the devoted performance of official duties.”<sup>8</sup> “The salary is not measured like a wage in terms of work done, but according to “status”, that is, according to the kind of function (the “rank”) and, in addition, possibly, according to the length of service. The relatively great security of the official’s income, as well as the rewards of social esteem, make the office a sought-after position...” but this situation permits relatively low salaries for officials. Finally, the “official is set for a “career” within the hierarchical order of the public service. He moves from the lower (...) to the higher positions.”<sup>9</sup> From here stems the argument for hierarchical organisations, careers, the principle of seniority and the introduction of ranks.

Traditionally, these special organisational features should both guarantee the neutrality of the civil servant and make him a loyal server of the state. In principle, there is nothing to suggest that these hierarchical, specialised and formalistic treatments are negative *per se*. In “Politik and Beruf” Weber suggested that civil servants should administer without fight, passion and emotion. Communication should be “dehumanised” by eliminating feelings like hate and other irrational and emotional elements. The civil servant should not do the task of a politician: fighting!<sup>10</sup>

However, today more observers of civil service reforms believe that traditional features have produced as many benefits as damage. For instance, the focus on impersonal treatment as a principle has led several public organisations to develop into extremely dehumanised, anonymous, hierarchical and impersonal machines. The principle of seniority has de-motivated (and almost discriminated) younger, talented officials. The principle of stability has led to inflexible, almost closed-up organisations with very little contact to the wider (public and private) sector and limited mobility.

Also, Weber’s positive perceptions of bureaucratic elements such as “precision, speed, lack of ambiguity, knowledge of files, continuity, discretion, unity, strict subordination...” have certainly changed under today’s perceptions, although precision, knowledge of files, continuity, discretion are not negative *per se*. Moreover, the need for civil servants to be guided by constitutional principles and trained in administrative law<sup>11</sup> is widely acknowledged, but not done in practice.

In addition, factors such as subordination, lack of transparency, and rigidity (in the sense of organising bureaucracies too strictly into careers) conflict with demands for transparency, pluralism, flexibility, democracy and responsibility. Better qualifications have led to civil servants who are more qualified, critical, flexible and self-confident and who would not accept simply the taking of orders and the giving of orders. Also, our modern, conceptual understanding of bureaucracy is that it should serve the society instead of controlling it.

But bureaucracies and public services are not the same everywhere. Whereas some Member States still have relatively classical bureaucratic civil service systems, others have moved away from the pure bureaucratic models. According to Demmke and Moilanen the national systems differ widely<sup>12</sup>.

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## Traditional Bureaucracy: Post-Bureaucracy Continuum Score by EU Member State

0% = traditional bureaucracy, 100% = post-bureaucracy

Member State	Score
Greece	7.2
Luxembourg	7.2
Cyprus	9.8
Ireland	13.6
Portugal	16.3
France	16.3
Germany	16.6
Belgium	18.6
Spain	19.1
Romania	19.8
Italy	20.4
Hungary	22.9
Austria	23.7
Lithuania	24.3
Poland	27.7
Bulgaria	28.9
Malta	29.3
Slovenia	29.5
Estonia (*)	38.8
Latvia (*)	40.2
Netherlands (*)	47.1
Slovakia (*)	51.0
Finland (*)	53.4
United Kingdom (*)	64.1
Denmark (*)	68.2
Czech Republic (*)	73.0
Sweden (*)	81.4
<b>Mean</b>	<b>32.2</b>

(\*) *Non-career system country*

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In addition, whereas some classical features of the bureaucrat may be old-fashioned, others still make sense. In addition, a number of classical characteristics of the “weberian” bureaucrat are not bad, but have been perverted by bureaucratic pathologies within the last few decades. In addition, public bureaucrats (just like bureaucratic organisations) face an inherent tension between individual flexibility (and discretion) and legal correctness (and fairness). Or, to put it differently: between the need to serve and the need to preserve.

In a classical bureaucratic career system, the main difference between the civil servant and any other citizen is that the civil servant has been entrusted with the preparation and execution of the Government’s programme.<sup>13</sup> This position gives rise to special rights and duties and professional requirements which differ from those of an employment relationship in the private sector. For example, the duty to enforce laws and maintain the rule of law requires at least some knowledge of constitutional and administrative law. In many countries with a career system, therefore, the civil service contains a particularly high number of lawyers. Today, the

## Recruitment in Civil Service Generally Takes Place at the Lowest Level/Rank/Position in the Relevant Career/Corps/Hierarchical Level by Type of Civil Service Structure

*(Frequencies in parenthesis)*

		Mainly yes	No	Total
Type of civil service structure	Career structure	50 (9)	50 (9)	100 (18)
	Non-career structure	0 (0)	100 (9)	100 (9)
	Total	33 (9)	67 (18)	100 (27)

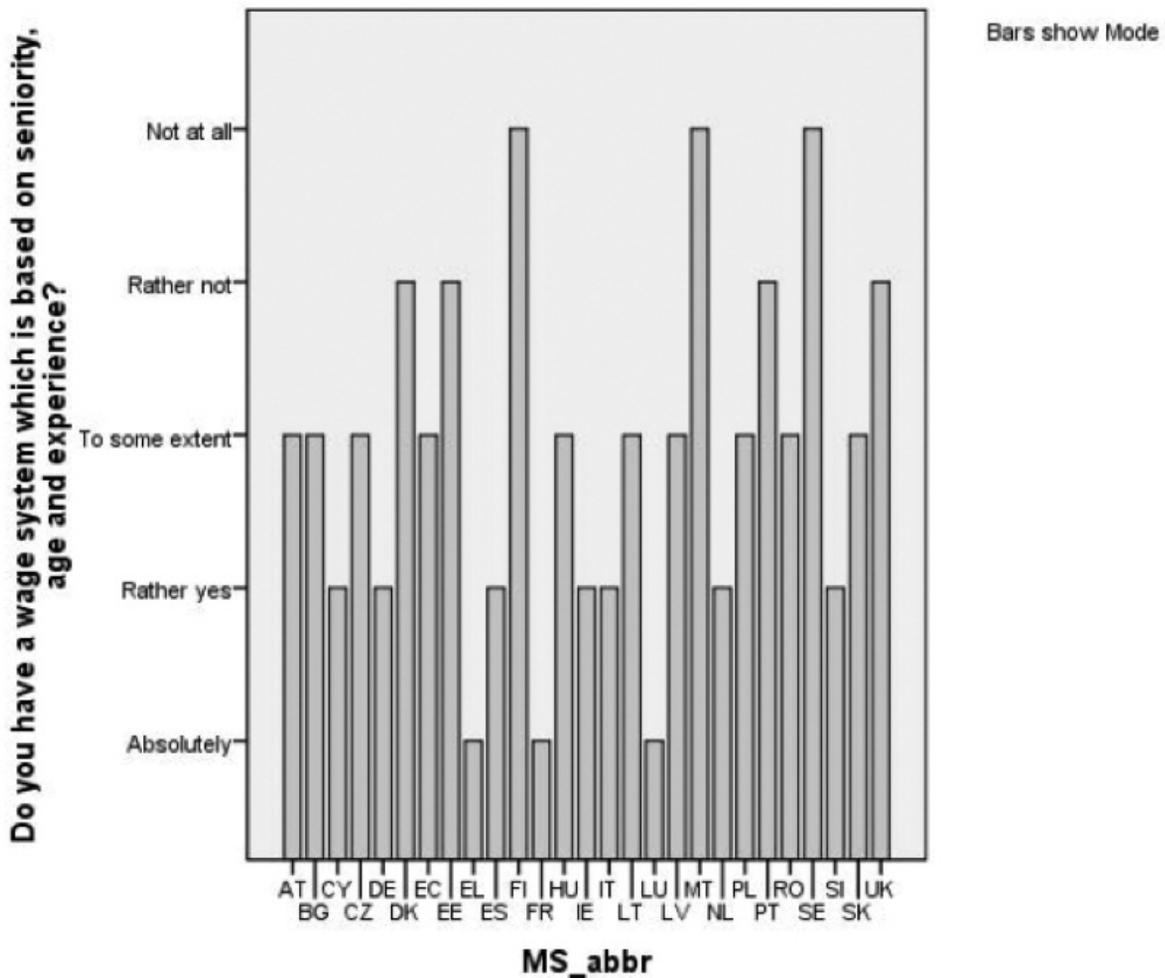
numbers of lawyers seem to have decreased - at least in some European countries. One reason for this is that civil servants are not supposed to act primarily as “legal implementors” and executors of governmental policies. Instead, they are given a variety of new tasks (e.g. as regards the design and implementation of programmes, communication with the public, negotiation tasks etc.) that require wider qualifications. However, this might also entail the problem that administrative law as such is becoming less important, since employees lose the ability and knowledge to implement administrative law provisions. But this gain might lead to a discussion about how important citizens rights will be guaranteed in the future. As Rosenbloom shows, it will become more important in the future to train and to teach public employees about administrative law.<sup>14</sup> On the other hand, the traditional work of civil servants has changed considerably during the last few years. For example: instead of implementing and executing laws, civil servants need to communicate with citizens and chair working groups in Brussels. Therefore, the traditional concept of legal education has to change as much as the requirements for non-lawyers to have at least basic legal skills.

A typical default of the traditional career system is that employees often face career bottlenecks and reach the highest position they could reasonably expect to achieve at around 50 years of age. After that they can only expect an automatic increase in step every two years. With further promotion improbable, the organisation fails to provide these employees (mostly older staff) with a good career development perspective.

Another problem of the rigid career system is that it is often difficult to move between categories, careers and between the public and private sector. In fact, young, promising officials have a long way to go until they (theoretically) reach top positions and older employees suffer from the lack of career perspectives. Yet in an age of increased mobility, individualism and life-long learning, such a rigid structure appears outdated. Moreover, the advance of IT has made the traditional lower grades largely superfluous.

Another popular criticism against a career system is the pay system which is regulated by law and pays officials according to experience and seniority but less according to individual performance. In order to react to this criticism many Member states have started to introduce performance related pay and abolish seniority automatisms.

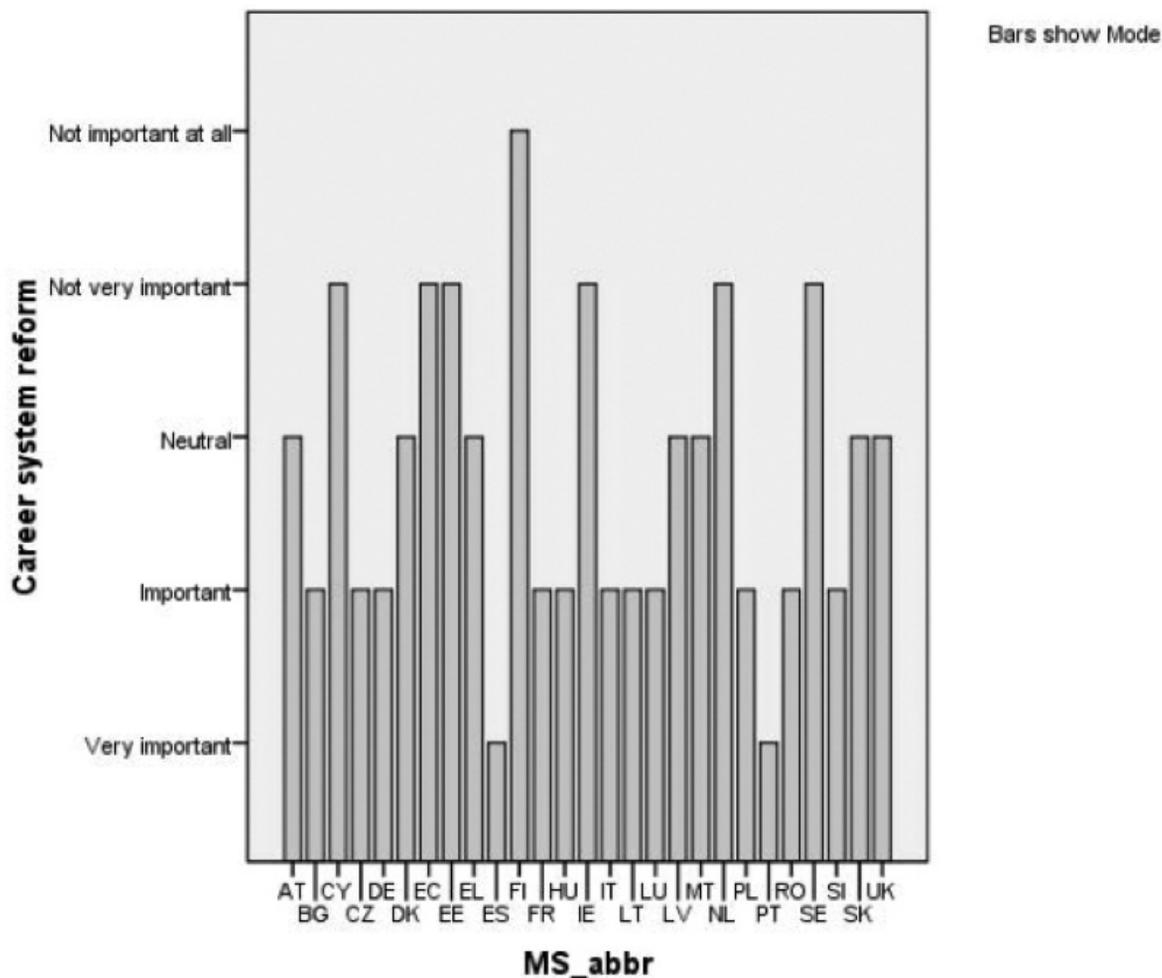
## Do You Have a Wage System which is based on Seniority, Age, and Experience?



Because of these shortcomings, former career systems like the Italian, British, Dutch and Finnish, have changed their systems. The first European country to deviate from a classical career system was the UK (after the Fulton report in 1968), followed by The Netherlands (after the so-called Pre-advies in 1982) and the reforms undertaken in Sweden and Italy (in the late eighties and early nineties). Other countries, like Austria and Denmark and Portugal, pursued a policy of contractualisation, meaning that they drastically reduced the number of civil servants. Less drastic, but also important, were the (ongoing) civil service reforms (*“Föderalismusreform”*) in Germany and in France. Also, other EU countries are in a process of on-going reform of their public services.

As a result of civil service reforms, there is, at the beginning of the 21st century, no longer a national civil service model that could be described as a classical career model (this also applies to the German, French and Spanish models). Today, many Member States of the European Union are also engaged in decentralising and delegating tasks and duties, decentralising responsibilities to agencies and managers and introducing anti-discriminatory policies which should assure that minorities should have more and better access to public employment. Consequently, only few public services are centralised, unified and homogenous as was the case in the past. In

## Career Systems Reform

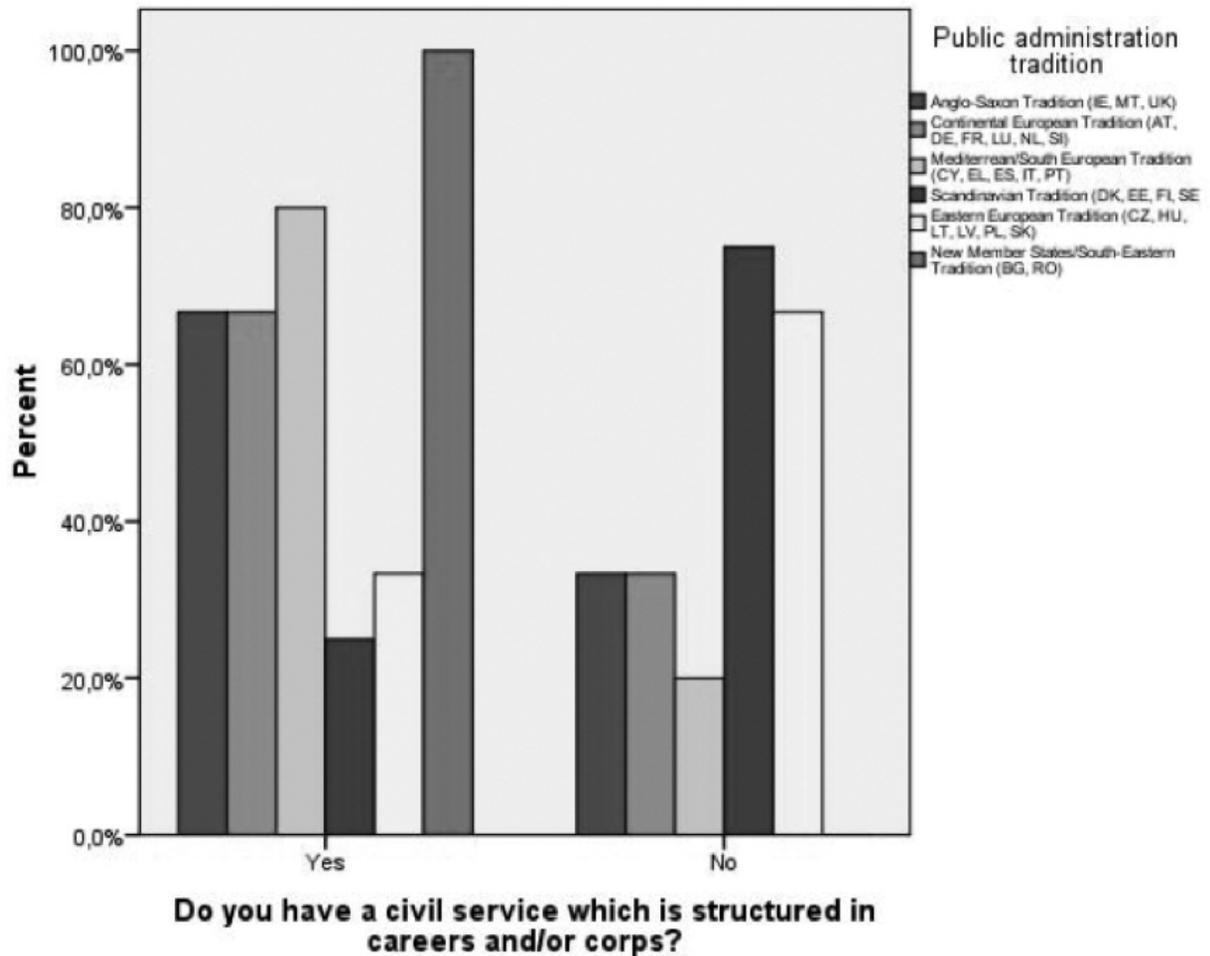


Austria, for example, only a minority of public employees work at the federal level but many more in subordinated services and outsourced authorities (*“nachgeordnete Dienststellen und ausgegliederten Einrichtungen”*).

Many EU Member States have divided their public services according to political levels, e.g. Sweden is distinguishing between national, regional and local levels, and territorial levels e.g. France is differentiating between the central public service, territorial public service and health or hospital services, or according to sectors, e.g. Italy and the Netherlands (the latter applying a distinction between different sectors such as central governmental level, education, police, justice, etc. with either the same or distinct working conditions for public employees).

According to Oeij and Wiezer<sup>15</sup> many organisational changes that are taking place are related to particular aspects of an organisation, not to the whole of it. For example, most reforms that are taking place modify and change certain bureaucratic elements, but not the general bureaucratic structure of the organisation. Interestingly, still no new universal alternative model of civil service organisation is likely to replace the « bureaucratic model ». In addition, classical elements of the career system are also applied in countries using a position

## Do you have a Civil Service which is Structured in Careers and/or Corps?



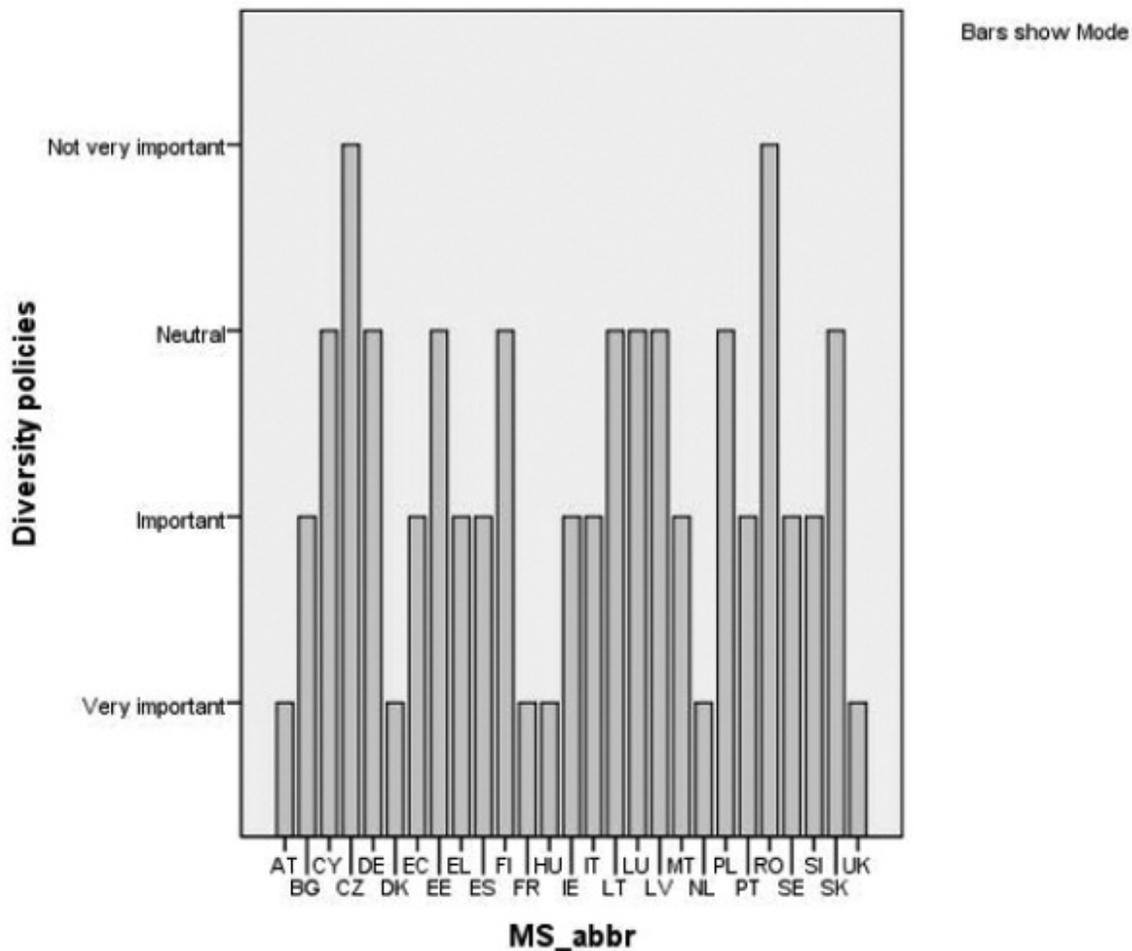
model. This often affects specific sectors such as the military, the customs service or the police. For example, in almost all countries the right to strike does not apply to soldiers or policemen. In addition, career development opportunities, clear career paths and promotion pose great challenges in countries with position systems. Also, seniority plays a role almost everywhere, although merit should be the dominant feature of career development policies.

On the other hand, the classical bureaucratic career model has probably seen its best times. EU Member States are keeping only certain core elements and throwing away those aspects which they consider too inflexible, too hierarchical, too slow or too unresponsive.

On the other hand, it seems unlikely that a new universal model will come into effect in the near future. Instead, the development of organisational structures in the European civil service reflects the general tendency towards more differentiation and individualisation in society. This trend may lead to more organisational diversity and less unity in the European civil services. Nowadays many European civil services in Scandinavia and Central Europe do not have a classical career system anymore.

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## Diversity Policies



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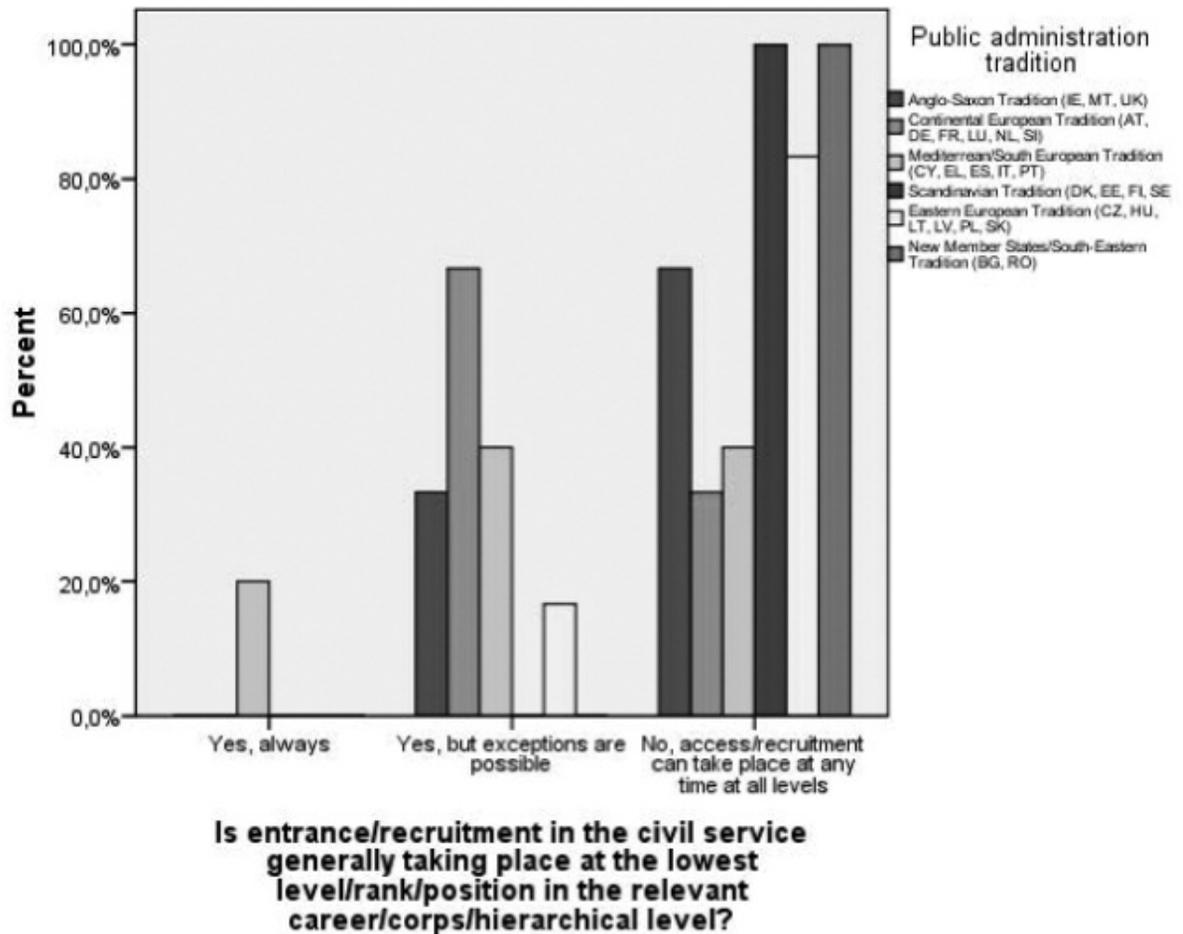
## IS THERE A BETTER ALTERNATIVE TO CAREER SYSTEMS AND BUREAUCRATIC ORGANISATIONS?

States and public administrations seem to respond differently to common trends since economic pressures, the nature of political systems, administrative structures, and political doctrines differ between countries. For example some EU Member States have set diversity management on the top of their reform priorities, whereas others believe that this subject is not important.

Still, one of the most important challenges for almost all European public services is budgetary constraints. Often, public services are considered too expensive, inefficient, over-regulated, and ineffective. The Lisbon agenda, in particular, plays an important role in this discussion. Consequently, solutions should aim at greater efficiency, effectiveness and fewer – or better – rules. Thus, most EU Member States believe that reducing administrative burdens should play a priority in the national reform agenda.

The downside of this discussion is that positive features of national public services may not be discussed sufficiently and civil servants are seen as cost factors and less as positive contributors to effective public organisations.

## Is Entrance/Recruitment in the Civil Service Generally Taking Place at the Lowest Level/Rank/Position in the Relevant Career/Corps/Hierarchical Level?



Because of the national differences it remains difficult to compare governments, reforms and civil service structures. Consequently, it will be a very subtle task to identify a universal or European process of convergence in public sector reform.

Overall it seems, the times of a classical pure career system are over. The specific characteristics (and particularly the lack of flexibility) of this model no longer fit modern requirements for flexibility, adaptation and more variety. Therefore, the Member States have started – although very differently – to reform and to modify the classical systems.

The introduction of more contractual flexibility, mid-career mobility, mobility between the private and public sector, open competitions for senior positions, reform of recruitment procedures, alignment of pension systems, introduction of performance management systems, and reform of remuneration systems have changed the “face” of the career systems to such an extent that it becomes more difficult to characterise countries with career systems and find useful criteria for comparison. Also, a distinction between the still existing career and position models become more difficult and needs to be differentiated on a number of points:

## Percentage of Civil Servants and Other Employees by Member State

Member state	Percentage of civil servants and other employees
Czech Republic	0% civil servants, 62% public employees, 38% officials in territorial self-governmental units
Sweden	1% statutory civil servants, 99% contractual employees
Latvia	6% civil servants, 94% public employees
Poland	6% civil servants, 94% civil service employees
Romania	6% civil servants, 1% specific civil servants, 93% public employees
United Kingdom	10% civil service, 90% wider public sector
Ireland	13% civil servants, 87% public servants (*)
Italy	15% civil servants (under public law), 85% civil servants (under labour law)
Hungary	25% civil servants, 75% public employees
Cyprus	28% civil service, 17% education, 15% security, 14% crafts-men and labourers, 20% semi-government organisations, 6% local authorities
Slovenia	34 % civil servants, 66% public employees
Denmark	36% civil servants, 66% public employees
Germany	37% civil servants, 59% employees 59%, 4% soldiers
Bulgaria	48% civil servants, 52% contractual staff
Spain (**)	59% civil servants, 27% contracted personnel 14% other types of staff (regional and local level excluded)
Austria (**)	61% civil servants, 39% contractual staff
Lithuania	67% civil servants, 28% employees under labour contract, 5% other
Malta	67% civil servants, 33% public sector employees
France	73% civil servants, 15% contract agents, 12% other specific staff
Greece	74% civil servants, 26% contractual personnel
Belgium (**)	75% civil servants, 25% contractual employees
Luxembourg	77% civil servants , 23% public employees
Finland	83% civil servants, 17% public employees (regional and local level excluded)
Slovakia	85% civil servants, 10% public employees, 5% contractual employees
Estonia	90% public servants, 7% support staff, 3% non-staff public servants
Portugal	100% civil servants
Netherlands	100% civil servants

(\*) In Ireland only those who work for the ministries are called civil servants, others are public servants.

(\*\*) These figures concern only the federal level administration (in Spain the regional level).

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- Often the regulations in a career system apply solely to civil servants with a public law contract (e.g. in Germany the main elements of the career system only affect about 30% of public-sector employees). For the future, it seems that the number of civil servants will further be reduced.
  - The conditions of service for top civil servants will increasingly be different. In some countries a distinct Senior Civil Service is being introduced and/or positions for top civil servants are being awarded for a specific period following a specific selection procedure.
  - In the end, the two systems will differentiate themselves still more in the national model concerned. For example, position systems like those in Sweden, The Netherlands, United Kingdom and Italy are fundamentally different. For example, in the Netherlands civil servants are public law officials, whereas in Sweden they are regulated under private law. On the other hand, career systems like those in Greece, Luxemburg, Germany and Spain have similarities, but also a number of differences.

However, despite all reform trends and the need to restructure the traditional career systems, it remains an open question whether the outcomes of all the reform processes are actually improvements. Just as it is easy to say that traditional “career systems” have become old-fashioned, it is difficult to say whether reformed, flexible and/or position systems are “good” or even superior to career systems.

Far from this, it seems that reformed civil service systems are simply different and reflect modern thinking about the role of the public sector at the beginning of the 21st century. Unfortunately, reformed systems also face as many problems as career systems. These weaknesses concern exactly the advantages of the traditional career system – the lack of stability, continuity, career development possibilities and predictability. It is interesting to note in this connection that two EU Member States with a so called position model – the United Kingdom and The Netherlands – have decided in parallel to create an elite (career-like) Senior Civil Service which will differ in many respects from other parts of the civil service.

After the Second World War, the tasks of the state evolved (especially in the social and education sector) and more and more people were recruited as civil servants. Consequently, public employment reached a new peak in the late 1970s and early 1980s. However, as a consequence of the broadening of the public sector, it also became also less clear why civil-service positions in the field of education, research, and social security, for example, should be treated differently to those in the private sector. Despite all criticism against a specific civil service, civil servants still represent a very important part of the public workforce.

This expansion of the civil services and – in many cases – the preferential treatment of civil servants (especially as regards job security and social security provisions) have to some extent improved the attractiveness of public service employment – but not necessarily the image of the public services. In fact, citizens, media and politicians have expressed more and more dissatisfaction with the public sector and with civil servants in general and campaign against the bureaucrats and expensive, slow, inefficient, and unresponsive bureaucracies. As a result, it has become more and more difficult to argue why certain features of the traditional public services, such as pay, social security, working conditions, working time, the right to strike and social dialogue, etc., should be distinct from those in the private sector.<sup>16</sup>

## Developments in Top Managers' and Middle Managers' Responsibilities in Recent Years by Type of Civil Service Structure

(Frequencies in parenthesis)

		More	Same	Less	Total
Type of civil service structure	Career structure	78 (14)	22 (4)	0 (0)	100 (18)
	Non-career structure	78 (7)	22 (2)	0 (0)	100 (9)
	Total	78 (21)	22 (6)	0 (0)	100 (27)

The early 21st century has seen the introduction of new popular concepts such as governance, change management, knowledge management, life-long learning and new public management. In addition, in many civil services, decentralisation trends have been introduced, organisational structures and recruitment procedures have been changed, budgets reduced, working time patterns have been modified, performance management systems adopted, senior officials are appointed for a definite period of time, pay and pension systems have been reformed and – more generally – alignment trends between the public and private sector have been pursued. To this should be added the impact of the European integration process on the public services and liberalisation and privatisation in the field of the public services (audiovisual, post, railways, electricity, telecommunication and gas).

These ongoing reform measures encourage the change, deconstruction and decentralisation of the civil service on all fronts.

In addition, public policies are now administered through increasingly complex networks<sup>17</sup>, decentralised governance structures, public-private partnerships and cooperative ventures between NGOs, consultants and government. Moreover, managers have been given more and more responsibilities in the field of HRM. As a consequence, the traditional concept of the public service as a single, unified employer is slowly disappearing. Instead, the introduction of individual performance schemes and the decentralisation of responsibilities in Human Resources Management (HRM) make the public service a somewhat heterogeneous body.

## THE FUTURE OF A SPECIFIC CIVIL SERVICE

Imagine a world without bureaucracy and civil servants: Would there be more or less inefficiency? More or less rules? More or less standardised procedures? More or less fairness and equality? And what could be the alternative to bureaucracy and bureaucrats? What will happen if the bureaucrats disappear and working conditions and organisational structures are totally aligned with those in the private sector? Would this have positive effects on morale, motivation, satisfaction and performance? Would this be good or bad for our societies? Would the public sector perform better if the public servant were to become a “*personality*” instead of pretend-

## Main Differences Between Civil Servants and Other Public Employees by Issue and EU Member State

1 = yes, 2 = no

	Legal status	Recruitment	Job security	Careers	Salary	Discipline	Dialogue	Pension	Strike	%
Germany	1	1	1	1	1	1	1	1	1	100
Lithuania	1	1	1	1	1	1	1	1	1	100
Estonia	1	1	1	2	1	1	1	1	1	89
Hungary	1	1	1	1	1	1	1	2	1	89
Ireland	1	1	1	1	1	1	1	2	1	89
Romania	1	1	1	1	1	1	1	2	1	89
Cyprus	1	1	1	1	1	1	1	1	2	89
Slovakia	1	1	1	1	1	2	1	2	1	78
Belgium	1	2	1	1	1	1	1	1	2	78
France	1	1	1	1	1	2	1	1	2	78
Greece	1	1	1	1	1	2	1	1	2	78
Luxembourg	1	1	1	1	1	2	2	1	1	78
Spain	1	1	1	1	1	2	2	1	1	78
Italy	1	1	2	1	1	1	1	2	2	67
Poland	1	1	1	1	1	1	2	2	2	67
Austria	1	2	1	2	1	1	2	1	1	67
Malta	1	1	1	1	1	1	2	2	2	67
Portugal	1	2	1	1	2	2	1	2	1	56
Latvia	1	1	1	2	2	1	2	2	2	44
Netherlands	1	2	1	2	2	2	1	1	2	44
Slovenia	1	1	2	1	2	2	2	2	1	44
Bulgaria	1	1	2	1	2	1	2	2	2	44
Denmark	1	2	2	2	2	1	2	1	1	44
Sweden	2	1	1	1	2	2	2	2	2	33
Finland	1	1	2	2	2	2	2	2	2	22
Czech Republic	2	2	2	2	2	2	2	2	2	0
United Kingdom	2	2	2	2	2	2	2	2	2	0
%	89	74	74	70	63	56	52	44	48	

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ing to be a (Weberian) impersonal servant of a bureaucratic machine? Can stability and neutrality of the public service be better achieved with more flexible forms of working contracts rather than by maintaining the – traditional – life-time tenure?

Still, despite all reforms there is no universal accepted counter model to the bureaucratic model. Although most Member States move away from pure career models they maintain some classical features. It seems that more observers accept that bureaucracies and career systems etc. also have a number of positive sides. Thus, the real challenge seems to be to reform the classical bureaucratic career model – from the inside.

Whereas for a long time public organisations were very different from private companies, this is much less clear in the 21st century. Today, a distinction between the public service and business is more difficult to make because of many new forms of outsourcing, public-private partnerships, alignments of status, etc. US scholar Hal Rainey is therefore right in claiming that “clear demarcations between the public and private sectors are impossible, and oversimplified distinctions between public and private organisations are misleading.”<sup>18</sup> Moreover a distinction between civil servants and public employees is becoming more difficult since working conditions differ less than decades ago.

Originally, civil service law was designed to be very different to - and even separate from – private labour law. In the meantime, national and european law have changed this traditional separation between the two, even forcing EU Member States in some areas (e.g. working time, working contracts, equality, recruitment procedures) to align public law with private law. the traditional national concept of the civil service is difficult to combine with the emergence of new governance structures, changing concepts of nationality and sovereignty and new EU requirements. According to Pochard, on the other hand, the traditional public service can no longer stand apart from the outside world “*et vivre en vase clos; tout pousse à ce qu’ elle soit mieux articulée dans ses règles, et même dans certains de ses modes de gestion, avec le reste du monde de travail...*”<sup>19</sup>

Interestingly, one can also observe trends towards the alignment of private labour law with traditional public law. However, it would not be very wise to interpret the term “alignment” in the sense that working conditions in the public services are being aligned to those in the private sector (and consequently working conditions are becoming more flexible, precarious and insecure). For example, in Sweden, despite all “privatisation trends”, public employees normally enjoy a high degree of job security. Also on the EU level, the implementation of Directive 1999/70/EC contributes to an alignment of private labour law contracts with public civil service laws.

Despite this example, the EU has only a limited impact on national organisational structures. Also, alignment trends move more from the public to the private than the other way round. In addition, whereas the impact of the EU plays only a minor role (in this respect), other developments have become more decisive in the alignment process between the public and private sector.

The first is a development towards individual performance management, decentralisation, responsibility and individualisation which also affects the public service. According to Lemoyne de Forges, “*la contractualisation individuelle est la conséquence quasi inéluctable de la prise en compte de la performance individuelle des agents.*”<sup>20</sup>

Secondly, the changing role of the State and the development towards new networks and forms of gover-

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nance entails an increasing linkage between the private and public sector through, for example, the creation of agencies, NGOs, quangos, public-private partnerships etc. Those organisations provide their services through contracts and private employment relationships. The emergence of new partnerships, networks and administrative cooperation has an important side-effect on personnel policies: more and more employees do the jobs which were formerly carried out by civil servants. This again makes it a quite difficult to identify those positions which should be carried out by civil servants, and which cannot be carried out by other employees.

What does the blurring of differences between the public and private employment relationships in the public sector mean in terms of redefining the ethics of public employment and the public service? What consequences does the increasing emphasis on efficiency and performance have on core public sector ethical values, such as fair and equal scrutiny and treatment? To what extent does managerialism introduce a new and potentially conflicting set of values in the public service?<sup>21</sup>

Moreover, it seems that all reforms, changes and new developments have still not found their way into the mind of citizens. Public organisations and civil servants stereotypes still continue even though they were shaped in a world that no longer exists. Until now, many have the perception that civil servants work in an environment that is clearly separated from the private sector. In addition, many see civil servants as bureaucrats who lack flexibility and adhere to rules and processes and who are not inclined to serve the individual or citizens' interests. In addition, another popular stereotype is that civil servants are not performing as they should, but are nevertheless receiving preferential treatment in terms of pay and working conditions in general.

Furthermore, perceptions and stereotypes differ from job to job: "At one moment public employees are praised for helping the less fortunate, protecting society, or participating in grand projects designed to enhance the well being of all members of society."<sup>22</sup> On the other hand, public servants are accused of being more motivated by power, and are lazy, corrupt and egoistic.

In fact there are now as many different categories of public employees as there are different public functions and organisations, e.g. employees in a ministry differ from those in an agency, the police, the health service, border control, public-private partnerships, a school or a food inspectorate. Working conditions and working life have changed and – occasionally – differ from organisation to organisation. In some Member States senior civil servants differ very little from senior managers in private companies, e.g. in some countries senior managers are appointed for a definite period of time and are recruited either from the public or private sector and have limited contracts which may be terminated (or not be extended) if performance criteria and targets are not met. Such a situation was unthinkable ten years ago. Are these managers still different from those in the private sector?

Whatever the right answer will be, one thing is sure: the term "civil servant" is more difficult to define than ever. He or she has very heterogeneous tasks, positions, legal relationships and working conditions in various EU Member States. In fact, nowadays civil servants represent only a part of the public workforce.

## **PUBLIC EMPLOYMENT AND THE IMPORTANCE OF THE CIVIL SERVICES**

Who is a civil servant in the Member States of the European Union? Is it still possible to compare the concept

## Do These Administrative Sectors Belong to Central Civil Service or Do They Have Their Own Civil Service Systems?

*(Frequencies in parenthesis)*

Administrative sector	Central civil service	Specific civil service	Not part of civil service	Total
Central Government	100 (27)	0 (0)	0 (0)	100 (27)
Government agencies	85 (22)	0 (0)	15 (4)	100 (26)
Diplomatic service	59 (16)	41 (11)	0 (0)	100 (27)
Judiciary	48 (13)	33 (9)	19 (5)	100 (27)
Police	41 (11)	44 (12)	15 (4)	100 (27)
Military	37 (10)	37 (10)	26 (7)	100 (27)
Education	19 (5)	30 (8)	52 (14)	100 (27)
University	19 (5)	26 (7)	56 (15)	100 (27)
Hospitals	19 (5)	26 (7)	56 (15)	100 (27)

of a civil servant in the various countries? Recent trends in public employment make it more difficult to a) compare public employment on a European scale, and b) to define the concept of public employment and civil service employment. For example, nowadays it is almost impossible to compare the Irish or Cypriot concept of the civil service with the French or Dutch one. These countries apply either a narrow definition or a broad definition of civil service.

The reasons for this are many: exclusion of the local administration (or the education sector) as being part of the civil service in one country but not in another, shifting trends in public employment, ongoing reforms in civil service laws, different definition of state, government, public tasks etc.

In the EU Member States, the percentage of civil servants amongst all public employees varies between approximately 0,5% (Judges and Military officials in Sweden), and almost 100% in some countries depending on the concept of civil service (employment). In Greece, for example, most public employees are defined as civil servants under national law. Also in Ireland and Cyprus almost all public employees are civil servants as long

## Percentage of Public Employees of Total Employment in %

Sweden	31.7%
Denmark	30.4%
Finland	23.0%
France	23.0%
Slovakia	21.1%
United Kingdom	18.8%
Belgium	18.3%
Portugal	17.9%
Hungary	17.8%
Poland	17.4%
Czech Republic	16.2%
Italy	16.0%
Luxembourg	15.4%
Spain	15.0%
Austria	12.9%
Greece	12.5%
Ireland	12.0%
Germany	11.1%
Netherlands	11.0%
Average EU 15	16.7%

*Source: Slightly modified from OECD, 2003; OECD – Economic Outlook No. 75, June 2004; Austria, Federal Chancellery, Das Personal des Bundes, Daten und Fakten 2003, p. 5.*

as the civil service is defined narrowly. In France, out of “every 100 employees, 82% are civil servants, 14% are non-tenured, 2% are hospital doctors, 1% are State employed manual workers (...) and 1% are child minders (in local authorities).”<sup>23</sup> In Austria, the figures for officials have gone down to roughly 50%, for all public employees. Germany has approx. 35-40% of civil servants in public service. In Denmark, only approximately 36% of all public employees are civil servants (and the number is decreasing). In Spain, the percentage of civil servants is ca. 22% (central administration), 50,1% in the Autonomous Communities, and 24% at the local level. In Poland, less than 20% of the public workforce is employed as either civil servant or civil servant employee. According to Stanley<sup>24</sup>, the United Kingdom workforce totals around 29 million of which some 7.5% work in the public sector (including the civil service), other employees work in central government (principally the NDPBs, the National Health Service and the Armed Forces), public corporations (such as the BBC, Royal Mail Group and BNFL) and local government. The United Kingdom makes a distinction between crown civil servants and civil servants (together only approximately 500,000, which is 1% of the total economically active population<sup>25</sup>) and the remainder of public employees (in total approx. 5.4 million).<sup>26</sup> This means that less than

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10% of all public sector employees are employed as civil servants. In Denmark, the constitutional act is based on the assumption that some state employees are to be employed as civil servants. However, more employees are hired under private labour law in the central ministries than civil servants. But neither categories and positions nor percentages have been described in detail. As a consequence, the percentages of civil servants, employed in the different ministries differ very widely from 2% to 84%.<sup>27</sup>

Sweden, with approximately 31% of public employees among the economically active population has almost three times more public employees than Germany (about 11% of the active population), but almost all public officials are employed under legal provisions and/or rules which do not differ very much from those working under labour law. In Sweden, less than 1% of the total public workforce has a specific public status (mainly judges). On the other hand, from the actively employed Germans, 1.7 million work as civil servants under public law (approximately 4.4% of the active population), including almost 800,000 teachers. It is also interesting to note that in Germany, 68% of all public employees at federal level are civil servants, whereas in France not many more employees of the state (*Fonction Publique d'Etat*) have also a civil service status.<sup>28</sup>

Greece has a relatively small public sector (approximately 14% of the active population) but a high percentage of civil servants among public employees (approximately 12% of the total active population). This can be explained by the fact that the Greek constitution and/or civil service laws generally require the recruitment of civil servants as public employees. Similar provisions exist in Spain and Austria. However, Austria is in an ongoing process of reducing the number of civil servants in relation to other public employees. There are also great differences in those Member States which joined the EU in 2005 and 2007. Generally, most new Member States have a relatively small or very small core civil service.

Also, the definition of senior public service is applied to very different categories of staff.<sup>29</sup> As regards senior officials, Poland makes another distinction between a group of nominated elite civil servants, civil service employees which are employed on the basis of employment contracts (in accordance with principles set in the act on civil service) and civil service corps members who can be either civil servants and public employees. It is expected that the number of nominated civil servants will further rise in the future. In the United Kingdom, a large group of over 3,300 professionals are employed at this level in 55 government departments and agencies across the country. They include doctors, lawyers and scientists, as well as policy advisors and managers.

As a consequence, public employees have become more fragmented and diverse and distinctions should be made between very different categories of staff, e.g. senior managers who are appointed for a definite period of time and get their remuneration on the basis of performance (and reaching their objectives), civil servants with tenure (or unlimited contracts), other public employees, short-term staff, e.g. advisors and consultants, and technical staff.

In addition, jobs in the public services are very different. Today, public administrative jobs range from the exploration of outer space to sweeping the streets. Both the astronaut and the person sweeping the street may be employed either as a civil servant or a public employee with an employment contract. In most cases, there is no logic behind the employment status.

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Many public administrators employed under labour law are highly educated professionals who are at the forefront of their fields of specialisation. On the other hand, many employees are employed as civil servants and possess few skills that differentiate them from the most other citizens. Furthermore, some public employees who are employed under labour law draw up policies that have a nationwide impact and may benefit millions of people. On the other hand, in many countries civil servants who are employed under public law have virtually no responsibility for policy making. In both cases they are doctors, lawyers, scientists, engineers, accountants, budgeters, policy analysts, personnel officers, managers, clerks, keyboarders, and manual labourers.”<sup>30</sup>

## THE DIFFICULT DISTINCTION BETWEEN CIVIL SERVANTS AND OTHER PUBLIC EMPLOYEES

When considering the situation in all EU Member States, the following conclusion can be drawn: Although most Member States apply a distinction between civil servants and other public employees, this distinction as such is no longer essential for deciding which tasks are carried out by whom. In many cases, public employees subject to labour law can exercise important state tasks just as well (or as badly) as civil servants. In addition, specific job requirements can be arranged in an ordinary labour contract: competence profiles, salaries, career development, ethical regulations, fairness, professionalism and working conditions, etc. The logical consequence for some Member States is to align the various working conditions of all public employees and to create one law, applicable to all public employees, e.g. the law on public employment (*“Bundesmitarbeitergesetz”*) in Austria. To some extent, this is also linked to cultural and organisational traditions.

In fact, most Member States do not want to reform and change all classical public service patterns. In fact, it is very rare that a traditional system changes quickly into a “privatised” system. Even a wave of privatisation in the Italian public service in 1993 has left many traditional career system features untouched. But also position systems like the Netherlands have not (yet) given up many classical features of a career system.

Despite all individual and country related complexities, the civil service employment pattern has the following main characteristics. A majority of EU Member States employs civil servants, but their working conditions do not differ (anymore) considerably from other public employees. Civil servants work in the central ministries. Only police staff, judges, diplomats and soldiers have a specific public law status but they do not belong to the civil service.

In Poland for instance, a distinction can be made between civil servants, civil service employees, civil service corps members and other public employees. Difficulties arise because, both, civil service employees and civil servants can become civil service corps members. Another complexity concerns the differences between civil servants, civil servant employees (which are employed under the Civil Service Act) and other public employees (like health, education etc.). Whereas great differences exist between nominated civil servants and public employees in other sectors (e.g. civil servants have a limited right to strike, pension rights are different in the sector of education, whereas in the police service the salary system is the same for public employees and civil servants. Yet civil servants benefit from a special bonus, based on the service rank held.)<sup>31</sup>

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## Civil Servants' Legal Status by Type of Civil Service Structure

*(Frequencies in parenthesis)*

		Public law status	Civil law status	Total
Type of civil service structure	Career structure	100 (18)	0 (0)	100 (18)
	Non-career structure	67 (6)	33 (3)	100 (9)
	Total	89 (24)	11 (3)	100 (27)

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Similarly complex to Poland (but also to Germany, France and Austria) is - as of 1 January 2009 – the situation in Portugal. With its latest reform Portugal has moved from a very traditional career system to a position system (which is rarely taking place within a short period of time). However, because some career system elements have been maintained (just like in many other Member states) there was also a need to preserve a certain small corps of appointed civil servants (predominantly in the military, foreign affairs, security services etc). The majority of all public employees are nowadays employed under employment contract. In fact, the recent reforms have established altogether three forms of legal public employment at the Portuguese public administration with five different degrees of job security.

### **Appointed civil servants:**

- Lifetime tenure (permanent post);
- Transitional appointment (fixed term post);

### **Employment contract in public functions:**

- For an indefinite period of time;
- Contract for a determined or undetermined term;

### **Limited executive tenure (posts are not integrated into careers, mostly for managers).**

In most EU countries a civil servant is a civilian public sector employee working for the state (government). Almost all Member States employ civil servants with specific status and working conditions.

Generally specific status and working conditions include differences in the recruitment process, job security, ethical requirements and career development policies. The traditional characteristics of the civil servant (tenure, devoted performance, special duties, pay according to seniority, special pension schemes, careers, hierarchy, security etc.) strongly link the civil servant to the State and the State to the civil servant. Consequently, almost all Member employ civil servants under a public law status. Exceptions are the Czech Republic and Sweden where almost all civil servants have a labour law status, and where working conditions do not differ (significantly) from the private sector.

In many European countries, teachers, professors and health professionals are excluded from having a specific status. However, employment in the education sector is also regulated by specific legislation in some other Member States. The health sector workforce, which usually comprises a significant element within the total public sector workforce, may be employed directly by the public sector health system or work in public-

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funded agencies or organisations, e.g. social insurance funded. In many countries health care is also provided by organisations in the private sector and by voluntary organisations. Subnational government employment often represents a substantial portion of the total public sector workforce – frequently over 50 percent in decentralised or federal states, but in Scandinavian countries, too. Although in a series of EU Member States subnational government employment is often not part of the civil service or is considered a separate, legally defined civil service.

The great (growing?) heterogeneity of civil servants makes it interesting to compare the different categories of public employees, civil servants, top-officials, experts, and advisors. But before doing so, we need to know who the civil servants actually are. This is not an easy task since almost all Member states have a different conception and definition of civil servants and civil service.

In fact, several Member States apply different employment relationships in the same sectors and – sometimes – for the same professions. This is also the result of new uncertainties. The separation of the state and society has decreased in all civil services, and a great many tasks are performed that do not differ from those performed in the private sector, so that these tasks are performed “privately”.

In addition, legal differences do not necessarily mean differences in the daily life. In a large number of EU Member States the legal status of civil servants has been “normalised” as the Dutch call it. This means that a specific civil service still exists. However, the working conditions are aligned to these public and private employees working under labour law. Similarly, despite a long tradition of a specific civil service law in Austria (and the fact that still two categories of public employees exist) no great differences can be identified anymore if the details are examined between civil servants and public employees.

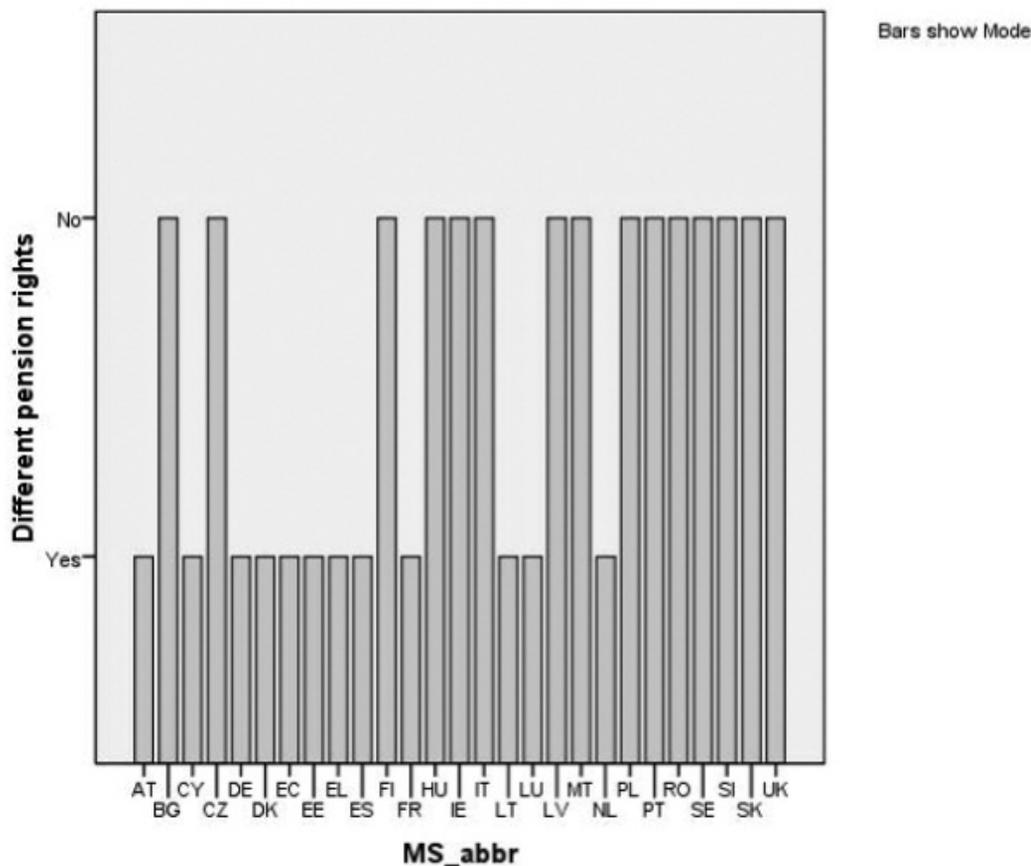
Also in Germany, in daily routine, the boundaries between civil service and public employment are less strict and clear anymore although – being a civil servant – the legal status of an official (“*Beamte/r*”) and the legal doctrine behind this conception is extremely sophisticated and established for centuries (just like in France). On the other hand, Germany employs a higher percentage of public employees under labour law than Austria. In particular the legal situation of teachers remains confusing. In Germany, teachers can be either employed as civil servants or as public employees by the federal states (“*Länder*”). Moreover, duties in the Ministries are not exclusively entrusted to civil servants. In some cases civil servants and public employees carry out the same tasks although they have a different status.

## **DIFFERENCES BETWEEN CIVIL SERVANTS AND OTHER EMPLOYEES - WHY NOT LIVE WITHOUT BUREAUCRATS?**

It is clear that this development has – at least in some countries - brought a sort of identity crisis to the civil service. In fact, the proponents of a specific civil service have become less in the majority EU Member States. This can be best seen in the field of pension systems. Whereas only few decades ago most Member States offered specific (and often privileged) pension systems to their civil servants, today only a minority of Member States have still specific pension systems for civil servants.

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## Different Pension Rights



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At present, almost all EU Member States also employ private employees under labour law in what could be termed the core public services. For example, Germany employs more non-officials (contracted staff) than civil servants in the armed forces (this applies to the administration of the armed forces in Germany). In Denmark more employees are employed under private labour law in the central ministries than civil servants. In addition, most other Member States employ staff under labour law in their central ministries.

The differences in the definition of public employment illustrate why any comparison between the public and private sector and within the public sector is difficult. Furthermore, it would be wrong to assume that a public law status automatically implies more protection and more disciplinary rights against dismissal than a labour law status.

In fact, in those Member States where the differences between the public and private sector have been abolished or almost abolished, the legal status of public employees has little or no impact on the loyalty of the civil servant. On the other hand, most Member States would not share this opinion. For example, some countries have attractive public services but also suffer from negative perceptions and images about work in the public sector. In addition, some Member States signal that there is a direct link between the special status of civil servants, job security and principles such as loyalty, neutrality and impartiality.

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There are many reasons for the above, the most important being the fact that civil servants still differ in many respects from private employees (and indeed enjoy a higher job protection).

### **Arguments for differences between public and private employees**

Arguments *for* maintaining a specific civil service status that differs from an ordinary employment contract are often based on the following assertions.

Proponents for maintaining differences between public and private sector employees argue that work in the public service is specific and – by nature – different from work in the private sector. Consequently, civil servants should also be treated differently because they:

- are given considerable power and responsibilities;
- set legal and normative standards for citizens;
- have a responsibility to provide leadership;
- may intervene directly in the basic rights of citizens, e.g. police;
- are financed and paid from the public purse in order to carry out work for the public.<sup>32</sup>

Especially countries like France and Germany have developed an incredibly sophisticated legal philosophy which justifies the need for a specific civil service. In these countries, civil servants cannot be compared with employees. Instead, civil servants bear specific duties and responsibilities. Likewise, the state has also specific duties and responsibilities towards the civil servants.

Civil servants exercise public powers on behalf of the country. They spend public money for important government projects. They raise taxes. They hunt down criminals. They protect the people. They take decisions which have an impact on the fundamental rights of citizens. They decide on health and on risk protection. The level of power or responsibility awarded to public officials can be seen as requiring the imposition of some specific duties, rights and obligations for carrying out that role properly. For all these important tasks, it is important that the public servants exercise their role properly, and act lawfully, honestly and loyally without acquiring any personal advantage. In short, this means that they must have a specific ethos because the exercise of public tasks require fairness and leadership as regards a number of principles (equity, equality, non-discrimination, impartiality, loyalty and neutrality). In particular, experiences in many former communist countries show that the public service can be used as an instrument for the political elite. But the need for a specific civil service is also seen on a less political scale. For example, it can be argued that teachers must be civil servants because they bear special responsibilities in educating school children. Teachers exercise a real important public function for the state and the society and it is imperative that they do it in a professional, fair and impartial way. In order to avoid this, clear and distinctive ethical obligations are needed for all public employees.

The specific tasks require specific working conditions and in some cases a specific legal status or legal status which links the person to the state. In particular, those employees who are directly participating in the exercise of powers, who are intervening in the fundamental rights of the citizens, who spend public money and who are safeguarding the general interest of the state (or of other public authorities) should have a specific status

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which binds them to a public interest. Following this argument, it is important to define clearly those categories and posts which fall within these categories. Some Member States have done so for work in the ministries, agencies, courts, police, fire prevention, defence sector, etc.

Another important argument for a specific status, specific working conditions, specific recruitment procedures, life-time tenure or unlimited contracts, etc., is to reduce as much as possible the risk of too much political influence and instability of the government. According to the French philosophy:

The principle argument in favour of the life-time principle is not the remuneration. In contrast, the protection of the civil servant is a serious argument. The employment guarantee is also an independence guarantee against all pressures, either private or political. But this protection is not sufficient in itself. It is also necessary that they benefit from a protection “*against all threats, violence (...) etc.*” from which they could be victim when exercising their functions (Section 11 of the law of 13 July 1983 pertaining to the rights and obligations of civil servants).”

In particular, judges, the judicial authorities, police, defence bodies and the financial sector are in need of specific working conditions. For example, some Member States do not allow police officers the right to strike. Finally, another argument for maintaining differences is of a structural character.

Despite popular doubts, there is no denying that Member States with relatively traditional civil service systems are performing well. Almost all existing benchmarking studies on public sector performance cannot prove that reformed public services perform better than traditional public services. In addition, countries with high public expenditures mostly have a good economic performance, and are highly competitive countries. On the other hand, in these countries some experts argue that many modern HRM reforms in the national public services have the objective of aligning the public with the private sector and working conditions in the public sector with those in the private sector. At the same time, however, it is precisely these developments, e.g. closer contacts between the private and public sector, more direct exchanges with citizens and companies, more mobility between the public and private sector, which provoke discussion about the need for a specific status or ethical status.

Indeed, as unfounded as some of these arguments look to many, they are grounded on traditional and long-standing assertions that are supported by many. In addition, proponents of a specific civil service status sometimes argue that many of the new management reforms do not produce only positive results. In fact, many reforms have also produced new problems.

### **The Civil Servant as a Dying Species - Arguments Why Civil Servants Should Not Be Different**

For a considerable time, organisational structures were very different in the public sector and the need for specific civil service structures was undisputed. As early as 1793, the British government developed a civil service code for the territory of India “under which officials received reasonable if not lavish pay and conditions of service. The important question of promotion was regularised in accordance with the rule of seniority as laid down in the Charter Act of 1793. It was regarded as a safeguard against favouritism and unfairness...”<sup>33</sup>

However, despite all changes, scientific work, numerous publications, new developments and reforms, surprisingly little is still known about the relationship between organisational structure, personality and individual

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## Shortcomings and Problems in the Field of HRM in Many Reformed Public Services

problems in performance measurement and fair treatment of employees;

new administrative burdens and scientific management due to the introduction of new targets, performance contracts and performance measurement;

the emergence of poor leadership as a consequence of the decentralisation of more responsibilities;

more problems with unethical behaviour and more conflicts of interests;

more fragmentation of the national civil services and accountability problems;

more stress and overwork of employees (also related to downsizing policies);

declining levels of job satisfaction and commitment;

frustration because of new budgetary constraints;

new difficulties in respecting procedures and guaranteeing fairness because of focus on results;

new rules (particularly due to new accountability requirements) despite trends to deregulate and attempts to introduce regulatory impact assessments;

problems in motivation of staff because of a lack of career development and promotion opportunities.

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behaviour. Most experts have so far offered a number of explanations why the behaviour and performance of civil servants differ from other employees, e.g. too many rules, not enough delegation and decentralisation, too much political influence, lack of motivation, no individualised development strategies and tools, decision-making procedures that are too slow. Another widely believed explanation is that public employees have too much protection against being laid off, too little incentives to perform, too little external pressure (from clients and citizens) and too many privileges. With their structures, the story goes, public employees do not have to work hard and well since it will be very difficult to sanction or dismiss them for poor performance.

Opponents of a specific civil service status argue that the tasks of civil servants are not more specific or more valuable than those carried out in the private sector. In addition, critics of traditional civil services point to the disadvantages of traditional career civil services. Their arguments can be summarised as follows:

- First argument: Even if public tasks are specific, this does not require a specific civil service status or specific legal contractual status. For example, any specific requirements can be easily arranged in an ordinary employment contract (often based on collective agreements).
- Second argument: The terms “essential functions of the state” and “safeguarding the general interest” are difficult to interpret. In addition, it is also not possible to argue that civil servants carry out more important tasks than private employees. Are doctors, workers in chemical companies, nuclear power station employees, farmers, bank and biotechnology staff not carrying out public interest tasks?

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## Shortcomings of Traditional Career Civil Services

long decision-making procedures in traditional bureaucratic structures;

too strong separation between the state and the society;

too little transparency, openness and citizen orientation;

too little focus on results;

too little performance incentives for employees;

too long and too complex recruitment procedures;

focus on rigidity and centralisation and too little mobility;

too much rigidity, e.g. in working time flexibility;

too strong focus on seniority and political favouritism;

too little career development possibilities for older staff;

too little incentives for the young to assume leadership positions;

too little training and possibilities for life-long learning.

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- Third argument: Many current reform trends reveal an enormous paradox in many Member States with a specific career system. In these countries, working processes, working conditions and organisation structures are different in private and public organisations. However, there is very little evidence that the actual behaviour of public employees differ from those working in the private sector. In addition, traditional career models suffer from many well-known shortcomings. But what is then the point of having public employees who are treated differently than other employees?
  - Fourth argument: The public service is often seen as an apolitical apparatus which is supposed to be neutral when implementing government policies. However, more and more civil service critics agree that this classical model of public service was shaped in a world that no longer exists. Today, the national public services has become much more complex and the separation between the state and the private sector is diminishing through the creation of agencies, public-private partnerships, quangos, outsourced and decentralised authorities, inspection authorities, etc. Consequently, the general development is that the public sector is becoming increasingly intermixed with the private sector. Government is developing into governance.
  - Fifth argument: In some Member States, the constitution provides for an obligation that public service tasks should generally be carried out by civil servants with a special status. In reality, however more and more contractual employees are also being employed in these countries. Evidence so far suggest that these employees do not perform worse than civil servants. At present, therefore, it is becoming more difficult to justify why civil servants should be treated differently at all. Are these employees really in need of specific ethical obligations? Would these groups perform worse or differently if they were just the same as anybody else?

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- Sixth argument: Numerous EU Member States are also in a process of changing organisational structures, introducing more mobility, abolishing career structures and seniority principles, and aligning working conditions and working patterns to those existing in the private sector. As regards the civil service status, all of these developments are followed by a bottom-up process, which means that more public employees at local and regional level, rather than central level, are being offered a private law status. As a consequence, the number of public officials with a specific status is decreasing. So far, there is very little evidence that local services deteriorate because of the changing status.

- Seventh argument: In a growing number of Member States, changes in the national public administration, and also in HRM derive from the simple conviction that, as far as most of the civil service is concerned, there is no longer any cogent reason for considering the public function performed by the state to be of greater value than the functions designated to the private sector,<sup>34</sup> so no greater value is attached to the public interest than to the private.<sup>35</sup> This popular conviction, in turn, challenges not only career systems, but also the traditional justification for a specific civil servant status, and specific ethics. When the state ceases to be above society and stands alongside it, a special relationship between public servants and the state seems superfluous. In addition, this makes civil servants with a specific legal status dispensable, since all you need is a public manager, technician, office worker, lecturer, specialist or secretary who also have to respect the law (and contractual provisions) like everybody else. While it is true that civil servants work with a view to protecting order, life and freedom, they have only taken on a job different to an employee working in a bank or a chemical plant who is fulfilling an equally valuable function in his or her job (which is essential to ensure the stability and preservation of the social system). A doctor working in a private hospital therefore performs just as important a function as a public servant such as a police officer or tax official. In addition, it would be difficult to argue why teachers (if they are civil servants) should be civil servants with specific ethics in one country if they perform well in other countries without that civil service status.

- Eighth argument: Specific structural and organisational differences between public and private employment are not important for upholding specific ethical requirements and for carrying out public functions properly. What is more important for establishing an efficient and effective civil service are good working conditions, an appropriate administrative culture, openness, accountability, fairness and legal correctness, etc. For example, the fact that Sweden has a very low level of corruption seems to justify this opinion that working conditions and culture are more important than specific structures and questions of status.

- Ninth argument: In many Member States, civil servants are more expensive than other public employees.

In other words, depending on the nature of the various positions, there is no need for a specific public service (organisational) and specific public service requirements, e.g. ethical requirements could be laid down and arranged in individual employment contracts. Alternatively, differences are indispensable in order to guarantee a specific public service behaviour. Surprisingly, we still have very little knowledge, empirical evidence and hard facts which could validate or reject one of the two positions.

## **ARE SPECIFIC TASKS BEING PERFORMED ONLY BY CIVIL SERVANTS?**

The traditional question of which tasks should be performed solely by civil servants has never been answered

## Are Differences Between the Public and Private Sector Necessary? The Case of Sweden

Where should differences remain between civil servants and private employees? Where are they necessary and where not?	The case of Sweden
Specific status and contractual situation, e.g. life-time tenure, more difficult to dismiss civil servants.	Generally, it is difficult to regulate ethics. Other issues like Trust and Transparency are equally important. Moreover, a specific ethical behaviour can also be regulated under labour law similar to bankers, doctors who all have their specific professional ethic.
Pay and Social security, e.g. should civil servants be paid differently to comparable positions in the private sector?	No life-time tenure needed but high job security.
Organisational structure, e.g. is there a need for a more hierarchical, bureaucratic and formal organisational structure?	Recognition that public service is competing in the market, no further differences necessary.
Recruitment, (e.g. is there a need for a specific recruitment system and procedure, specific knowledge and studies required?	No need to have a bureaucratic and hierarchical structure in order to “produce” a certain public service ethics. However, principles such as hierarchy and formalised treatment, good administration etc. are needed. . Recruitment should fit the purpose and needed to get the competencies needed but there is no explicit reason for differences.
HRM (need to centralise certain responsibilities in HRM), e.g. pay, right to strike, social security, working time.	Centralisation only in the military.
Working conditions, e.g. should there be more variation in working time?	No need for specific working conditions, but civil service should lead, e.g. in fairness, equality, ethics, diversity, transparency, citizen orientation etc.

definitively.<sup>36</sup> In addition, the question as to which jobs should be done a) by public employees subject to labour law and b) by civil servants, is handled differently not only throughout the European Union, but also throughout the world. The definition of who should be a civil servant has always been linked to the question of the special nature of the duties, the tasks concerned and the nationality criteria. For example, the exercise of sovereign powers should remain the preserve of civil servants. These are measures to safeguard society, guarantee the rule of law, preserve order and to protect citizens. There are indeed important arguments for the above, as some groups of public employees, e.g. the police, judges and soldiers have the right to intervene – and to restrict, if necessary – the fundamental rights of citizens. It would be inconceivable to allow private employees to decide the fundamental rights of citizens. Consequently, most European public services adopt similar forms of public employment and draw a clear line between the tasks which should be reserved for civil servants and those which should be given to other employees.

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In some Member States, e.g. Denmark, Germany, Spain and Greece either the constitution and/or constitutional courts jurisprudence or the civil service act (or a combination) require the establishment of a statutory system of official employment. These requirements do not exclude the possibility of concluding normal employment contracts in the national civil services. Yet, public employment should normally consist of civil servants subject to public law and the employment of employees subject to labour law should be an exception. Our analysis, however, shows that in many countries, the possibility of employing staff in terms of employment contracts is NOT treated as an exception.<sup>37</sup> On the other hand, many civil servants do not exercise public powers and are also employed in order to carry out technical tasks (maintenance, automation, technical assistance, etc.). However, many public officials who are not civil servants carry out important tasks which involve the exercise of public powers.

The United Kingdom is a very specific case since crown civil servants never enjoyed a public law status. The basis of the Civil Service as we know it today dates back to the Northcote-Trevelyan Report of 1854. The Report set out the enduring core values and key principles that underpin the role and governance of the Civil Service – integrity, honesty, impartiality and objectivity. The Report also recommended that these values and principles should be enshrined in legislation. However, no Government ever took forward this recommendation. Instead, over the last 150 years or so, Ministers have exercised powers in relation to the Civil Service under the royal prerogative. In recent years, the merits of Civil Service legislation have been the subject of considerable debate, and there have been growing calls to implement the Northcote-Trevelyan recommendation and bring forward legislation for the Civil Service. In 2003, the House of Commons Public Administration Select Committee published a draft Civil Service Bill and, building on this, the Government launched a consultation *A draft Civil Service Bill – A Consultation Document* (CM 6373, November 2004). These consultation processes and other public debates have revealed a considerable body of opinion in favour of Civil Service legislation. Therefore, the Government announced in July 2007, in its Green Paper, *The Governance of Britain* (CM 7170), that it intended to bring forward legislation which would “include measures which will enshrine the core principles and values of the Civil Service in law.”<sup>38</sup>

The United Kingdom employs casual staff, as they are termed, in the national civil service. From the 534,400 employees in the British civil service (April 2004), 10,820 were employed as casual staff.<sup>39</sup> In the past, special advisors could be appointed in the United Kingdom “solely for the purpose of providing advice.” However, this has caused some uncertainty over the years and special advisors did work which extended beyond giving advice. In the future, it is planned to redefine the special advisor’s general functions as “assisting” the minister. The planned civil service bill will also clarify the tasks that special advisors are not permitted to do, e.g. authorising expenditure, exercising line management supervision over the civil service or discharging any statutory powers.<sup>40</sup>

In France, of “the 199,600 non-tenured personnel employed by the ministries, 108,200, or 54%, belong to specific categories of non-tenured personnel. They perform functions which are not intended to be occupied by tenured personnel because of the particular nature of the work or because of their non-permanent character.

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That is particularly the case with respect to day and boarding school supervisors and temporary teaching and research assistants who make up three-quarters of the specific categories of non-tenured personnel. It is also the case with respect to local recruits in posts abroad or in the overseas territories who are subject to local law (.....). The recourse to non-tenured personnel is linked to the absence of employment limits because of certain recruitment needs (IT personnel for example) and the fact that in certain occupational sectors recruitment essentially involves non-permanent jobs, in response to occasional or seasonal requirements,”<sup>41</sup> e.g. in the technical sector, one employee in five is non-tenured.<sup>42</sup>

As regards public employment and the employment of civil servants and other public employees, different national models have developed and brought their own paradoxes and complexities. Some examples:

Germany has “*Beamte*” (civil servants), “*Angestellte*” (contractual staff) and “*Arbeiter*” (employees) working in the public service. However, all groups may perform tasks which are related to the exercise of official powers (although the German Constitution (*Grundgesetz*) stipulates differently in Article 33 GG). In the various job categories, tasks are carried out which are performed in the private sector, too. Precisely because of this inconsistency in the allocation of tasks, the question of why the differences between *Beamte* and *Angestellte* actually exist is being raised continually. In addition, if *Angestellte* can perform these functions just as well (or badly), the meaning of the concept of “function connected with the exercise of official powers” is being discussed. Until now, no evidence has been presented that *Angestellte* carry out their tasks differently than civil servants.

In Denmark, the percentages of civil servants vary sharply from ministry to ministry. Whereas 84% of those employed by the Ministry of Ecclesiastical Affairs are employed as civil servants, the 2% are employed in that capacity by the Ministry of Refugee, Immigration and Integration Affairs. On the other hand, 68% of all employees at Danish State Railways (DSB) are civil servants, this figure is 56% at Ministry of Taxation, but only 18% at the Ministry of Finance. Because of these differences in employment relationships, one may wonder why the Ministry of Finance employs so few civil servants and the Ministry of Taxation so many.<sup>43</sup>

In Belgium, civil service legislation obliges public employers to employ civil servants subject to public law as the rule, and contractual employment only as an exception. The paradox is that (for example in the Flemish part of Belgium) the “theory of the status as a rule” and the “contract as an exception” is different.<sup>44</sup> Often, many people are employed in jobs which should principally be reserved for civil servants subject to public law. According to figures from 2001, 78% of all employees at federal level are public law officials and 22% have a contractual status.<sup>45</sup> The number of civil servants decreases at regional level. For example, less than 50% of Flemish and Wallonian civil servants have a status.<sup>46</sup> Furthermore, most newly recruited public employees under the age of 34 have a private law status (at least in the Flemish community).<sup>47</sup> One may wonder whether this high number of contractuales is an exception.

In the Netherlands, the majority of people working in the public service have employment relationships governed by public law. However, employment relationships in the public sector have mostly been aligned with those in the private sector, though the public service performs functions which traditionally involve the

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exercise of official powers. For example, labour laws relating to working hours, works councils, equal opportunities, etc. are also applicable to the public service. In addition, a unified civil service no longer exists, following a decision in 1999 to divide the public sector into 12 sectors. Since then, 50% of employees in the education sector (which represent approximately 45% of all those employed in the Dutch public service) have not been appointed as civil servants. Despite intentions to continue with the normalisation process in the Netherlands, it has still not been finalised. On 16 December 1998, an advice relating to Civil Service Status report [*Advies van de Raad voor het Overheidspersonnelbeleid inzake de Ambtelijke Status*] was published in the Netherlands. The report discussed whether the Dutch policy of normalisation should be continued, and examined the consequences of a possible abolition of civil service status in the case of:

- recruitment procedures for civil servants;
- the possibility of dismissing civil servants and terminating their contracts;
- the procedural rules for civil servants;
- the budget;
- fundamental rights;
- social security;
- the image of the public service;
- the integrity of the public service;
- social dialogue;
- incompatibilities between public and private law status;
- the oath.

The report concluded very pragmatically that the normalisation process in the Netherlands should be continued. However, total abolition of public law status was not recommended, not so much on the grounds of substantive reasons, but because such a step would take at least four years and would be a complex and time consuming process. In addition, the report concluded that “the right time” for the total abolition of civil service status had not yet arrived. Furthermore, the question of whether the costs for the process would outweigh the benefits<sup>48</sup> would also have to be considered. In the Netherlands, this very pragmatic approach still raises the question of the legitimacy of the public-law employment relationship.

In Slovenia, many civil servants have a public-law status and their employment relationship is still somewhat different to that in the private sector. In this respect, the question could be raised as to why so many employment relationships are governed by public law (approximately 80% in the ministries), while many tasks are of an ancillary or technical nature and are not related to the exercise of official powers and could just as well be regulated by employment contracts modelled on the private sector. Some of the officials in Slovenia perform official tasks, e.g. some institutes employ meteorologists, statisticians or veterinary surgeons. Although these people do not execute official tasks, they are offered a special status as it is better paid.

In Italy, the central public service was “privatised” in 1993. Since then, a distinction must be made between civil servants subject to public-law status (who were excluded from all privatisation, e.g. judges, state advo-

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cates, military personnel, police officials, diplomats, prefects and to some extent professors and researchers<sup>49</sup>), public servants under a special private status, e.g. prison officers, most employees in ministries and agencies, etc., and private employees, e.g. teachers and employees in hospitals such as doctors. In this respect, one may wonder why, for example, most professors are still civil servants, whereas teachers are mostly private status civil servants and doctors are private employees.

A very specific situation exists in Poland where a distinction must be made between the 4,312,000 public employees and two types of civil servants: approximately 2000 appointed civil servants (who have passed a very difficult qualification procedure and are mostly working in the central ministries and in the diplomatic sector) and some 1,185,000 civil service employees – all subject to civil service law. Employees in the armed forces, the judiciary and the police all have a distinct public-law status, but do not belong to the civil service corps. However, employees at the *voivod* offices (but not most employees of regional authorities) are established corps members. In addition, employees at the tax administration and various inspectorates belong to the 118,500 civil service corps members. These distinctions are not easy to explain (especially to non-Polish citizens). On 24th of March 2009 a new law on civil service enters into force (signed on 21st November 2008). The new law introduces many changes in the functioning of the civil service regarding the definition of the civil service (creation of senior civil service), requirements of recruitment, career development etc. It also creates (or rather brings back) a post of the Head of Civil Service imposing on her/him several new duties comparing to the duties under the law on civil service of 1998 and defined and restructured the civil service.

Nowadays the Civil Service Corps consists of employees employed in officials' positions in:

the Chancellery of the Prime Minister, Offices of Ministers and Chairmen of Committees which form part of the Council of Ministers and offices of central agencies of the Government administration, voivodships offices and other offices which are part of the apparatus supporting local agencies of Government administration subordinate to Ministers or central Government administration, headquarters, inspectorate offices and other organisational units which are part of the apparatus supporting heads of unified voivodships services, inspections and guards, as well as heads of poviats services, inspections and guards, unless otherwise provided by relevant statutory provisions of law; The Office for Registration of Medicinal Products, Medical Devices and Biocidal Products; Forest Seed Production Bureau; the Civil Service Corps shall also comprise poviats and border veterinary officers and their deputies.

Officials' positions in the offices may also be held by individuals delegated or transferred pursuant to separate provisions of law in order to perform tasks outside the organisational unit where they are employed

In Spain according to article 2 of the 'Basic Statute of the Public Employee' it is applicable to all public employees (civil servants and contracted personnel) employed by the following public administrations:

- The general state administration.
- The governments of the Autonomous Communities and the cities of Ceuta y Melilla.
- The governments of local government bodies.
- Public organisations, agencies and other bodies under public law with their own legal person-

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ality, linked or reporting to any of the public administrations.

– Public universities. In Spain, positions in Spanish public service may be given to employees subject to labour law only under certain conditions.<sup>50</sup> The positions that can be held by employees in terms of employment contracts, are as follows:

- non-permanent positions;
- positions that involve everyday tasks, such as security, caretaking, transport and other similar;
- instrumental positions that relate to matters such as the maintenance of buildings, equipment and facilities, graphic arts, surveys, public safety and social communication;
- positions that require specialised technical knowledge, provided that no one is available from the ranks of the public officials to fulfil these tasks;
- positions that involve performing auxiliary functions of an instrumental nature or the provision of administrative support; and
- positions in foreign offices that entail administrative tasks which are procedural or auxiliary in nature and that involve the operation of machinery, filing or similar tasks.

However, figures show that the percentage of employees subject to conditions other than public-law contracts is relatively high (and increasing from central to local level). Similarly, the term “subject to certain conditions” may be interpreted in a relatively flexible way.

In Sweden, the competence to recruit and to define working conditions is highly decentralised. From a comparative perspective, almost all Swedish public employees could be termed civil servants, public employees or private employees at the same time when comparing their status with their colleagues elsewhere. Despite their public status, employees enjoy almost the same legal situation (which is based on labour law) in the public sector as in other sectors in the labour market. Only a very small minority of employees enjoy a type of specific status, e.g. judges. As a result, less than 1% of all public employees have a working relationship that is clearly distinct from those working in the private sector. The following question can therefore be asked: What is the point or purpose of having specific civil service rules for judges and military personnel if all other public employees are employed under labour law (and this is not creating any troubles). One could even argue what is the purpose of having a distinct public sector as an alternative to the private sector?

In Portugal as of 1 January 2009 there are three forms of legal public employment at the Portuguese Public Administration: The new law (law n.º 12-A/2008, of 27 February 2008) lays down that the appointment is only effective for posts in a few well defined services: The Military (generic and specific missions of Armed Forces in permanent establishment plans); the Foreign Office; State Security Information; Criminal Investigation; Public Security; Inspection Activities. Currently, only appointed staff maintains the former rules and rights. The employment contract in public functions regime introduced new rules, rights and duties to public employees but, though it has been influenced by private labour law maintains public law nature.

When looking at the different country studies, it is almost impossible to draw a clear line between the tasks that are reserved for civil servants and those which are given to other employees. In many countries, the possibility of employing staff in terms of employment contracts is NOT treated as an exception.<sup>51</sup> In addition, some

## Is Professional Experience in Private Sector Recognised in Calculation of Pension Rights by Type of Civil Service Structure

(Frequencies in parenthesis)

		Fully or partially	No	Total
Type of civil service structure	Career structure	76 (13)	24 (4)	100 (17)
	Non-career structure	56 (5)	44 (4)	100 (9)
	Total	69 (18)	31 (8)	100 (26)

Missing: Ireland

Member States employ civil servants and employees under private law simultaneously in the same positions. For example, in the Netherlands, approximately half of all teachers either have a public law status or are employed as employees subject to labour law. In Germany, too, teachers are civil servants in some *Länder* whereas they are public employees subject to labour law (or *Bundesangestellten Tarif* – BAT) in others. In Austria, almost half of all federal teachers are not employed subject to public-law.

## COMPARING PUBLIC SERVICES - FACTS AND FIGURES

### Conditions for access to the civil service

Career systems clearly have more frequently developed careers and corps than position systems. Careers and corps within the public service are a typical characteristic of career systems. Globally the tendency seems to be to reduce the number of careers and corps, but without abolishing these specific schemes.

As for recruitment, for most Member States it is no longer true that candidates can only enter at the lowest level. With one exception (Italy) all civil services in the EU 27 allow for recruitment at different levels, or at least foresee the possibility of such an event.

Also a majority of civil service systems take into account professional experience outside the public service (even though there may be restrictions). However, positions systems as well as the more recent EU Member States more strongly tend to do so than career systems and old EU Member States. A similar observation can be made for the recognition of pension rights – although differences between career/position systems and old/new Member States are less significant.

The recruitment of senior managers from the private sector for a limited period of time has traditionally been a characteristic of position systems and the Scandinavian tradition, but it is more and more becoming a standard practice in civil services. In Germany, Luxembourg, Poland and Romania senior managers must be recruited from the civil service.

### Promotion

## Is it Also Possible to Promote Candidates to Other Positions at Mid-career or Top-level by Type of Civil Service Structure

(Frequencies in parenthesis)

		Yes	No	Total
Type of civil service structure	Career structure	89 (16)	11 (2)	100 (18)
	Non-career structure	100 (9)	0 (0)	100 (9)
	Total	93 (25)	7 (2)	100 (27)

Specific exams/concours are more common in career systems than in position systems: over two thirds of career systems foresee such a selective process at least for some cases.

In general, promotions do for the overwhelming majority take place to the next higher rank or level. The only exceptions to this are Latvia, Slovakia and Sweden. However, almost all national systems (with the exception of Italy) also provide for the possibility to promote candidates to other positions at mid-career or top level.

Whereas in some countries the regulatory framework related to promotion is quite rigid, in others there is more flexibility. In Denmark and Sweden, for instance, promotion is first and foremost based on the candidate's competence and merit. Another example for the many different approaches that exist is the Irish civil service: Promotion in the Irish civil service is based on merit. Officials having served two years in their current grade, and graded 3 or better in their most recent Performance Management and Development System (PMDS) review are eligible to compete for promotion to the next grade. The official must also be certified by the Personnel Officer as being satisfactory in respect of performance in the current post, sick-leave and general conduct. Promotion may take place as result of a competition confined to eligible civil servants within their current Department or by way of an interdepartmental competition, open to all eligible officials, across the civil service. Fifty percent of vacancies to be filled by promotion are filled following departmental competitions. The remaining fifty percent are filled by a combination of interdepartmental competition and open recruitment.

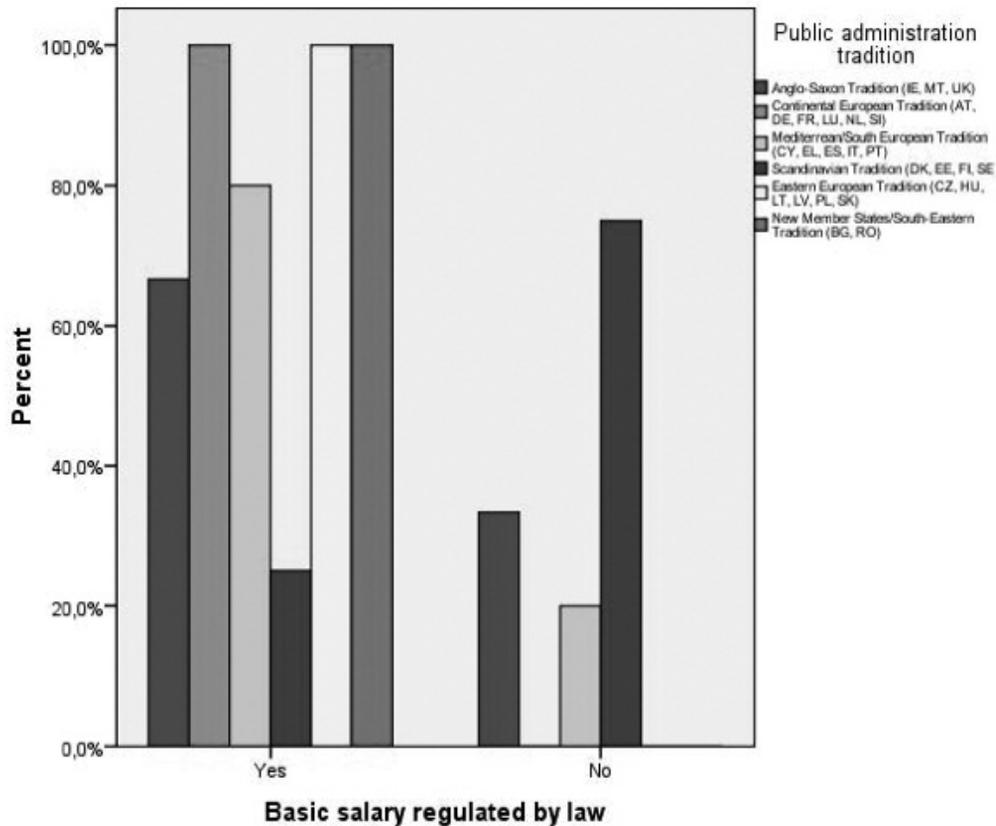
### Remuneration System

Across the different systems and traditions, the basic salary in a majority of civil services is regulated by law. This is not the case in Denmark, Finland, Malta, Sweden and Italy.

In 60% of career systems remuneration issues for the whole civil service are managed centrally, even though competences for certain components of the salary may be decentralised. None of the career-based civil services is characterised by a decentralised remuneration system, including elements that are determined on the basis of individual negotiations. In contrast, this more flexible salary scheme is in practice in one fifth of position-based civil services, and also more common in the Scandinavian tradition.

In countries that are part of continental European and the Mediterranean tradition, the salary systems are based

## Basic Salary Required by Law



to a much larger extent on seniority, age and experience than other, for instance, countries grouped under the Scandinavian tradition, where remuneration systems are rather not (50%) or not at all (50%) based on these factors.

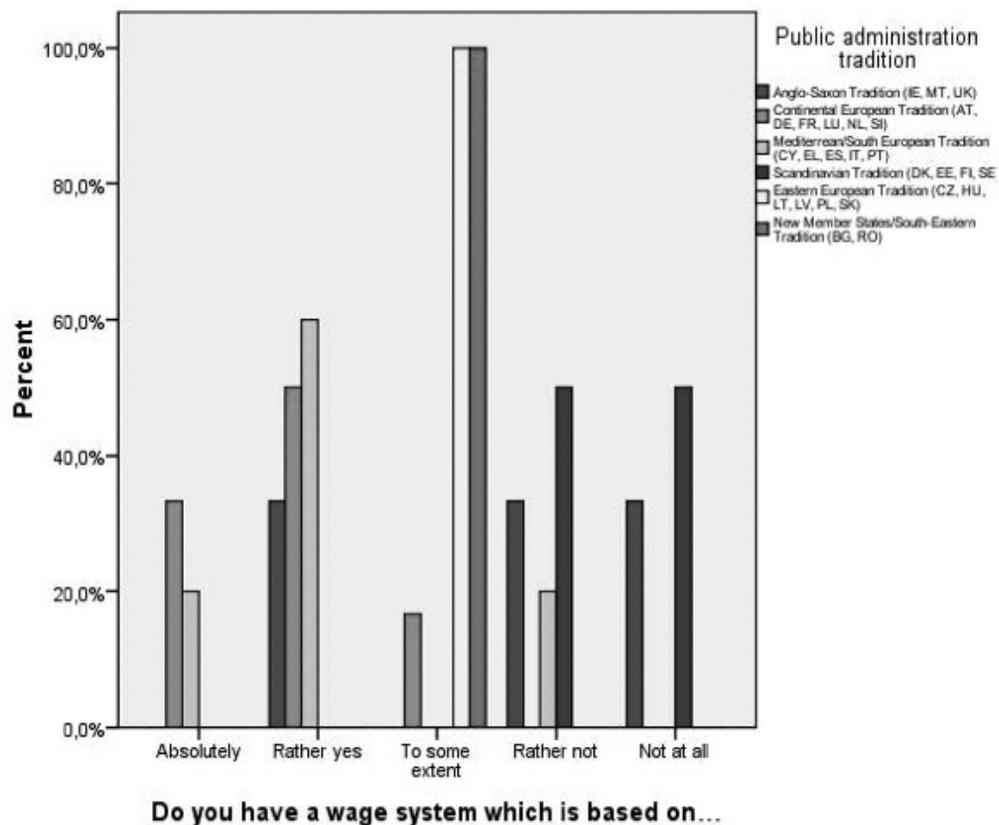
Moreover, the Scandinavian tradition is most strongly represented among the civil service systems foreseeing wage schemes, calculated on the basis of performance and target agreements: 3/4 of Scandinavian tradition (as well as 2/3 of the Anglo-Saxon tradition) answered “rather yes” to this question, and the remaining 1/4 replied “to some extent”. Less prone to incorporate criteria of performance and objectives are systems within the Continental and East European as well as the Mediterranean traditions.

As for hybrid remuneration systems, combining elements of seniority with performance, the picture is very heterogeneous across different and within the systems and traditions. However, it appears that hybrid salary models are slightly more frequent in career-based systems than in position based systems.

## PERSPECTIVES - AFTER NEW PUBLIC MANAGEMENT: A COMEBACK FOR THE STATE?

New public management has been the general denominator for a tendency to transfer private sector practices

## Do You Have a Wage System Which is Based on...?



(in HRM, organisational and managerial elements) to the civil service. Reforms carried out under this heading most essentially targeted decentralisation, flexibilisation, the creation of autonomous entities, delegation of budgets and financial control, a more market-oriented or cost/benefit-driven rationale in the provision of service with an emphasis on results and performance, as well as a more customer-focused organisation of public administration.

These reforms have become necessary due to a series of economic, social/societal, political and technological factors. States having undergone these reforms of the public sector commonly traversed economic or political crisis, and needed to adapt to new information and communication technologies. Not only industrialised nations implemented reforms, but also developing countries were advised to do so by international organisations and donors. The new approaches of governance aim at reinventing government and to make it more efficient.<sup>52</sup>

The objective to make the public sector more efficient, effective, and transparent is largely participated by the majority of politicians, economists and civil servants. Evidently all forms of organisation of the public sphere produce deficiencies related to the use of resources and the transparency of decision-making. But the question has been raised whether the set objectives make sense and point in the right directions or whether our

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indicators to measure efficiency produce meaningful and reliable information, to determine whether the public interest has been served in a better way.

Efficiency, transparency and service-minded organisation are most certainly positive attributes of a modern administration, as are independence, fairness, high quality standards and public oversight over government action. Efficiency, as a synonym for making good use of resources, can be a driver for dynamic, innovative and responsible organisation of the public sector. However, in many cases, the principles of efficiency and performance in practice mainly implied reducing staff and outsourcing activities to private companies – an approach that in some countries already pushed to the limits.

The current crisis shows that in many respects the State and public action are needed. Governments in Europe and other parts of the world intervene to save banks, insurance companies or industries, and measures involving large scale public expenditure to re-launch the economy have been adopted. States are striving to (re)gain control over financial markets that have derived into an autonomous sphere of unlimited and – as it turns out – very destructive profit-maximisation. It cannot be ruled out that the loss of credibility of these institutions and lessons learnt from the crisis contribute to shifting the focus of administration from optimising the output in purely economic terms back to the very notion of public interest, and help finding a new compromise between the two of them.

## ENDNOTES

<sup>1</sup> Christoph Demmke/Timo Moilanen, *Civil services in the EU of 27, Reform Outcomes and the Future of the Civil Service*, 2010

<sup>2</sup> The purpose of this chapter is not to discuss organisational theories but to analyse organisational reforms within the context of their impact on civil service and HRM-reforms. The writings on organizational structures have been voluminous in the past decades. One of the most important has been Mintzberg's book on *The Structuring of Organizations* (1979). This 512 page volume illustrates how complex the term « organisation » is.

<sup>3</sup> Guurtje van Sloten, *Work organisation, technology and working conditions*, European Foundation for the Improvement of Living and Working Conditions, Dublin 2002

<sup>4</sup> A.J.G. Verheijen, *Public Administration in Post-Communist States*, in: Peters/Pierre, p. 491

<sup>5</sup> Verheijen, in: Peters/Pierre, *op. cit.*, p. 496

<sup>6</sup> The latest one in the field was done by: Danielle Bossaert/Christoph Demmke/Marie-Laure Onnée-Abbruciati, *L'évolution des fonctions publiques en Europe – une approche comparée des développements récents*, in: Marie-Laure Onnée-Abbruciati, *Le fonctionnaire est-il un salarié comme les autres? Pensions de retraite dans les fonctions publiques en Europe*, Bruylant, Bruxelles 2003, pp. 5 *passim*

<sup>7</sup> Weber, in *Wirtschaft und Gesellschaft*, p. 825

<sup>8</sup> Merton, Robert K., *Bureaucratic Structure and Personality*, in: Shafritz/Hyde, p. 108

<sup>9</sup> Weber, in Shafritz/Hyde, *op cit*, p.54/55, see also: Weber, *Wirtschaft und Gesellschaft*, p. 825

<sup>10</sup> Max Weber, *Politik als Beruf*, Reclam, Stuttgart 1999, p. 32

<sup>11</sup> David Rosenbloom, *Administrative Law for Public Managers*, Westview Press, London, 2003

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- <sup>12</sup> Christoph Demmke/Timo Moilanen, *Civil Services in the EU of 27*, Frankfurt M., 2010
- <sup>13</sup> See also Sontheimer, *op. cit.*, p. 238
- <sup>14</sup> Rosenbloom, *Administrative Law*, *op. cit.*
- <sup>15</sup> Peter R.A. Oeij and Noortje M. Wiezer, *New work organisation, working conditions and quality of work: towards the flexible firm?*, European Foundation for the Improvement of Living and Working Conditions, Dublin 2002
- <sup>16</sup> for empirical data on attractiveness and perceptions of the public sector see: Demmke, Henökl, Moilanen, “What are Public Services Good at? Successes and Failures of the Public Service in the field of Human Resource Management.” Study commissioned by the Slovenian Presidency of the European Union, Brdo, Slovenia 2008, available at: [www.eupan.eu](http://www.eupan.eu)
- <sup>17</sup> Keywords for this tendencies are “network governance” or the “common European administrative space” (as envisaged by the Treaty of Lisbon).
- <sup>18</sup> Hal G. Rainey, *Understanding and Managing Public Organisations*, Third Edition, Jossey Bass, San Francisco, 2003, p. 62
- <sup>19</sup> Pochard, *op. cit.* p. 1910
- <sup>20</sup> Lemoyne de Forges, *Exigences communautaires*, *op. cit.*, p. 1922
- <sup>21</sup> Pierre, J., *Externalities and Relationships: Rethinking the Boundaries of the Public Service*, in: Peters/Pierre, *op.cit.*, p.350
- <sup>22</sup> Patrick G. Scott and Santa Falcone, *Comparing Public and Private Organizations*, in: *Review of Public Administration*, Vol. 28, June 1998, p. 3
- <sup>23</sup> France, *The public employment observatory, Annual report 2003*, Speech by Mr Jean-Paul Delevoye at the Meeting of the Steering Committee of the Public Employment Observatory, 9 December 2003, Paris 2003, p. 21
- <sup>24</sup> <http://www.civilservant.org.uk/definitions.shtml>
- <sup>25</sup> Generally, this is defined as the number of employed and unemployed persons. However, we have no evidence whether all Member States apply this definition. Another figure for the United Kingdom is 511,060 full time equivalent staff in the Home Civil Service and 5,930 in the Diplomatic Service. Figures are for 1 October 2003. See *A Draft Civil Service Bill*, *op. cit.*, p. 8
- <sup>26</sup> <http://www.statistics.gov.uk>
- <sup>27</sup> Danish Ministry of Finance, *State Sector Personnel in Denmark*, Copenhagen, November 2002, p. 39 and p. 40
- <sup>28</sup> *The public employment observatory, Annual report 2003*, *op. cit.*, Paris 2003, p. 11
- <sup>29</sup> See also: Françoise Waintrop, Celine Chol, Brigitte Coué, Olivier Girardin, Michel Maréchal, *Reforming Senior Management: the Experience of Seven Countries*, February 2003
- <sup>30</sup> David Rosenbloom and Robert S. Kravchuk, *Public Administration*, Fifth Edition, New York, 2002, p. 4
- <sup>31</sup> A “civil service employee” stands for an individual employed on the basis of an employment contract in accordance with principles set in the act on civil service. A “civil servant stands” for an individual employed on the basis of nomination in accordance with principles set in the Civil Service Act. A “civil service corps member” stands for an individual being either a civil service employee or a civil servant.
- <sup>32</sup> National Centre for Social Research/Centre for Research into Elections and Social Trends, *Guiding Principles: Public Attitudes towards Conduct in Public Life*, January 2003, p. 22

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- <sup>33</sup> E.N. Gladden, *A History of Public Administration*, Frank Cass, London, Vol. II, p. 251
- <sup>34</sup> See Christoph Demmke, *Civil Services between Tradition and Reform*, EIPA, Maastricht 2004.
- <sup>35</sup> See Demmke, *ibid.*
- <sup>36</sup> Christoph Demmke and Uta Linke, *Who's a National and Who's a European? Exercising Public Power and the Legitimacy of Art. 39 4 EC in the 21st Century*, EIPASCOPE 2003/2
- <sup>37</sup> Ministerio de Administraciones Públicas, *Civil Service in Spain* p. 40
- <sup>38</sup> Ministry of Justice, *the Governance of Britain*, Draft Constitutional Renewal Bill, London, March 2008, p.66
- <sup>39</sup> United Kingdom, Cabinet Office, *Personnel Statistics*, Media Brief, 1 April 2004
- <sup>40</sup> United Kingdom, Cabinet Office, *A Draft Civil Service Bill*, A Consultation Document, p. 13
- <sup>41</sup> France, *The public employment observatory*, Annual report 2003, Speech by Mr Jean-Paul Delevoye at the Meeting of the Steering Committee of the Public Employment Observatory, Paris 9 December 2003, pp. 28 *passim*
- <sup>42</sup> *Ibid.*, p. 29
- <sup>43</sup> Figures are taken from the Report of the Danish Ministry of Finance, *State Sector Personnel in Denmark*, Copenhagen, November 2002, p. 40
- <sup>44</sup> Steunpunt Bestuurlijke Organisatie Vlaanderen, *Jaarboek 2002, Tussen Bestuurkunde en Bestuurpraktijk, Spoor HRM, De mythe van het statut voorbij?*, Katleen Janssens, Ria Janvier (2003), p. 124
- <sup>45</sup> Katleen Janssens and Ria Janvier, *Statutory and contractual employment in the Belgian public sector. The gap between theory and practice*, EGPA-Conference, Ljubljana, Slovenia, 1-4 September 2004
- <sup>46</sup> Janssen/Janvier, *op. cit.*
- <sup>47</sup> Janssen/Janvier, *op. cit.*
- <sup>48</sup> *Advies van de Raad voor het Overheidspersonnensbeleid inzake de Ambtelijke Status*, Adviesnummer 17, The Hague, 16 December 1998 (official document without author), pp. 3-4
- <sup>49</sup> Roberto Caranta, *Point de vue sur les réformes récentes en matières de fonction publique en Italie*, in Council of State (Conseil d'Etat), *Public report of the Council of State, Studies and Documents, Reflections on the Civil Service*, Paris, 2003, p. 405
- <sup>50</sup> Ministerio de Administraciones Públicas, *Civil Service in Spain*, Madrid 2002, p. 39
- <sup>51</sup> Ministerio de Administraciones Públicas, *Civil Service in Spain*, Madrid 2002, p. 40
- <sup>52</sup> D. Osborne, T. Gaebler, *Reinventing Government – How the Entrepreneurial Spirit is transforming the Public Sector*, Reading Mass., Addison-Wesley 1992

## ABOUT THE AUTHORS

**Dr. Christoph Demmke** (German) is Professor for Comparative Public Administration at the European Institute of Public Administration in Maastricht and Visiting Professor at the College of Europe (BE). He earned a Master's degree in Political Science, having studied in Münster (DE), Hamburg (DE), and Nice (FR). He worked at the German Postgraduate School of Administrative Sciences and holds a PhD in Administrative Sciences. He has taught Comparative Public Administration at several European Universities, national civil service academies and European institutions. He was an Emile Noel Fellow at Harvard Law School and was a Visiting Fellow at American University (USA) and the University of Georgia (USA). His fields of specializa-

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tion are comparative studies of public service reform (including human resource management reforms). He has published many books and articles on comparative public service reforms and the implementation of EU environmental law. Mr. Demmke is regularly advising the different EU-Presidencies in the field of Public Services- and HRM-reforms.

**Thomas Henökl**, MM.A, (Austrian) is presently working for the European Commission, External Relations Directorate-general, within the Crisis management and prevention unit. Before, from 2005-2008, he was Researcher at the European Institute of Public Administration (EIPA), Maastricht (NL). He was conducting research on behalf of the European Public Administration Network as well as the European Commission, and is co-author of i. a. “Regulating Conflicts of Interest for Holders of Public Office in the European Union” or “The Civil Services in the EU 27.” Mr. Henökl graduated from the Institut d’Études Politiques (Sciences-Po Paris, France) in 2001 (MA European Studies) and from the University of Innsbruck, Austria (BA Philosophy; MA Political Science). In addition, he earned a post-graduate degree (MA Public Administration – Conflict Resolution and Crisis Management) at the International Christian University (ICU), Tokyo.

**Timo Moilanen**, M.Soc.Sc., (Finnish) is a researcher at the Department of Economic and Political Studies at the University of Helsinki, (Finland). He has taught human resource management, organizational ethics and research methods at various universities. He has conducted a number of studies and evaluations on State personnel and employer policy, governing bodies and public-service ethics on Finland, and also comparative studies of EU Member States.



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# Using Research into Valuing to Enhance the Value of Rational Initiatives to Improve Performance

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George Julnes, University of Baltimore

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## ABSTRACT

From early efforts to implement planning-programming-budgeting system (PPBS) and total quality management (TQM) to the recent emphasis on performance management and evidence-based practice, people have endeavoured to use rational analysis methods to improve public sector decision-making. The argument of this chapter is that the limited success of most such initiatives is due in part to our attempts to impose simplistic models of rationality on the complex process by which we naturally judge the value of our alternatives. This is not an indictment or repudiation of rational analysis in administration or policymaking but rather, as recent research highlights, a call to understand how these analytic approaches help in some contexts more than others. After reviewing several literatures on valuation, the discussion suggests ways to improve implementation of rational approaches to decision-making and considers broader implications of how rational models can distort our appreciation of “emotional labor” in organizations and our recognition of the utilization of performance measurement and evaluation findings.

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## INTRODUCTION

This chapter is concerned with the general class of efforts to improve performance in government through what can be called rational analysis. These efforts are characterized by collecting information and using it to support decision-making about programs, policies, people, or agencies (Bardach, 2000). Standard examples of rational analysis include both program evaluation and performance measurement, and both are presumed to help in choosing among viable alternatives. The efforts are analytic to the extent that they distinguish dimensions of performance (e.g., different desired outcomes) and are rational in the prescribed way that the analytical information is combined and interpreted to yield overall conclusions about better, or even best, ways to proceed.

Initiatives to improve performance through rational analysis have a long history but also an uneven record of effectiveness (Light, 1997). The recent emphasis on performance measurement in service of performance management, for example, has yielded many success stories but also many examples of performance measurement information not being used to influence decisions of any sort, whether by administrators at agency levels or by other stakeholders at the individual level (de Lancer Julnes & Holzer, 2001). This chapter addresses one factor limiting the effectiveness of many initiatives to “improve” performance – our limited conceptions of how we naturally judge the value of our options have often led us to promote ‘rational’ procedures that will not yield optimal results.

This questionable fit – between our natural abilities for making decisions and the formal, rational methods that are supposed to support and strengthen these abilities – matters for public administration. Understanding the strengths and limitations of rational analytic approaches in providing this support can not only help us design better performance management systems but also help appreciate other consequences of over-reliance on rational models in public administration. Accordingly, the concluding discussion addresses the concept of “emotional labor” developed by Guy, Newman, and Mastracci (2008), emphasizing the tendency of rational models to devalue contributions to the organization that do fit well with those models. Related, the notion of utilization of performance measurement information is broadened when we go beyond narrow, rational conceptions of use. In general, this chapter argues for viewing the findings of performance measurement and other evaluative techniques as less a basis for instrumental decision-making than a deliberate strategy to counter known errors in social cognition that otherwise lead to undesirable public sector decisions.

## VALUATION-BASED CHALLENGES FOR PERFORMANCE MEASUREMENT

Taking performance measurement as an exemplar of rational efforts to collect relevant information, various forms of use of this information have been identified. In its most instrumental form, public sector administrators can use the information to make decisions about allocation of resources or changing program activities. Alternatively, in support of accountability, citizens can use the information to judge whether agencies are adequately serving the public interest, and potential program participants can use the information to decide whether to enroll in one program or another. Whether or not explicit decisions are involved, all of these uses presume that appropriate information can usefully guide our judgments and subsequent behavior. With the goal

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of making better decisions, the logic of performance measurement, and evaluation more generally, in turn, presumes that we can meaningfully connect activities to outcomes (Behn, 2003) and can value, or judge the value of, these outcomes.

Concerns over the ability of performance measurement to capture causal impacts correctly have been well-documented (de Lancer Julnes, 2009; Perrin, 1998), but less has been written about the adequacy of any evaluative technique to support judgments of the value of policies, programs, or the agencies responsible for them. As a result, too little attention has been given to basic questions that underlie judging the value of outcomes, for example:

- How do we combine information about outcomes and processes in judging the overall value of programs or agencies?
- How do we decide which indicators, or sets of indicators, are best in representing quality of performance?
- How do we decide which levels of performance are considered adequate or excellent?
- How do we judge the overall effectiveness of a program or agency based on a combination of indicators?

This chapter will not offer definitive answers to these four questions but will return to them in the chapter to address the value issues necessary for more informed tentative answers. The position taken here is that answering these questions effectively is not simply a technical matter but also depends on being self-reflective about a series of choices on how we wish to make judgments of the value of programs and policies. Failure to address these questions effectively can lead to government improvement initiatives that do not serve the public interest. Indeed, the argument of this chapter is that too often government improvement initiatives have been designed in well-intended efforts to be ‘rational’ but accordingly end up not supporting the natural decision-making capacities of administrators.

## **PRAGMATIC PROJECT: PROMOTING METHODS IN SUPPORT OF NATURAL CAPACITIES**

Addressing questions of the sort listed above requires some type of framework. One argument of this chapter is that standard frameworks provide answers that tend to be underdeveloped in being merely technical (e.g., answer to combining indicators is simply to calculate the averages of results on outcome indicators and judge value accordingly) or overly inclusive in a way that displaces tough choices (e.g., let stakeholders decide how to combine indicators). Both of these approaches prescribe answers without much empirical evidence or reflection on best practices.

### **Developing Models That Support Natural Capacities**

An alternative to the usual prescriptive models of assessing value is to understand first how we naturally reach the judgments that inform decisions and then consider how our evaluative models can better support those natural capacities. This approach follows from the philosophical position of pragmatism (Dewey, 1939; Putnam, 1995) in which our formal methodologies and theories are viewed as “tools” in the same sense as hammers and

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wood saws are tools that improve our effectiveness. Similarly, however, our cognitive abilities, such as our ability to use language, are also viewed as tools that evolved due to their adaptive functions.

In this sense, the evaluative methodologies that we use to promote better governance are tools that have evolved over time to support our evolved cognitive capacities. Our task in this pragmatist project, therefore, is to understand and promote this evolution of methodology and capacity. To do this, of course, requires understanding our cognitive capacities. We can see an example of the benefits of doing this by considering the debate in evaluation between proponents of the quantitative and qualitative paradigms.

### **Finessing the Paradigm Wars**

Formal approaches to program evaluation developed in the 1960's and early 1970's were dominated by quantitative methods for measuring outcomes and establishing causal relationships between program activities and those outcomes (e.g., correlating scores on outcome measures with the amount of "treatment" people received). The received view was that these quantitative approaches were optimal for decision-making through their use of "objective" measures and that progress in evaluation lay in making the results of these methods more reliable and valid (see Shadish, Cook, & Leviton, 1991).

By the end of the 1970's, however, qualitative approaches, based on in-depth interviews and analysis of textual forms of evidence, were promoted by some as better ways to understand program impacts. The qualitative argument was that quantitative methods gave the appearance of objectivity but were often focused on the wrong outcomes (relying on measures easiest to obtain but of questionable validity) and oblivious to the real nature of causality (establishing covariation between activities and outcomes but not understanding how and why the activities affected participant behaviors).

During the 1980's and early 1990's these contrasting positions became entrenched and the ensuing hostilities were referred to in the evaluation community as the "paradigm wars" (Reichardt & Rallis, 1994). Various efforts were made to build bridges between the two paradigms, but the reconciliations proposed rarely lasted and often took the form of acknowledging that both perspectives had important insights.

Further progress occurred as evaluators became more aware of work in cognitive psychology documenting that people in general (and not just evaluators) made use of two evolved capacities for identifying causal relationships that corresponded to the two approaches to evaluation (Julnes & Mark, 1998). As Keil (1996, p. 243) summarizes, "[a]t this point, the evidence...strongly points to at least two sets of explanatory biases corresponding to two conceptual domains: a physical-mechanical domain that helps explain...mechanical causality, and a folk psychological domain that helps explain...belief accounts of causation." With this research foundation illuminating underlying cognitive mechanisms, there was the strong suggestion that the quantitative paradigm in evaluation was built upon the covariation patterns that are used for mechanical causality while the qualitative paradigm was built upon the belief accounts of causation by seeking individual interpretations.

Viewing contrasting paradigms as manifestations of multiple cognitive capacities can and should be liberating. Whatever else, it is hard to argue that evaluators or others in the public sector should choose which one

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of their cognitive capacities are to be employed in promoting program improvement. Significantly, as understanding of our cognitive capacities has diffused through the evaluation community, there has been a greater appreciation of the types of tasks that benefit from qualitative methods and the types that are better tackled with quantitative methods (Julnes & Rog, 2007a).

This example of the paradigm wars in evaluation has direct relevance for debates over the value of performance measurement versus program evaluation in supporting causal claims about the effectiveness of implementing these systems in agencies. It is also relevant, however, as an exemplar for understanding debates over the relative virtues of alternative approaches to judging the value of program, policy, or agency performance.

## VALUING

Decision-making involves being able to predict consequences, the focus of debates over the relative advantages of different approaches to establishing causal relationships (Greene, 1999; Julnes & Rog, 2007b). However, it also involves making judgments about the value of those consequences. Various methods have been developed in evaluation to do this, but there is little consensus on which methods are most appropriate under different circumstances. The argument here, as with methods for causal inference, is that understanding the underlying dynamics of individual cognition can help frame our understanding of social cognition and the decision-making that it supports. As such, I begin with a review of some of the basic differences in approaches to valuing and then report on some of the research on how individuals make judgments about the value of alternative options.

### Varieties of Valuing

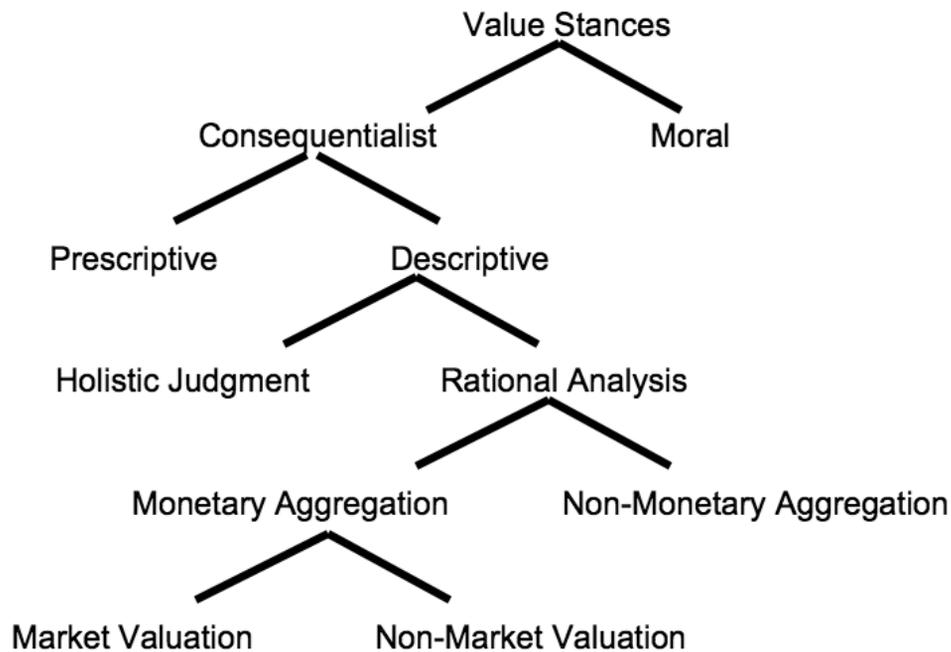
Judging the value of things is an everyday human task (e.g., would we prefer to have soup or salad, watch TV at home or go out to a movie, call someone or write a note?) but apparently also a complex one given all of the factors often considered. Judging the value of public sector activities is even more complex because of the added concerns of (1) stakeholders having different values and (2) the distributions of benefits and costs across stakeholders. Given these complexities, different approaches to valuing have been developed, with three of the major distinctions in approaches discussed below and illustrated in the first three branches of Figure 1.

**Focus of Valuation.** Using the term valuation as an overarching one that includes all systematic approaches to establish relative or absolute values of policies and programs, we can, at the most general level (see figure 1), distinguish between judgments based on moral grounds (e.g., “this approach is more ethical, and thus better, than an alternative approach”) and consequentialist ones (e.g., “this approach leads to better outcomes than the alternative”).

Moral foundations can be based on fulfilling one’s duty (Nussbaum, 2000) or on professional ethics for proper behavior. In the public sector, moral stances tend to focus on process, such as avoiding conflicts of interest even if the arrangements would lead to socially valued outcomes. As such, process monitoring and implementation evaluation often attend to moral considerations separate from the consequences. Similarly, while

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**Figure 1: Diversity in Approaches to Valuation**



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democratic inclusiveness can be justified in terms of the good policies that result, it is just as often viewed as the “right” approach independent of the results.

In that evaluation and performance measurement are more focused on outcomes, we’ll follow further the variations of consequentialist valuation. However, the point of noting the distinctions in Figure 1 is not that one side of the distinction is more useful in some objective sense but rather that there are many meaningful facets to how we judge value. Any approach based on only one or a few of these facets will be correspondingly incomplete and of questionable usefulness. As such, and with regard to the first of the four questions posed at the beginning of the chapter, we will not be well-served by an analytic approach that focuses solely on outcomes and neglects processes – valuing is not just a matter of consequences.

**Source of Values.** The next distinction in Figure 1 concerns the source of values used in valuation. Prescriptive values, such as efficiency and fairness or those presented in religious works, have a long tradition in our society and so are often given standing independent of descriptive accounts of the expressed values of people affected by the policies and programs of interest (Beauchamp, 1982; Shadish, Cook, & Leviton, 1991). Balancing the emphasis given to the various prescriptive and descriptive accounts of values is difficult but essential for addressing the second and third introductory questions of this chapter, of which indicators should be used in assessing performance. The short answer is that (a) the indicators used and (b) the levels of performance needed should reflect the major values that we bring, from prescriptive and descriptive sources, to the performance measurement context.

Elaborating this answer, for those wanting to undergird decision-making with prescriptive values, the chal-

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lenge is justifying why some values are to be given priority over others. The three values articulated in the national motto of France – liberty, equality, and fraternity (or sorority, if one prefers) – are standard examples of prescriptive values. However, there are other “fundamental” values, with little consensus about which values are to be given priority and what to do when fundamental values conflict, as they often do. This incompatibility of foundational values, an antinomy for our purposes, was a major theme in Isaiah Berlin’s thinking (1990) and is the focus of Okun’s book, *Equality and Efficiency: The Big Tradeoff* (1975). Seeking to avoid sweeping generalizations on the priority of one fundamental value over another, some have promoted “human flourishing” as a general goal that leads to different prescriptions for activities and decisions in specific contexts (Rasmussen, 1999). In that human flourishing is based on addressing human needs, this value stance has implications for addressing the third introductory question, which levels of performance should be judged as adequate and excellent—the required levels of performance should be based on the degree to which the programs address identified human needs.

For descriptive values – those that come not from our cultural traditions in the abstract but from the actual stakeholders in given situations – the challenges are different but parallel. In the area of public services, for example, one would want to understand the value that citizens place on service efforts and improvements. For this we recognize that different people give priority to different values, requiring a broader range of indicators, and expect different levels of performance. As such, the challenge for those wishing to promote descriptive valuing in decision-making is properly representing the values of stakeholders, and this is a challenge as substantial as those facing proponents of prescriptive values. One question concerns whose values should be registered (all citizens or only those most affected by the policies in question?); another is how these values are to be elicited. There are many methods for this, including surveys (such as those used in what is called contingent valuation) and economic data (e.g., using the higher values of houses near a park to estimate how much people value living near parks), with a central issue being how people’s preferences are best “revealed” (Mitchell, 1989).

**Deriving Summative Valuations.** A third distinction, whether one emphasizes prescriptive or descriptive sources of values, is how to derive a summative valuation, such as the overall conclusion that one policy option is “better” than another. This combining of diverse forms of information into a summative judgment addresses the last of the four introductory questions of this chapter, that of how to reach overall judgments of value by combining available information.

Whereas many formal techniques involve analyzing the various impacts as separate elements and then aggregating these elements into summative judgments, others are decidedly more holistic. For example, one of the classic descriptions of summative evaluation is of a food critic eating a dish and judging how good it is (Shadish, Cook, & Leviton, 1991). The critic is almost certainly noting different elements in the presentation, aroma, and taste of the dish, but the final judgment is largely holistic in that it rarely follows a strict formula, or algorithm, in combining those elements.

In part because of the inherent subjectivity of holistic judgments (even the critic is unable to specify exactly how the summative judgment was derived and may reach different judgments under different circum-

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stances), most valuation in the public sector is analytic and based on some algorithm for combining elements. The prime example in policy analysis is benefit-cost analysis (Gramlich, 1990), wherein, ideally, all policy impacts are identified and valued. The standard approach to aggregation is simply to add up all valued benefits and costs (based on descriptive valuing that uses people's preferences) and report a net value (or net present value when accounting for the time value of money). Note that this simple adding-up reflects the prescriptive value underlying the Kaldor-Hicks vision of utilitarianism, that the best society results from increasing the total welfare of society (in line with "the greatest good for the greatest number). There are, however, alternatives consistent with other prescriptive values, such as weighting the outcomes of some groups, such as those most disadvantaged, higher so that the overall value emphasizes those outcomes (to appreciate the understatement in acknowledging controversy about these issues, see Adler & Posner, 2001).

Finally, two additional distinctions in how we support judgments of value in public administration are shown in Figure 1, and still others could be added. The point of these additional distinctions is to highlight the creative diversity of approaches available in different contexts (e.g., if policymakers can and need to have the summative conclusion in terms of dollars, the benefit cost analysis can be useful; if multiple criteria cannot be converted to a single metric, such as dollars, multi-attribute utility, MAU, approaches might be more helpful).

## Research on Natural Valuation

Given this variety of approaches to valuation, how are we to make sense of it? How are we to reflect upon the adequacy of particular approaches? As with the example of considering the cognitive foundations for our contrasting approaches to understanding causality, this chapter is premised on the belief that it may be useful to examine the cognitive sciences literature for insights into the evolved underlying mechanisms of how humans make effective judgments of value. Lehrer (2009) provides a layperson overview of this literature, particularly as it relates to the following points about value of, but also the severe limitations of, the more deliberative, analytic approaches to decision-making.

Before reviewing some of this literature, however, it is important to emphasize that this examination is not intended to suggest social decision-making is or should be fundamentally the same as the cognitive dynamics of individuals. Nor is there any claim for the virtues of "reductionism" for understanding social behavior. Rather, the claim is that understanding effective decision-making, and administrative behavior more broadly, generally benefits from being studied at multiple levels. In this case, understanding value judgments at the individual level may offer insights that can help liberate us from the more dogmatic views of what social decision-making should be.

**Value of Rational Analysis.** One thread of research in cognitive science focuses on the failure of people to be "rational" in making decisions. This work suggests that public policy needs to be responsive to the challenge most of us experience in delaying gratification. For example, Benartzi and Thaler (2004) used this logic in promoting a program called "Save More Tomorrow" that avoids the disincentive of enrolling in a 401(k) retirement plan that results in less take-home pay now. Rather than asking people to commit a percentage of their earnings now to retirement, people were given the opportunity to participate in a savings program that would

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begin several months later. The result was a substantial increase (from 3.5% to 13.6%) in the average savings rate of participants.

**Limits of Rational Analysis.** The Benartzi and Thaler (2004) study suggests that the rational analysis is to be preferred to more impulsive decision-making. If so, the task of evaluative methods such as performance measurement might reasonably be understood as strengthening the salience of rational considerations in public sector decision-making.

Increasingly, however, studies are showing the limits of trying to be too rational in decision making. One such study examined the interference of rational analysis focused on whether college students would replicate the taste preferences for strawberry jam of expert raters from Consumers Reports. Using a subset of five of the 45 jams tested by Consumer Reports, Wilson and Schooler (1991) found that the students agreed with the experts on the two best and two worst tasting jams and had a correlation in ratings with them of 0.55. However, when the study was replicated with a different sample of students who were asked to explain why they preferred the jams they were rating the correlation of ratings between students and experts dropped to 0.11. Furthermore, what had been the worst-rated jam for the experts ended up preferred by the students to the experts' highest rated jam. In other words, this effort at rational analysis of the elements responsible for value judgments appeared to interfere with effective valuing.

This finding was extended with a second study by Wilson and colleagues (1993) in which female college students had the opportunity to choose a poster that they would be allowed to keep. In one condition, labeled "non-thinking," the students simply made holistic ratings (1 through 9) of the five posters, two of which were Impressionist scenes (Monet or Van Gogh) and the other three were "humorous cat posters." In the second condition, emphasizing rational analysis, the students also had to explain why they liked or did not like the posters. In the non-thinking condition, 95% of the women chose one of the Impressionist posters, but in the analytic condition the choices were about equally split between Impressionist and cat posters. Significantly, during follow-up interviews a few weeks later, none of those who chose the Impressionist posters regretted their choices but 75 percent of the cat poster people did express such regret.

The point is that being analytical (rating the jams or posters on multiple dimensions as one might do in rating public sector outcomes) interfered with the natural capacities that people would otherwise bring to such judgment tasks. Given the analytic focus of much of the methodology in performance measurement and other evaluative procedures, the implications deserve serious attention. For example, performance management initiatives sometimes combine the information on multiple indicators to yield a summative "grade" for a city or state government. Likewise, personnel evaluation often employs a combination of analytic rating scales to counter the undesired subjectivity of holistic assessments.

**Hierarchy of Levels in Studying Valuation.** The above discussion of cognitive tendencies is premised on the notion that theory in public administration is better served when we address multiple levels, both the administrative activities of interest and the underlying mechanisms responsible for the observed patterns. The claim is that we can understand the challenges to effective decision making better if we understand the cogni-

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tive capacities involved in making those decisions.

It turns out, however, that this focus on underlying mechanisms can always be extended, wherein, for example, the cognitive capacities presented here as underlying mechanisms for decision making can themselves be explained by evermore fundamental mechanisms. That is, what is happening in our brains that yields the cognitive tendencies just described? While public administrators will and need not devote much time and effort to this continual movement towards deeper underlying mechanisms, it is useful to be reminded that there is always a hierarchy of levels from which to address any phenomena that we wish to understand. With this goal of addressing multiple levels in most research efforts, the following account of the neurological mechanisms that underlie the cognitive tendencies just described can emphasize this point.

In brief, and in line with folk wisdom and the stereotypes in popular culture, research has shown that there are at least two ways that people approach decision-making, some more deliberate and analytical and the other seemingly more impulsive and emotional. More significant, however, is that we are learning about the different centers of the brain that are responsible for these two approaches. Briefly, the prefrontal areas of the cortex (i.e., the front of our brains) are active when engaging in analysis and weighing cost and benefits; what is referred to as emotional judgment involves midbrain areas of the limbic system (amygdala and the associated nucleus accumbens; see Cohen, 2005).

Not surprisingly, it turns out that the “rational” and “emotional” parts of our brains are both important for effective decision-making. When the midbrain (emotional) areas are damaged, people can become hyper-rational but incapable of making decisions (Damasio, 1995). On the other hand, the prefrontal area is essential to taking a long-term perspective that we expect of administrators (de Martino, 2006). For example, Cohen (2005) showed that when thinking about a short-term gain the midbrain dopamine systems are active but thinking about a long-term gain (gift certificates) is associated with the prefrontal areas. Indeed, Cohen found that modifying the size of the immediate and delayed outcomes yielded predictable variations in the relative activity of the prefrontal and limbic areas and, hence, the resulting choice between immediate gratification with the smaller gift certificate and the larger, delayed gift certificate.

## CONCLUSIONS ON VALUING

In sum, examining the underlying mechanisms of human valuing is intended to highlight its complexity and yet also its natural effectiveness. There are circumstances in which the formal methods of performance measurement and evaluation can be expected to help us make better value-based decisions but also circumstances in which naïve use will interfere with natural decision-making. The take-away message, therefore, is of the need for more balanced approaches to using rational analysis methods in public administration settings. Four aspects of this balance were addressed and warrant additional study.

**Balancing process and outcomes.** While focusing more on the outcomes that underlie a consequentialist approach to valuing, we are reminded that this needs to be balanced with moral judgments. These moral judgments require having methods that provide an adequate understanding of the processes of the programs or poli-

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cies of interest, in addition to the distributions of outcomes that result. Not enough is done in most performance measurement systems to encourage the balancing of moral and consequentialist approaches.

**Balancing multiple values.** It is generally understood that citizens bring different values to the task of judging programs and policies, but this insight is only incompletely incorporated into rational evaluative approaches. For example, descriptive valuing is standard in benefit-cost analyses that attempt to estimate the value that people place on a new road or a new park, but the prescriptive value of efficiency generally dominates other alternatives when reporting on the value of projects. Some attention is given to equity when the net present values for different stakeholder groups are reported, but the traditional prescriptive values of family and community are less often incorporated explicitly in valuation.

**Balancing rational and emotional approaches to making summative judgments.** Findings in cognitive research about the strengths and limitations of the rational (analytic) and emotional (holistic) approaches to valuing suggest that public administration needs also promote practices that build upon these two evolved capacities. The rational analytic methods of valuation, such as benefit-cost analysis, can indeed help us make sense of projects with multiple outcomes, but neglecting, and even denigrating, the more holistic emotional judgments may also lead to undesirable results. We need to devote more attention to what it might mean to balance these two approaches. Indeed, as noted with regard to the value of both quantitative and qualitative evaluation, understanding the need for both rational and emotional approaches to valuing should be liberating, and also a source of new research programs in public administration. The concluding discussion addresses some of the potentially liberating implications.

## DISCUSSION

It may be that promoting more effective use of performance measurement can profitably remain a technical matter, developing better measures and better incentive systems for using the findings. On the other hand, we might profit from stepping back and considering the ways that our standard models of decision-making are unnecessarily constrained by limited conceptions of how humans make decisions. I have argued that our conceptions of public sector decision-making have been limited, in part, because of underdeveloped, and overly rational, views of individual decision-making.

This is not to imply that we should try to mirror every aspect of individual cognition when attempting to improve social cognition – there is no evidence that such a reductionist agenda would be desirable. However, addressing phenomena on multiple levels is often useful and so we should acknowledge the complexities of individual cognition and at least consider the implications. Two areas of implications are addressed here: (a) the importance of supporting our natural decision-making capacities and (b) the need to reframe our understanding of the utilization of evaluative information.

### Supporting Natural Capacities

The most basic argument of this chapter is that the way individuals make decisions is different in important

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ways from the rational model. Whereas rational models of analysis appear reasonable in analyzing outcomes into elements and then aggregating the elements into a summative judgment, cognitive research highlights potential limitations of this approach. Instead, the research suggests that we have another cognitive capacity, one associated more with emotion, that can and should complement the strengths of rational analysis. Indeed, it makes more sense to talk of our multiple “rationalities,” of which rational analysis supports only one. To the extent that our administrative culture values the more traditional form of rationality and neglects the complementary emotional valuing, we will not be making the best use of our available decision-analytic methods. To the extent that our administrative culture values people based primarily on their proficiency with rational analysis and neglects what is referred to as emotional valuing, we are not making the best use of our human resources.

Note that this is consistent with an argument made by Guy, Newman, and Mastracci (2008), who contend that public administration has de-emphasized the value of “emotional labor” and in so doing has marginalized the contributions of those, often women, who excel at the emotional aspects of public service. Not only are those marginalized affected by an overly narrow conception of employee contributions, the public as well suffers with less effective public service. While this is a strong argument based on experience, the research in cognitive science described above contributes to the argument by providing an underlying explanation of why our standard rational analytic approaches are limited on their own.

Overcoming the limits of narrow approaches to decision-making is, therefore, a general need for public administration. To make better use of available evaluative methods within this multi-perspective view, one alternative is to use the standard rational approaches less as a procedure to be strictly followed than as a looser guideline that serves not to dictate solutions but to constrain them. This is the idea underlying the view that rational models can serve to counter some of the predictable errors that we are inclined to make. As Sunstein (2001, p. 233) notes, cost-benefit analysis “is most plausibly justified on cognitive grounds – as a way of countering predictable problems in individual and social cognition.”

However, this focus on countering predictable errors is not, we have seen, the exclusive domain of rational models. Instead, we can see that over-reliance on rational models can be as problematic as under-reliance. This was the conclusion of research conducted by Frank, Gilovich, and Regan (1993; also reported in the *Economist*, May 29, 1993) that suggested that studying economics inhibited cooperation and led people to be more self-interested in their behavior. One explanation of such an effect is that “maximizing utility” as the goal of microeconomic models tends to be defined too narrowly for effective societies, neglecting (predictably) the mutual cooperation and trust that add to the value of life for many.

As such, if we are serious about countering predictable errors we need to promote a balance in the approaches used to identify errors. Indeed, just as there is a large literature on “market failures” (e.g., the asymmetry of information when people selling cars or houses know things that buyers cannot, or the general failure of markets to allocate optimal levels of resources for public goods) as a justification for government action, so it may be useful to consider the failures that result from predictable cognitive “irrationality” as a justification for rational policy solutions. In attempting to integrate the insights from the rational and emotional perspec-

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tives, the tradition in some methodological approaches of promoting triangulation from different perspectives is relevant here (Caracelli & Greene, 1997). If the conclusions from multiple, divergent perspectives converge, we have more confidence that we are avoiding serious errors. If, however, the conclusions from multiple perspectives diverge, we are prompted to try to understand why. Again, this emphasis on multiple, valid “rationalities” supports the argument of Guy, Newman, and Mastracci (2008) in support of the emotive reasoning that may be particularly characteristic of women and currently undervalued in administrative theory and practice.

## Reframing Utilization

If a dynamic balance of narrow, rational valuation with the more holistic, emotional valuation were to be seen as a virtue for effective public-sector decision-making, what would this suggest for our understanding of the utilization of information from performance measurement and other evaluative techniques? First, much has changed since the early days when the “use” of evaluation findings was divided between instrumental use (findings used directly to change policies and procedures) and enlightenment (diffuse use in which people came to think about policies differently because of the findings; see Weiss, 1998). We are now able to conceive of use along dimensions ranging from concrete to abstract (de Lancer Julnes, 2009) and appreciate that different types of use might be most appropriate in different settings (Mark, Henry, & Julnes, 2000).

This chapter, however, suggests an additional form of use: regardless of the ultimate decisions made, if the findings of evaluative inquiry contribute to the dynamic balance of rational and emotional perspectives, those findings can be thought of as having been utilized. This is not to make excuses for the too-common finding that results are completely ignored but rather to acknowledge that findings can be considered carefully and usefully without having a clear public connection with a final decision. As noted, it can still be useful for the findings of rational analysis to constrain decisions without dictating them.

In the context of supporting our natural cognitive abilities, this emphasis on constraining decisions is consistent with the notions of “scaffolding” that have been popular in Vygotskian approaches to education in recent decades (Julnes, Pang, Takemoto-Chock, Speidel, & Tharp, 1987; Tharp & Gallimore, 1988). With scaffolding, the role of formal analysis is to support the development and functioning of our natural but more informal capacities for making sense of our world. This would seem to be a sincere and honorable contribution for performance measurement and related evaluation techniques. As such, appreciating our rational analytic methods as supporting rather than replacing our natural capacities may prepare us to use them more effectively, with less resistance and more meaningful implementation of information systems promoting effective governance.

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## ABOUT THE AUTHOR

**George Julnes**, a psychologist with training in public policy and business, is Associate Professor of Public Administration in the College of Public Affairs, University of Baltimore. He has taught evaluation and public administration for over 20 years and is the author of many articles and chapters in these areas, as well as having edited three volumes of *New Directions for Evaluation* (with volume titles of *Realist Evaluation*; *Outcomes of Welfare Reform for Families Who Leave TANF*; and *Informing Federal Policies on Evaluation Methodology*) and co-authored, with Mel Mark and Gary Henry, *Evaluation: An Integrated Framework for Understanding, Guiding, and Improving Policies and Programs*. In addition to conducting and advising program evaluation for state and federal agencies, his current work involves developing our understanding of how different evaluation methods fit different public policy contexts and promoting government evaluation policies that encourage fitting methods to context.

*Contact information:* George Julnes; University of Baltimore; 1420 N. Charles Street; Baltimore, MD 21201-5779; gjulnes@ubalt.edu



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# Policy Regimes and Governance: Perspectives from Political Science

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Ashley E. Jochim, University of Washington

Peter J. May, University of Washington

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## ABSTRACT

A central challenge for governance is addressing problems that span multiple policy areas. This contribution underscores the limits of existing theorizing in addressing such problems and suggests new avenues for research based on the concept of a boundary-spanning policy regime. Notions about this type of policy regime are discussed within the context of the broader literature about regimes in political science with attention to the forces that shape the strength and durability of such regimes. Consideration of policy regimes provides a fruitful means for joining the contributions of political scientists who study policy processes with public administration scholars concerned about governance.

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## INTRODUCTION

A central challenge for governance is addressing problems that span the traditional boundaries of policymaking. These difficulties have been especially evident in recent years for problems in the United States that include deteriorating infrastructure, global climate change, the threat of terrorism, and the persistence of poverty. These problems are inherently messy because they necessitate actions across multiple policy sectors as well as within and across different levels of government. The important point from a political science perspective is that the solutions for boundary-spanning problems like these do not fit within traditional subsystem boundaries for organizing policy responses. Donald Kettl (2006, pp. 12-13) aptly described these governing challenges in commenting that “the new challenges of 21st century life – from terrorism to pandemics and international trade to climate change – have undermined the ability of boundaries – any boundaries, drawn anywhere – to deal with truly important and inescapable issues.”

Fragmented structures are typically seen as the fundamental obstacle for addressing boundary-spanning problems. As a consequence, new organizational arrangements or mechanisms for coordinating action are sought. That quest has entailed consideration of policy czars and governmental reorganizations (see March and Olsen, 1983; Wilson, 1989, pp. 268-274), whole-of-government approaches involving “joined-up” government (see Christensen and Laegreid, 2007; Ling, 2002; Perri 6, 2004), horizontal modes of governance (see Termeer, 2009), and the Open Method of Coordination as developed in the European Union (see Radaelli, 2008). Despite this diversity of approaches, the search coordination and improved policy cohesion remains an elusive challenge that Guy Peters (1998, p. 308) labels as “one of the central concerns in the contemporary study of interorganizational politics.”

When viewed from this perspective, the governance solutions to messy problems entail reforms to more effectively bridge organizational divides within and across governmental layers. This leads to solutions that constitute what Pierre and Peters (2005, p. 124) have labeled technical and managerial approaches to governing complex societies. But the diagnosis of balkanized government structures misses the larger political dynamics associated with fragmented policy subsystems in American politics and policymaking. Policy process scholars have long observed the consequences of this fragmentation in producing disjunctive policymaking and fostering disjointed policy implementation (see in particular, Baumgartner and Jones 1993, pp. 235-251 and Pressman and Wildavsky 1973, pp 87-124).

From a political science perspective, the central issue for achieving more unified governmental efforts is overcoming the inertia that is embedded in different subsystems for policymaking. Each of the relevant subsystems provides a different lens about “the problem” and “the solution” that fits its distinctive history and perspective. These forces pull policymaking in different directions and thwart policy integration. In other words, governing in the face of complex problems involve far more than the coordination of implementation efforts. Though organizational reforms may be part of the solution, we argue that these alone are insufficient for addressing the disintegrative forces. Our contribution builds on this understanding of politics and policymaking in further developing notions about *boundary-spanning policy regimes* and their prospects for inducing policy cohesion.

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We suggest attention to boundary-spanning policy regimes provides a fruitful means for joining the contributions of political scientists who study policy processes with public administration scholars who are concerned about governance. Consideration of policy regimes highlights the prospects for and limitations of governing across subsystems. As we elaborate below, boundary-spanning policy regimes are usefully characterized as governance arrangements that foster integrative actions in support of a common goal. Policymakers establish governing arrangements and undertake implementing actions that allow these regimes to take form and to gain strength. Like the joined-up government and horizontal modes of governance, policy regimes foster parallel actions across different policy areas and among different levels of government. Like the Open Method of Coordination approach, policy regimes are animated by commitments of key actors within different policy areas to achieve a common goal. Unlike either of these, the contours and strength of a regime are shaped by the political forces that are mobilized in support of the regime.

## **BOUNDARY-SPANNING PROBLEMS**

Many contemporary problems crosscut multiple areas of policy and their attendant policymaking subsystems. Rittel and Webber (1973) first highlighted the complexity of social problems in coining the phrase “wicked problems” to refer to their inherent messiness. But, only in recent years have the boundary-spanning aspects been highlighted as the key component of problem complexity as illustrated by Duit and Galaz’s (2008) discussion of a range of complex biophysical and human problems. Indeed, some of the most noteworthy examples of policy initiatives of the last century fell *beyond*, not within, the boundaries of individual policymaking subsystems.

This has important political and institutional implications that stems from the nature of fragmented policy subsystems in American politics and policymaking. A key precept of the policy process literature is the existence of fairly distinctive subsystems for policymaking comprised of relatively stable sets of actors, more or less common problems and approaches to addressing them, and institutional ties that govern the decision-making context. The terminology differs in referring to variations of the subsystem concept that include subgovernments (see Berry, 1989; McCool, 1990, 1998; Thurber, 1990), policy monopolies (see Baumgartner and Jones 1993, pp. 6-9), and policy domains (see Burstein, 1991; Laumann and Knoke, 1987). Notwithstanding these distinctions, there is broad consensus in the policy process literature that subsystems help to establish boundaries for policymaking and function to bring “stability to the otherwise volatile process” of policymaking (Worsham, 2006, p. 438).

Most policymaking and the solutions that policymakers develop fit within more-or-less distinctive subsystems. Boundary-spanning policy problems do not. The fact that these crosscut multiple subsystems creates a fundamental problem that is far more than a structural one of fragmented governmental institutions. The myopic nature of policymaking among policy subsystems is the culprit. Each of the relevant subsystems provides a separate lens through which to view problems. Each also has different ways of addressing problems given that they have separate policymaking histories and serve different interests. For example, the threat of terrorism looks very different to players in the domestic preparedness subsystem that is concerned with responses to

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weapons of mass destruction and other catastrophic attacks than it is to players in the subsystem that is concerned with food safety. It might be different if the 9/11 events involved mass poisoning of the food supply. Because of these distinctive perspectives, achieving the desired unification among elements of diverse policy subsystems for any given boundary-spanning issue is the Achilles' heel of governing.

Consideration of the problems associated with governing beyond the boundaries of subsystems requires a new conceptual basis that utilizes the distinct insights political scientists have offered in regards to American politics and policymaking. Our consideration of boundary-spanning policy regimes highlights the distinctiveness of the concept in fulfilling these roles for scholarship.

## CONSIDERING POLICY REGIMES

Notions about regimes have been developed in political science scholarship concerning international relations, comparative politics, American political development, and urban politics. Each of these traditions has considered variants of the regime concept while proceeding relatively independently. More recent contributions by policy scholars develop notions of regimes of relevance to specific policy reforms and implementation efforts. We draw from this diverse literature in political science to develop notions about boundary-spanning policy regimes. We conceptualize these as governing arrangements that span multiple subsystems and foster unified action. From this perspective, regimes go beyond individual subsystems and concern much more than policy implementation. They unify elements of subsystems so that those elements that are relevant to a given messy problem work more or less in accord toward similar ends. In their quest to seek policy cohesion and coordination, policymakers shape the forces that allow regimes to evolve.

A brief review of the political science literature about regimes is useful in setting the stage for considering aspects of boundary-spanning policy regimes. Perhaps the most developed notions of regime come from international relations scholars who have utilized the concept to understand patterns of activity in and around internationalized policy areas. Stephen Krasner (1983, p. 2) describes an international regime as “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations.” International regimes are fundamentally about crafting institutions in the international sphere for governing responses to particular policy problems such as hazardous waste and food, or to promote particular ends such as trade (see Kratochwil and Ruggie, 1986). These and other scholars of international relations make clear that institutional arrangements alone do not constitute a regime. Institutions are only meaningful insofar as they embody and reinforce shared understandings and beliefs regarding the problem at hand.

Scholars working with the regime concept in other traditions have more explicitly highlighted the centrality of power and interest groups in regime formation and change. Foremost among these is the work of Clarence Stone (1989) and his colleagues, who apply the regime concept to the study of governing arrangements in urban politics. According to Stone (2005, p. 309), the challenges of urban governance are “coalition building, resource mobilization, and devising schemes of cooperation.” This research suggests that interest

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groups lend strength to governing arrangements but, unlike international regimes, cooperation does not signal shared values or beliefs but instead the selective provision of benefits (also see Mossberger and Stoker, 2001).

A similar progression of ideas developed in comparative politics and American political development where scholars brought attention to structural power relationships between the state and society. Kitschelt (1992, p. 1028) defines political regimes “as the rules and basic political resource allocation according to which actors exercise authority.” In this tradition, Esping-Anderson (1990) considers the role of different types of redistribution and the strength of labor interests as central components of different welfare state regimes (also see Goodin and Rein, 2001). Those writing within the traditions of historical institutionalism with the American political development literature adopt a similar stance in arguing that new regimes are made possible by the embracement of organizing ideas by new coalitions of political actors (see Orren and Skowronek, 1998).

Scholars working in the policy process tradition have employed regime concepts in examining particular reforms or classes of reforms. Policy regime terminology has been used to describe particular reforms that Carter Wilson (2000) characterizes as containing an idea or ‘policy paradigm,’ an institutional basis that structures policymaking and implementation, and a set of interests that provide political support. A variety of examples of this type of regime can be found in the recent policy process literature. McGuinn (2006) discusses regime change in federal education policy that shifted focus from equity to accountability, transformed K-12 institutions, and involved new coalitions of actors around the accountability regime. Rodgers, Beamer, and Payne (2008) discuss differences among American states in their welfare and income support regimes following reforms at the national level. Williams (2009) discusses the creation of a new financial services regime in Canada in response to the credit crisis.

Regime terminology has also been employed by policy scholars in talking about classes of reforms. Emphasizing the relevance of paradigm change, scholars studying regulatory reforms have used regime terminology to describe the adoption of new regulatory approaches. For example, in discussing regulatory regimes Marc Eisner (1994, p. 159) suggests “[o]ne can recognize the emergence of a new regime when regulatory policy initiatives and institutional innovations introduced across a number of areas reveal similar goals, patterns of state-economy relations, and administrative models” (also see Harris and Milkis, 1989). In a related vein, Eric Patashnik (2008, pp. 16-19) considers different examples of policy regimes in discussing the durability of what he labels “general interest reforms” that eliminate or curb special-interest benefits.

A subset of the policy regime literature concerns implementation regimes as arrangements for carrying out policies (see Stoker 1991). For example, Clarke and Chenoweth (2006) discuss the potential for local performance regimes aimed at enhancing the resilience and responsiveness of local governments to terrorist attacks and other extreme events. A broader take on implementation regimes entails consideration of policy designs that avoid conflicts among policy instruments and allow for less reliance on governmental action. Howlett and Rayner (2006, p. 170) label this as “next-generation” governance strategies that “attempt to *integrate* existing, and sometimes rival policy initiatives into a more cohesive strategy, to *coordinate* activities of multiple agencies and actors, and, generally, to substitute a *holistic approach* for one that has decomposed policies into a set

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of multiple and apparently unrelated problems and solutions” (emphasis in the original, citations removed from the quote). These policy designs are based on what Howlett (2009, p. 79) elsewhere labels as “policy regime logics” that link policy tools and objectives.

This brief review of notions of regimes reveals the variety of uses of regime terminology in political science along with the diversity of traditions in the use of the label in the broader policy literature. It is clear that the concept of a policy regime is not something that we have devised anew. Our review underscores the important contributions that have been made to thinking about policy regimes and their potential for fostering new directions for policymaking and implementation in particular areas of policy. Our foci are consideration of boundary-spanning regimes and the forces that shape them, allow them to take hold, and to gain strength or atrophy. This is a far different take than consideration of the analytic considerations of design and implementation of policy strategies.

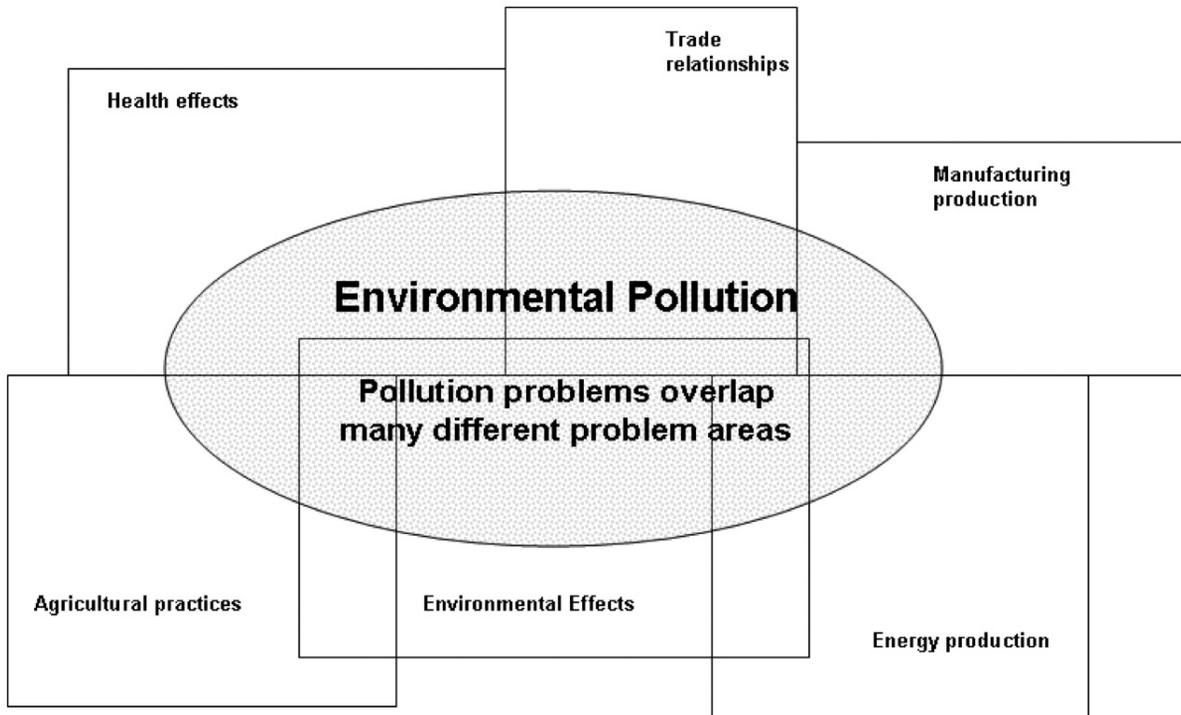
## **EXAMPLES OF BOUNDARY-SPANNING REGIMES**

A variety of examples of boundary-spanning policy regimes can be identified (see Jochim and May, 2010 for further discussion). These include: the “community empowerment regime” of the late 1960s and early 1970s that embraced urban renewal through decentralized planning; the “pollution abatement regime” of the early 1970s that emphasized end-of-pipe pollution control; the “drug criminalization regime” of the 1980s that embraced “zero tolerance” for illegal drug use; the “disability rights regime” of the 1990s to the present that seeks to ensure socio-economic independence of disabled individuals; “the welfare responsibility regime” that transformed the approach to welfare and employment in the mid-1990s; and the “homeland security regime” since the terrorist attacks of 2001 that focuses on protecting the nation from public risks. Each of these examples spans elements of multiple subsystems and instilled some degree of cohesion among them through the interplay of various political and institutional forces.

Consider, for example, the pollution abatement regime of the early 1970s. The problem of environmental pollution is messy in both literal and political terms. As depicted in Figure 1, the effects span multiple policy areas that include direct environmental harms, health effects, and trade relationships. The contributors to the problem entail among other sectors agricultural practices, energy production, and manufacturing. Given that each of these had well-developed subsystems for policymaking, efforts to address pollution problems had to grapple with the distinctive histories and perspectives that they brought to the table. The conflicted politics of piecing together a viable approach to pollution have been well documented (for an overview see Andrews, 1999, pp. 201-226).

The resulting policy integration under the pollution abatement regime resulted from a set of influences. The widespread outrage in the early 1970s about environmental harms propelled a rethinking of the governmental approach to the environment. The widely shared commitment in the 1970s within the federal government to pollution abatement provided the needed direction for responding to environmental harms. The mobilization of environmental groups in the early 1970s in supporting pollution abatement provided the energy and political power behind the regime. Finally, the creation of the Environmental Protection Agency provided an institu-

**Figure 1: Boundary-Spanning Aspects of the Environmental Pollution Problem**

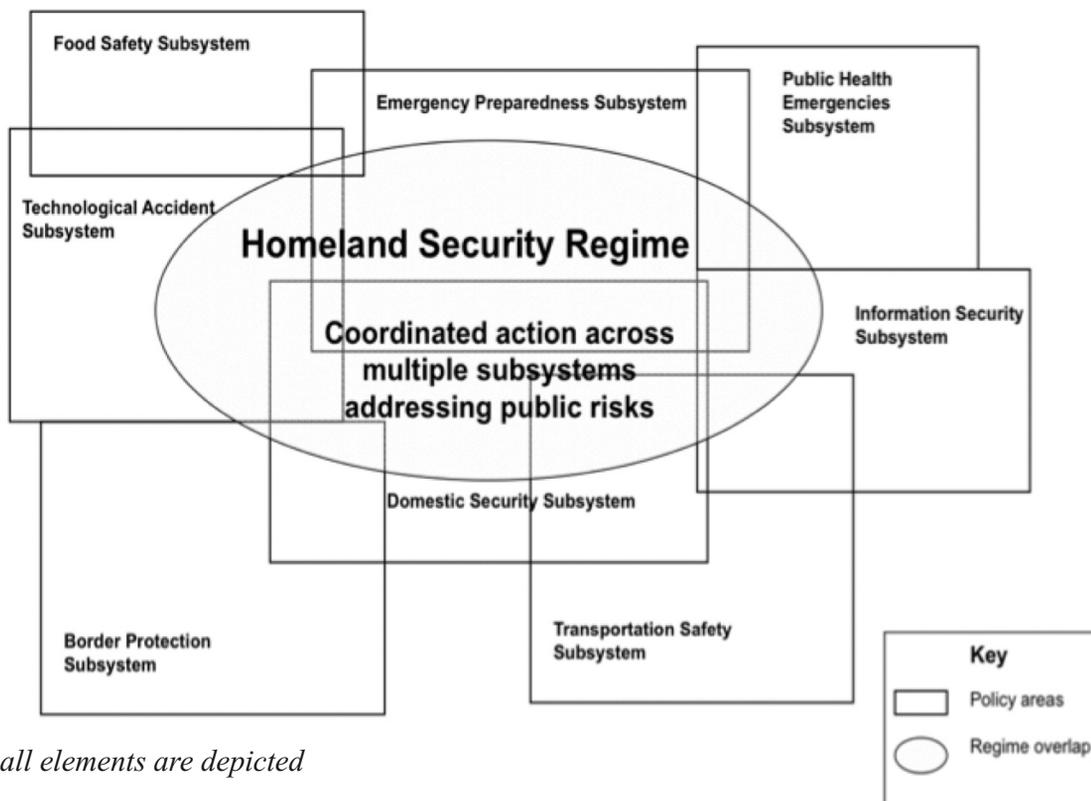


*Note: not all elements are depicted*

tional force to meld purpose and policy implementation. The agency became what Andrews (1999, p. 229) labels “the gorilla in the closet” as a force for goading other agencies and levels of government into paying attention to pollution abatement. Taken together, the centripetal forces of issue attention, a galvanizing idea, a mobilized and supportive constituency, and a powerful institutional presence provided a strong regime that cross-cut multiple subsystem boundaries.

This can be contrasted with the more recent effort to fashion a cohesive approach to homeland security in the aftermath of the terrorist attacks of 2001. While no one set out to craft a policy regime around homeland security per se, various forces that were shaped by policymakers’ actions worked to that effect. As depicted in Figure 2, elements of a variety of policy subsystems that for decades have surrounded different aspects of protecting society from widespread harms are potentially relevant to homeland security. The federal role has evolved since the 1950s when the Civil Defense Act of 1950 (P.L. 81-920) authorized a federal domestic preparedness program that grew into a powerful subsystem (see Wamsley and Schroeder, 1996). Since that time, a variety of different preparedness-related subsystems have evolved to address risks associated with food safety, natural disasters, public health emergencies, wayward technology, information security, transportation safety, and other public risks. Each of these has historically involved distinctive political and policy responses to different catastrophes. Melding elements of these with attention to their terrorism-related concerns into a more cohesive effort broadly constitute the components of the homeland security regime.

**Figure 2: The Homeland Security Policy Regime**



*Note: not all elements are depicted*

The potential unifying forces for melding a cohesive homeland security regime were present after the terrorist attacks of September 2001 – a widespread issue of concern, a common purpose, engaged stakeholders, and institutional redesign. A boundary-spanning regime was created as evidenced by the fact there are many players across relevant subsystems attending to issue of terrorism. This comprises a far different assembly of efforts than that which existed prior to the events of September 11th 2001. But as discussed by May, Jochim, and Sappotichne (2011), weakness in the development of each led to what they label an anemic homeland security regime. The relevant players are largely pursuing separate homeland security agendas that reflect their particular concerns and historic ways of doing business. The central motivating idea or purpose advanced, based on the concepts “homeland security” and “all-hazards” preparedness, is poorly understood and not widely shared among different elements of the federal government or at subnational levels. The constituencies for different components of the homeland security agenda differ, which serves to pull apart rather than unify these components. And, the institutional locus – the Department of Homeland Security (DHS) – is a weak force for inducing cohesion.

## SHAPING AND SUSTAINING POLICY REGIMES

Policymakers establish the governing arrangements and undertake the implementing actions that allow regimes to take form and gain strength. As suggested with our examples four different influences – issues, ideas, inter-

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**Table 1: Examples of Influences upon Policy Regimes**

Influence	Pollution Abatement	Homeland Security
Issues	Outrage about environmental harms in the 1960s	Terrorism attacks of September 11 <sup>th</sup> 2001
Ideas	Pollution abatement - going after polluters and cleaning up the environment	“Homeland security” - protecting the nation from terrorism
Interests	Environmental groups and the environmental movement	State, local, and private business interests with a stake in the issue
Institutions	Environmental Protection Agency and the White House Council on Environmental Quality	Office then Department of Homeland Security and a myriad of other agencies

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ests, and institutions – give rise to and sustain policy regimes. These are central concepts within various literatures in political science about regimes. In what follows, we discuss how these foster the emergence of regimes, give them strength, and affect their durability.

### **Influences upon Boundary-Spanning Regimes**

By way of overview, we illustrate the role of issues, ideas, interests, and institutions in affecting the contours of boundary-spanning policy regimes. We do this for the previously discussed examples of the pollution abatement regime of the 1970s and the homeland security regime of the present. The different influences are summarized in Table 1. Issues, as highlighted by focusing events or other actions, serve as stimuli for garnering attention across subsystems. Ideas bind elements of relevant subsystems to achieve a common purpose and in so doing, provide the substance to a given regime’s governing activities. Interests provide political power and legitimacy to a given regime. Institutions structure cohesion by channeling attention, authority, and information flows. As the histories of these two sets of regimes make clear, these forces can be uneven and lead to relatively strong regimes (pollution abatement) or relatively anemic regimes (homeland security). We elaborate upon these points in the following discussion.

A widespread issue of concern acts as both an attention-focusing mechanism and integrative force for regime formation. Widespread crises, problems, or other disruptions by definition garner attention of relevant actors in multiple policy subsystems and create demands for cross-subsystem responses. But as shown by May, Sapotichne and Workman (2009a), the timing and duration of shifts in attention to new dimensions of a problem differs according to the degree that affected subsystems were previously attending to aspects of the relevant problems. In

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addition, the definition of “the problem” for any given issue that spans multiple areas of policy making is inevitably interpreted through the lenses of particular subsystems. For example, the threat of terrorism looks different to those who are concerned with public health than those who are concerned with domestic security. The emergence of issue attention can follow dramatic focusing events, like that of 9/11 and the homeland security regime, or can be more evolutionary in nature, as emerging attention to the problem of pollution illustrates.

Ideas are central ingredients of policy regimes in that they provide substance to a given regime’s governing activities, shape the direction of supporting institutional development, and propel the actions of concerned interests (see Blyth, 2003; Orren and Skorownek, 1998). Ideas provide the foundation for parallel engagement among relevant subsystems, regardless of the degree of agreement about the dimensions of a given problem. We suggest ideas serve as the organizing principle for integrating actions across subsystems – the glue of the regime. Ideas can be powerful in this regard as was the case for the common goal of “pollution abatement” as a rallying point for various federal and state environmental protection efforts in the 1970s and 1980s. But, the motivating ideas can also be weak. May, Jochim, and Sapotichne’s (2011) study of the homeland security regime reveals the central motivating concepts of “homeland security” and “all-hazards preparedness” are not well understood or embraced among key subsystem players.

Interests play a powerful role in the formation and strength of policy regimes. Scholars who study urban regimes argue that such support is central to establishing the governing capacity of a regime. For example, Gerry Stoker’s (1995, p. 61) “iron law” of urban regimes holds the viability of a regime is dependent upon a mobilization of interests that is commensurate with the regime’s main policy agenda (also see C. Stone, 1989, p. 21). For policy regimes, the bases of support are in principle derived from the affected interests. But, relevant stakeholders may or may not have the same sense of urgency and the same degree of “buy in” to the shared purpose of a policy regime. Weak interest support can come from two sources. As was the case with the pollution abatement, the mobilization of one set of groups can lead to counter-mobilizations. This may generate a high degree of conflict that can, potentially, weaken the regime over time. Undergirding interests can also be weakened when too few groups mobilize in support of a regime, what May (1991) calls “policies without publics.” This dynamic is illustrated in the case of homeland security, which is characterized neither by strong proponents nor detractors (see May, Sapotichne, and Workman, 2009b). We generalize from this in highlighting the potential for and necessity of interest realignments across subsystems in support of emergent policy regimes. In short, the interests that undergird the elements of the policy subsystems that comprise a given policy regime have the potential to either reinforce or pull apart the emerging cohesion.

Perhaps the least understood aspect of regime formation is the role of institutions. Our perspective is straightforward in suggesting that institutionally imposed cohesion serves as a potential integrative force across policy subsystems just as structure-induced equilibriums add stability to policy subsystems. The institutional cohesion for governing beyond subsystems is provided by institutional designs that structure authority, attention, information flows, and relationships in support of a policy regime. We do not think of a policy regime as an institution *per se*. Instead, we think of institutions as either facilitating or hindering the formation and evolu-

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tion of policy regimes. There is no single institutional design that accomplishes these purposes as much depends on the nature of the prior interest relationships and power of the coalescing idea. Massive reorganizations, like that which created the Department of Homeland Security, may not result in greater institutional capacity. But, a dominant bureaucratic agency can provide the desired institutional cohesion. For example, the creation of the Environmental Protection Agency acted as an integrative force in getting players in different subsystems to attend to pollution abatement.

It is worth noting in passing how these institutional considerations relate to the literature on governance. A substantial body of literature about governance has adopted Rhodes' (2007, p. 1246) definition of governance as "governing with and through networks" as reflective of the hollowing out of government and the increased role of non-state actors in service delivery. As we note at the outset of this contribution, the problems of coordinated action have been central to these discussions with attention to a variety of managerial and structural reforms aimed at enhancing horizontal and vertical coordination. None of these institutional reforms are incompatible with our conceptualization of boundary-spanning regimes. But, we argue these institutional reforms alone are insufficient to overcome the underlying subsystem dynamics that undermine policy coherence for messy policy problems. Noted governance scholars, Jon Pierre and B. Guy Peters (2005, p. 4) underscore this point in observing: "networks and markets, as alternative forms of governance, are generally, not particularly, capable of creating coherence, especially coherence across a large range of policy areas....While often imperfect in providing that coherence, governments may be the only real alternative."

## **Regime Emergence**

What leads to the creation of policy regimes? We suggest the pressures to create boundary-spanning policy regimes are no different than those that have been discussed in the literature for fostering agenda change, policy change, or reforms more generally. Though various policy process scholars have suggested a variety of triggers for these changes, the evolving consensus seems to point towards pathways involving crisis- and coalition-driven dynamics (see Cashore and Howlett, 2007; M. Jones and Jenkins-Smith, 2009). The perception of a crisis is perhaps the most powerful trigger for regime emergence. Yet, it is not a necessary condition as regimes do emerge from more endogenous forces involving coalition dynamics.

In the case of the pollution abatement regime of the 1970s, the growing awareness of an environmental crisis in both scientific and policy communities led to increased attention and calls for action. Shaped by several key policymakers, this attention led to major policy initiatives emphasizing pollution abatement (as opposed to pollution prevention). This focus provided a basis for shared engagement in subsystems addressing the environment, agriculture, health, energy, and trade policy (see Andrews, 1999, pp. 203-210). More dramatic crises trigger widespread disruptions that span multiple subsystems and in so doing, garner calls for policy action across multiple policy areas to address the problem at hand. The preeminent example of this type of disruption is the terrorist attacks of 9/11 and the subsequent heightened attention to the threat of terrorism (see May, Sapotichne, and Workman, 2009a).

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Sometimes new approaches to problems that span multiple subsystems emerge from the less visible and more gradual dynamics involving the interplay of different advocacy coalitions. For example, the “hidden army” of disability rights advocates effectively broadened their coalition to include other civil rights organizations (see Griffin, 1991) and exploited support among mass publics to gain agenda access (see Sharp, 1994). This type of dynamic is suggestive of a process of coalitional conflict that spills across subsystems and as a consequence has the potential to foster cross-subsystem engagement with a broad-based issue of concern. These coalition-building involve affected interests reaching out to members of Congress and the president for support around galvanizing ideas.

## Regime Strength

Even when barriers to regime emergence are lower, as in times of crisis, it takes continued involvement on the part of policy entrepreneurs and the mobilization of substantial political resources to ensure a regime not just emerges but is sustained. The inertial forces that limit the viability of a regime also limit the strength of a regime. We conceptualize strength broadly as the ability of a given regime to bring about the desired unification of action across subsystems. Note, however, that strong regimes are not necessarily desirable regimes in the sense that they constitute better policy. Nor do strong regimes necessarily constitute durable regimes in the sense that they have longer lives.

We posit that the strength of a regime is a function of the interaction of the ideas, interests, and institutions that undergird a given regime. Issues are relevant in providing an impetus for action, but it is these other features that provide the glue that binds the elements of a regime. Like any glue, the cohesion it provides can be weak or strong and its strength can vary over time as the regime is subjected to various challenges. The degree of “ideational uptake” reflects the extent to which both those actors within the regime and others embrace the core idea that serves as a motivating purpose. The purpose is hollow if it is not understood or embraced. Interest support provides the energy behind a regime and the ability to overcome the criticisms of detractors. Energy is provided by the mobilization of interests while conflict undermines it. Institutional designs address the governing capacity of regime in focusing attention and resources to the purposes of the regime.

A central motivating idea provides the foundation for parallel engagement of subsystems. This foundation can be strong, as in the case of the pollution abatement regime of the 1970s, or it can be weak, as illustrated by the homeland security regime of present. In the former case, ideas around “pollution abatement” were compelling given the visual effects of pollution, the scientific evidence that supported these effects, and the outrage that was fostered against polluters. In contrast, the homeland security regime is characterized by the vague idea of “protecting the homeland” that, as shown by May, Jochim, and Sapotichne (2011), has been subject to shifting definitions by political leaders and not been widely embraced by players within the regime.

Political support offered by affected interests provides the energy behind a regime. This generates ties across subsystems that are fostered by a wider community of interest than is found within individual subsystems. The pollution abatement regime was effective in mobilizing a supportive constituency among environ-

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mentalists, consumer advocates, state officials, and cities that crosscut multiple subsystems. Though the pollution abatement regime had detractors among industry and localities with ties to industry, the substantial mobilization of supportive interests behind the regime increased access to political power bases and provided a basis for warding off opposition at least initially (see Andrews, 1999, pp. 238-239). The homeland security regime illustrates the weakness generated by the lack of a strong constituency in revealing how the differing interests that are associated with the component subsystems undermine cohesion by pulling policymaking in different directions. May, Sapotichne, and Workman (2009b) demonstrate a substantial mobilization of a variety of interests after the terrorist attacks of 9/11. But, none of these constitute a galvanizing constituency for the resultant homeland security regime.

The capacity of coordinative institutions to structure authority, attention, and information flows in support of a regime also contributes to the strength of a regime. Weak, highly fragmented institutional designs are less likely to provide the coordinative structure necessary to govern. At the same time, highly centralized institutions are not necessarily more effective at building regime strength. In the case of homeland security, the Department of Homeland Security has proven to be institutionally weak and buffeted by competition from powerful bureaucratic counterweights. The lesson is that the appropriate institutional design should neither be so fractured as to render coordination impossible nor so centralized that mission and purpose become muddled. The institutional capacity created with the Environmental Protection Agency in the pollution abatement regime avoided these pitfalls in that it was able to influence the actions of other players in subsystems addressing agriculture, health, and energy. That capacity, however, was undermined by the noteworthy challenges of bringing about coordinated actions among state and regional implementers.

### **Regime Durability**

The durability of boundary-spanning policy regimes is as much dependent on the broader political context as it is on the forces that shape the emergence and strength of a regime. As new political alignments take shape, the existence of some regimes may be threatened. Much depends on the ideological predispositions of political actors and the issues that dominate policy agendas. As discussed by Orren and Skowronek (1998), regimes remain vulnerable to broader shifts in the public mood and electoral replacement. These shifts in the larger political environment have real consequences for the composition of interests who have privileged access to American political institutions and, as a result, shape the coalitions that support specific policy regimes. For example, the emergence of the “pro-growth” coalition under the Reagan administration shifted the balance of power towards business and ultimately chipped away at the pollution abatement regime (Andrews, 1999, pp. 256-261).

The rise and fall of issues on the agenda also plays a central role in understanding the durability of policy regimes. Once the urgency of crises fades from memory, new problems compete for limited political resources. Policy issues may become displaced as new problems rise on the agenda, either due to new crises or strategic actions on the part of organized groups (see Jones and Baumgartner, 2005). For example, in the wake of Hurricane Katrina, key components of the homeland security regime were drawn away from the ex-

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tant focus on terrorism. The forces that propel attention to an issue may fade as aspects of the problem are solved. In the absence of attention to the issue underlying a policy regime, the arrangements cease to have relevance for policymaking.

For these same reasons, some regimes remain highly durable despite the apparent weaknesses in the governing arrangements. Homeland security encapsulates a highly salient issue that has been resistant to displacement. Because of the continued concern over the threat of terrorism, partisan coalitions in Congress who benefit from fermenting these concerns have provided patrician support for homeland security efforts despite weaknesses in the regime. While the homeland security regime remains anemic, its continuing existence has not been widely questioned as evidenced by how little attention it garnered in the 2008 presidential election.

## CONCLUSIONS

Many contemporary problems crosscut multiple areas of policy. Rather than viewing these challenges as a problem of finding the right governing structure or organizational means for coordination, we suggest such problems are usefully viewed with respect to their underlying policy dynamics. The key insight from political science perspectives is that boundary-spanning problems crosscut multiple policymaking subsystems. Any reform needs to overcome the inertia that is embedded within relevant subsystems. Each subsystem shapes the problem definitions and policy responses to fit their distinctive way of doing business, pulling policymaking in different directions. While institutional redesign is an important aspect of overcoming these inertial forces, we argue that organizational reforms constitute an insufficient basis for overcoming the disintegrative subsystem forces at play.

Our contribution builds on this understanding of politics and policymaking in developing notions about boundary-spanning policy regimes and their prospects for inducing policy cohesion. Our discussion of the pollution abatement regime of the 1970s and the homeland security regime of today illustrates how policymakers play a role in the formation and evolution of boundary-spanning policy regimes. We demonstrate how the strength of the resultant regime depends on the interplay and power of the undergirding idea, the interests that are mobilized in support of the regime, and the viability of the institutional arrangements that are designed to meld purpose and policy implementation.

Like any approach to governing, a boundary-spanning policy regime is not a panacea. Only for some situations can it be possible to galvanize attention across government and among intergovernmental actors, to rally these around a common purpose, to mobilize widespread engagement of interests, and to bind all with supportive institutional arrangements. The fact that such circumstances are relatively rare is perhaps a reason why policy regimes have not been examined more fully. Nonetheless, we argue that a boundary-spanning policy regime is an important concept for the study of governance that deserves more scholarly attention.

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## ACKNOWLEDGEMENTS

Valuable comments on drafts of this contribution have been provided by Andreas Duit of Stockholm University, Paul Posner of George Mason University, Joshua Sapotichne of Michigan State University, and Asaph Glosser, John Griswold, and Barry Pump of the Center for American Politics and Public Policy of the University of Washington. We also thank participants in the workshop on "Public Administration and Multidisciplinary: The Contribution of Other Disciplines to the Debate on Governance" of the Fifth Transatlantic Dialog Conference. Financial support for this research was provided by National Science Foundation grant numbers SES-0623900 and CMMI-0925306. Neither the NSF nor those who have offered insights are responsible for the content of this contribution.

## ABOUT THE AUTHORS

**Ashley E. Jochim** is a PhD candidate in political science at the University of Washington, Seattle. Her research addresses policy processes and American politics.

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**Peter J. May** is the Donald R. Matthews Distinguished Professor American Politics and an adjunct professor in the Evans School of Public Affairs at the University of Washington, Seattle. His research addresses policy processes, environmental regulation, and policymaking for natural hazards and disasters.

*Contact information:* Professor Peter May; Center for American Politics and Public Policy; Department of Political Science; 101 Gowen Hall, Campus Box 353530; University of Washington; Seattle, WA 98195-3530; [pmay@u.washington.edu](mailto:pmay@u.washington.edu)

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# Constructing Meaning: Looking at Examples of Dialogue in Citizens Forums and in Inherently Governmental Policy

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Larkin Dudley, Virginia Tech

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## ABSTRACT

This paper uses insights from rhetorical analysis to describe two very different discourses. Insights from studying rhetoric in communication studies and from the burgeoning literature on discourse analysis can assist the field of public administration in hearing what citizens are saying and in understanding differences in policy discourse among two branches of government. The first example illustrates how the analysis of citizen discourse in community forums illuminates the making of meaning by citizens in the framing of alternatives on health care costs. The second example illustrates how analyzing rhetoric in the dialogue between Congress and the Executive on the meaning of publicness in the “inherently governmental” debate may reveal that the two branches are using different frames in the policy arena at the same time. The paper concludes that using some of the insights from rhetoric to think about the dialogue in citizens forums and in policy dialogue should enrich our models of policy making and increase our ability to implement these models.

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## INTRODUCTION

The framing of policy issues continues as a salient topic for academics, practitioners, and political participants. Methods borrowed from communication studies, a field which focuses on the sharing of symbols over distances in space and time, may assist us in better understanding this process. Sub-disciplines of the field of communications include technological communication, small group study, mass communication, organizational and political communication, and rhetoric. One of the subfields, contemporary rhetoric, investigates human discourse writ large. Rhetoricians from all fields have studied the discourses of a wide variety of domains, including the natural and social sciences, fine art, religion, journalism, fiction, history, cartography, and architecture, along with the more traditional domains of politics and the law. Rhetorical critics explain texts and speeches by investigating their rhetorical situation, typically placing them in a framework of speaker/audience exchange. Among the pioneers of the field are Kenneth Burke, Lloyd Blitzer, I. A. Richards, and Stephen Toulmin (Bizzell and Herzberg, 1990).

This paper uses insights from rhetorical analysis to describe two very different discourses. Insights from studying rhetoric in communication studies and from the burgeoning literature on discourse analysis can assist the field of public administration in hearing what citizens are saying and in understanding differences in policy discourse among two branches of government. The first example illustrates how the analysis of citizen discourse in community forums illuminates the making of meaning by citizens in the framing of alternatives on health care costs. The second example illustrates how analyzing rhetoric in the dialogue between Congress and the Executive on the meaning of publicness in the “inherently governmental” debate may reveal that the two branches are using different frames in the policy arena at the same time.

## EXAMPLE ONE - MAKING MEANING IN CITIZEN DELIBERATIONS

The policy process in the United States has favored a problem-solving discourse, a type of discourse that tries to find consensus for a particular course of action (Mansbridge, 1983; Wertsch, 1987; Hamilton and Willis-Toker, 2006). Rhetorical analysis, however, alerts us to the importance of another type of dialogue, that of a sense-making process or meaning generation. The making of meaning is particularly valuable at the issue definition stage, a time of building understanding of similarities and differences among relative perspectives (Mansbridge, 1983; Hamilton and Willis-Toker, 2006). Both problem solving discourse and sense-making dialogue are important as policy process participants often shift back and forth from one type to another. Even though both types are crucial for productive deliberation, the importance of meaning-generation is not sufficiently accounted for in current participation theories and models (Hamilton and Willis-Toker, 2006). Studying meaning generation in citizens' deliberative discourse can enhance our understanding of the framing of issues involved in a policy proposal, surface areas of disagreement, and illuminate how meaning is constructed. According to Hauser (2004), the identification of a more complex notion of dialogue is one of the most important issues confronting the current scholarship around civic engagement. One way to broaden the concept of civic dialogue is to integrate both the problem-solving discourse with that of sense-making. In this paper, one type of

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deliberation where the two are blended, forums using issues booklets from the National Issue Foundation and following the guidelines of moderation of the Kettering Foundation, is examined.

Issue framing (Putnam & Holmer, 1992) refers to the different ways in which actors make sense of specific issues by selecting the relevant aspects, connecting them into a sensible whole, and delineating the boundaries of discourse. Different actors will understand the situation differently, prioritize different problems, include or exclude different aspects, and favor different kinds of solutions. Exploring various ways of framing an issue can lead to sense-making discourse. The Kettering Foundation has developed a way of conducting public forums that uses issue books from the National Issues Forum (NIF) to teach participants the hard work of making public decisions (Stewart, 2005). Various community groups, individuals, and associations organize forums around diverse public issues, such as improving public schools, controlling health care costs, and confronting juvenile violence. Once an issue is chosen, the Kettering Foundation extensively researches the issue and prepares issue books outlining three or four different approaches to the issues and the assumptions and values of each approach (Mathews and McAfee, 2003). Within each approach are the kernels for framing the issue in an alternative way. In the forums, citizens consider each approach, examine their concerns, and the costs, consequences, and trade-offs that may be incurred through following each approach.

### **Three Forums**

Armed with the understanding that public participation models need more information on sense making, three forums on health care costs were conducted in Virginia as part of a nationwide series of forums sponsored by the National Issues Forum and the Kettering Foundation. The three forums intentionally drew from three very different populations: one, graduate students at Virginia Tech; two, representatives from community action groups; and three, medical students. Each session of approximately two hours was both transcribed and videotaped. As is typical for most national forums, the sessions were focused around an issue book which participants read ahead of time, this one on health care costs.

### **What Did the Participants Say?**

For the health care costs forums, the deliberation revolved around the issue book, “Coping with the Cost of Health Care: How do we pay for what we need?” Three approaches to the issue included the arguments and consequences of Approach One, Reduce the Threat of Financial Ruin, in which all would be required to have some sort of health insurance, somewhat of a modification of the existing system; Approach Two, Restrain Out of Control Costs, a focus on how to get prices of drugs, hospitals, and medical services under control; and Approach Three, Provide Coverage as a Right, which maintains that in one of the world’s wealthiest nations, everyone should have a right to health care.

The three forums were transcribed and then analyzed individually in terms of the types of arguments and the types of alternatives that emerged. They were then compared with each other to reveal the types of sense-making that occurred. The focus here is to use examples from these forums to illustrate a) participant’s efforts

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in orienting to essential differences and similarities of the approaches; b) the struggle among diverse perspectives from which new meanings emerge; and c) creation of a multi-voiced dialogue. Further, the value of the sense making for the policy process is also discussed in terms of how understanding citizens' nuanced deliberation on policy problems may be presented to complement polling of opinion and expert testimonies.

### **Orienting to differences and similarities of approaches<sup>1</sup>**

First, the examples below point out how participants tried to orient themselves to essential differences and similarities of the approaches. As seen below, one theme that emerged is wrestling with the “public” nature of health care. In the discussion of the issue under various frames, citizens tell their personal experience and bring to the surface what is valuable to them, a quality of NIF forums discussed by one of the researchers for the Kettering foundation (Stewart, 2005). A growing sense of the complexity of the issue and a realization that others views may have some validity often results. Below are comments from the participants with each asterisk signifying a different speaker and with the page numbers from the transcripts in parentheses.

\*We might deliver it (health care) through states or through private companies or through non-profits, but I think you have raised a very interesting question is that this sort of implies that it is a permanent problem...<sup>2</sup>

\*I think the consequences immediately become a societal consequence and the evidence is in the roots, if you will, where 30% of people depend on the hospital emergency room for their primary care.

\*It fits into something...said earlier about is health care a societal problem? Is it a problem of the country as a whole rather than it just being a private problem? And if you look at it that way, yes, it is a social problem when kids are missing school for dental problems or poor nutrition or something like. Ten years down the road, 50 years down the road, these kids could be the one to cure cancer and save one of your grandchildren. (125)

\*My father when he moved down here from NJ, he was paying \$267 for one prescription that lasted 30 days. We switched health care and goes to the V. A., \$3.00 for the same prescription...

\*Would providing coverage as a right...encourage coupling of prevention?

\*We think that rights are just given to us. No, there is responsibility inherent with that.

\*Just thinking about preventative care and the cost of trying to solve a problem once it is done, or more reactive care, I would think it would be cheaper to spend the money on preventative care and maybe training nurse practitioners and training ground-level people to interact with one another to say, hey these are healthy guidelines.

### **Struggle for New Meanings with a Multi-Voiced Perspective**

Second, the forums show us the struggle among diverse perspectives from which new meanings emerge. The realization that the nature of costs is complicated becomes more obvious.

\*...but what we do not realize is each physician sometimes is a small business unto himself, so

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what might be some of the costs?

\*Well, you have the receptionists; you have somebody who is your scheduler, your rent, your overhead, your heating, your air conditioning.

Thinking through what level of government may be involved in health care also became a focus. This dialogue does show how what is said influences the meaning of what is said next (Tuler, 2000).

\*What about every state having different laws? What happens if you move?

\*That raises the idea of a national standard. If we had a national standard...no matter where you move, you would always have certain health care that would be available to you. (105)

\*In the Massachusetts plan...I think that one of the things they did was let nurse practitioners be primary care providers, which Virginia does not allow us to be primary care providers.

\*So then would that be better to then stay away from national standards and get closer to state by state...

\*I know what you are saying, but I think that if you were to take it state by state, it would encourage discrepancy between individual states.”

\*This kind of brings up a couple of questions. First of all, is health care a national issue, because if it is just a personal issue or a state issue, then that is fine, we can have all these different constellations of requirements and care principles...and a different idea of basic care for every person. (107-108)

Exploration of these diverse perspectives usually leads citizens to speak about what they are willing to trade off, as well as where there can be no compromise (Stewart, 2005). For example:

\*Everyone should have a right to appropriate or good health care.

\*I do not know if I could agree for health care as a right for everyone.

\*Who are you going to eliminate?

\*I do not know who would make that decision.

\*I would not be comfortable for it to be mandated.

\*For everyone? Who(m) would you leave out? (216-217)

\*What I am saying is that as a culture, we might need to get more comfortable with dying, and that we are going to....

\*...we keep people alive far beyond any kind of quality that they might be speaking or thinking or interacting. (209)

Third, the deliberation does reveal a multi-voice perspective. In the first dialogue, one participant comes up with a “stop gap” measure, but another reminds the speaker that is not a solution.

\*A lot of doctors are willing to write letters to drug companies to get reduced costs...

\*...I feel like the general population does not know that they can ask or do not feel comfortable and they just say this is what I have to <pay> and yeah, it is bad...

\*Even if you go to your doctor’s office, do not be afraid to ask for samples...

\*These are not solutions to the nation’s health care issue, we should not have to beg... (115-116)

\*No, we should not.

In the second dialogue here, the first participant argues against price ceilings, but the next speaker in

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essence notes the difficulty with the current system, which then leads to the realization among subsequent speakers that getting to a systemic perspective is very difficult.

\*...but price ceilings never work, they always create shortages.

\*...but the current system is not working. (116-117)

\*...<the health system> is very fragmented and in that fragmentation, a lot of the costs are administrative costs in health care because of insurance and the insurance companies themselves.

\*I am not saying that we could not do without insurance. I am saying is the structure we have totally unnecessary? Could ...the care be delivered in a more efficient way is really what I am saying... (118)

\*I mean is it a systemic issue or is it just bad people taking advantage of good people...It seems like it is systemic. The structure itself, there is something wrong with it.

\*But if it is systemic, how do we get to that? How do we get to the systemic problem without talking about costs? (119)

### **Value of Rhetorical Analysis in Studies of Engagement**

In the deliberation, as examples above illustrate, dissenting opinion and disagreement are a necessary part of the decision process. The dialogue can be characterized by intense struggle, diversity of style, and conflict between various positions and utterances (Hamilton and Willis-Toker, 2006). Because differences and their consequences are addressed, rather than ignored, participants may later be able to see where they can agree and disagree with others' views. In many participatory exercises, conflict and difference can be lost in emphasizing 'common ground' and 'mutual understanding' (Tuler, 2000; Hamilton and Willis-Toker, 2006). Surfacing areas of disagreement, rather than emphasizing consensus only as many participative techniques do, can prevent the democratic process from suppressing dissent (Kaminstein, 1996). This dimension could be especially important in policy questions characterized by conflict, partisan debate, and rethinking of basic values, such as how to devise a better system to control the costs of health care.

These excerpts from the transcripts indicate that the dialogue reveals struggle over new meaning generation. Discourse often consists of many different views, but in my experience as a moderator of over 30 forums and in agreement with Phillip Stewart, deliberative dialogue does not become acrimonious. There may be sharp disagreements, but the process leads to substantive and thoughtful discussion as revealed here. Yet, an important revelation is that the generation of meaning is messy, iterative, and that forum discussions may only be the beginning for most participants of forming their new meanings. Rather than always an immediate solidification of views, forums may be a beginning for further thinking, attention to the issues, and questioning of positions. The forums themselves may provide the public space where citizens reach consensus on a particular frame or the result may be a continuing discussion, a decision to engage other actions, or a seeking of other venues on the same topic.

In forums, participants may gain a sense of their views, others' views, and how their own perspective relates to a range of values and opinions. The trade-offs participants are willing to make or the areas in which they be-

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lieve they cannot compromise help reveal to them the parameters of their own beliefs and may lead them to public judgment, a new perspective that would be similar to a co-authoring among participants (Hamilton and Willis-Toker, 2006). In this sense, paying attention to words and the ideas in the forum make us realize that the deliberation becomes a process of collaboratively generating meaning (Hamilton and Willis-Toker, 2006).

## **EXAMPLE TWO: CONSTRUCTING MEANING AMONG THE BRANCHES OF GOVERNMENT<sup>3</sup>**

Turning from citizen engagement to the world of institutional politics and policy making, paying attention to issue framing among the three branches of government also demonstrates how rhetoric can deepen our understanding of theory and practice. For an example of how we could use rhetorical analysis in the official policy process, a slice of the academic literature surrounding the concept of publicness and the policy debate surrounding the concept of “inherently governmental” is examined. In a recent article, Steve Buckler (2007) borrows from scholars of political communication and rhetoric to discern three levels of discourse that may occur around policy issues: theory, ideology, and rhetoric (Buckler, 2007). Briefly, theory refers to more scholarly discourse; ideology to an action guiding integrated argument, such as political party debate; and rhetoric to the kind of debate that may go on among different parties seeking power in a particular arena. As Buckler notes, at the level of theory we are trying to get others to agree to an argument; at the level of ideology, to agree with an agenda; and at the level of rhetoric, to vote for a party or push a particular issue.

### **Level of Theory - Concept of Publicness**

Beginning with the level of theory, many have argued that the meaning of publicness has been and is made and remade in the policy process. Publicness has often been associated with the efforts to differentiate public and private organizations in the public administration literature. Among the myriad recent scholarship related to publicness (for example, DeMortain 2004; Haque 2001; Splichal 2006; van der Meer and Dijkstra 2003), two books have given in depth treatment to the concept of publicness itself, those of Udo Pesch (2005) and Barry Bozeman (2007). Pesch argues that in the individualist tradition, publicness is seen as an aggregation of individual interests, and emphasizes regulating individual activity only when it is harmful to others. In contrast, the organic conception of publicness is based upon the community preceding the individuals who make up the community. Private is anything which does not belong to the entire group while those elements which belong to the community as a whole are public. The primary difference is that in the organic formulation the whole social life, including the private sphere, is encompassed by the public sphere, a broader definition of public (Pesch, 2008). However, the more individualist definition has been influence by liberal economic theory where the concern is for individual autonomy. In this definition, the function of the state is to ensure the most efficient conditions for the market and the state where the state must look to the market to create goods and services for the government.

Then, for purpose of illustration here, to simplify the complex philosophical and theoretical arguments of many authors, at least two dimensions of publicness would be expected in policy dialogues, including the dia-

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logues about what is inherently governmental. Some may argue from a public goods approach proceeding from an idea that public goods should be produced based on market failure, an approach based in an individualist economic theory. Others from a public interest approach, an organic approach that focuses generally on political values, rather than economic ones.

### **Inherently Governmental as a Policy Example**

The inherently governmental dialogues seem ideal to examine how these dimensions of publicness may play out in policy. The Federal Activities Inventory Reform Act (FAIR) requires federal agencies to classify activities as commercial or inherently governmental. Circular A-76 outlines procedures for competitions between current public employees and private contractors to provide commercial goods and services and requires inherently governmental activities to be performed by federal personnel. “Inherently governmental,” a concept defined in Circular A-76 at the national level, and referred to often in policy about contracting, refers to those positions deemed to be so intimately related to the public interest that they cannot be contracted. The Office of Management and Budget (2003) defines “inherently governmental” as an

activity that is so intimately related to the public interest as to mandate performance by government personnel. These activities require the exercise of substantial discretion in applying government authority and/or making decisions for the government. Inherently governmental activities normally fall into two categories: the exercise of sovereign government authority or the establishment of procedures and processes related to the oversight of monetary transactions or entitlements.

Examples of inherently governmental activities include:

binding the United States to take or not to take some action by contract, policy, regulation, authorization, order or otherwise; determining, protecting, and advancing economic, political, territorial, property or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise; significantly affecting the life, liberty, or property of private persons; and exerting ultimate control over the acquisition, use, or disposition of United States property[OMB, 2003].

In the predecessor to the current A-76, the first of the Bureau of Budget series, Bulletin N. 55-4, was issued by the executive branch on January 15, 1955. It stated that

It is the general policy of the administration that the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels. Exceptions to this policy shall be made by the head of an agency only where it is clearly demonstrated in each case that it is not in the public interest to procure such product or service from private enterprise (GAO, 1978, 91)

Thus, the early Circular privileges the idea of PUBLIC GOODS, an idea that will continue throughout its history, in holding to the idea that reliance on private enterprise for commercial activities was appropriate. However, the value of PUBLIC INTEREST is interwoven. Inherently governmental functions in the Circular, those that are “so intimately related to the public interest as to mandate performance by federal employees,” are exempt from competitive outsourcing.

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Although representing a small percentage of the burgeoning contracting dollars, competitive outsourcing under the contentious Circular A-76 program, begun initially in a Bureau of the Budget Bulletin during the Eisenhower Administration, often is the catalyst for dialogue about appropriate relationships between government and contractors. Under the Carter administration, the die was cast for cost to become the more important criteria; under Reagan, Circular A-76 became part of what later was labeled the New Public Management philosophy, including the continuing attack on the public sector, the prevalence of ideas compatible with economic theory (including public choice theory and principal agent theory) as measures of government success and the privileging of competition, rather than cooperation, as a means toward effective government service. The Clinton administration with its focus on reinventing government and performance review also gives more credibility to contracting philosophy and rounds out the New Public Management ideas by increasing a customer focus, devolution, and an outcomes orientation.

### **Level of Ideology: Examining Changes in Wording**

Under George W. Bush, competitive sourcing, including major changes to the Circular and the procedures under FAIR, was raised to the level of a cornerstone of the Bush's managerial agenda. The administration's definition of jobs that are "inherently governmental" is more limited, resulting in many jobs that were once considered inherently governmental to now be considered "commercial activities" that could be contracted out.

Several differences in the revised Circular A-76, 2003), potentially enlarged the scope for contracting. Two examples are the qualifying of discretion and the handling of federal funds. Different from the Fair Act, the 2003 Circular added the qualifier *substantial* to discretion in the definition. The change was from "the exercise of discretion in applying Federal authority to activities that require the "exercise of *substantial* official discretion in the application of government authority." The 2003 Circular also substitutes the "establishment of policies and procedures" for controlling federal funds, rather than just the activity, collection and control of federal funds. Although seemingly insignificant, under the Circular's new definition, the current hotly contested activity of having IRS contractors collecting tax payments would probably have been allowed, while under FAIR, the activity may not have been.

### **Rhetorical Level: Comments in the Register and In Congress**

Comments to the proposed changes in the Federal Register prompted more than 600 responses, almost evenly divided between a public goods approach (concern with cost and opportunity for free market competition) and a public interest approach (concern with accountability and transparency). As could be expected, proponents of the change were often from the private sector while opponents more often represented the public sector. In defense of the changes, OMB certainly includes some discussion of the public interest, but the majority of the changes and the arguments for those changes from OMB follow the public goods argument that the market is the natural producer of goods and services.

Congress and the unions did push back on the 2003 revisions. As one would expect, there were divisions

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according to party lines with Republicans more in favor of increased contracting and Democrats more reluctant to do so. However, many representatives and the public reacted to statements on the Columbia disaster that \$9 of every \$10 appropriated for the shuttle went to private contractors. Further, the question of whether sensitive security and safety functions should be performed by government employees or contractors had also been raised in regard to the Federal Aviation Administration. Of particular interest for this paper, it appears that the sense of publicness most often used in this debate in Congress was an appeal to the ideals of the “public interest,” an evocation in terms of either the organic whole of the federal workforce or the organic whole of the American polity. As one might expect, many members of Congress fought to keep jobs and certain organizations away from contracting because those jobs and organizations, such as military bases, were in their districts. However, interestingly enough, the arguments themselves were often predicated on the idea of publicness as public interest, an idea which has intensified recently as concerns about contracting abuses in wartime have arisen.

Rhetorical analysis also alerts us to look for what has been omitted as well as what is said. When others have explored the dimensions of publicness in the constitutional and administrative law tradition (e.g., Kennedy, 2006 and Rosenbloom and Piotrowski, 2005), they reminded us that a conception of the “public interest” should include concerns of transparency, due process, and protection of individual rights. However, the processes of compliance with these values are not explicit in consideration of the decision to contract out in Circular A-76 and other contracting decisions, a worrisome omission (Rosenbloom and Piotrowski, 2005).

### **Multi-dimensional Concept**

As Congress has been forced to examine the entire outsourcing process, particularly as it relates to national defense, representatives from the Government Accountability Office (GAO), an arm of Congress, have called attention to GAO’s numerous recommendations on how the process ought to be reformed. In his final appearance as GAO Chief before Congress in the last year, David Walker suggested the need to redefine the definition of inherently governmental as it is currently found in OMB Circular A-76 because the lack of clarity creates an environment where contractors are performing tasks that should be performed by government employees. According to Walker, this creates an environment where waste, fraud, and abuse are likely to occur and where decisions made by contractors in the name of government may not be in the best interest of the nation. He went on to say any redefinition of inherently governmental should as a general rule consider recurring governmental needs as inherently governmental, while specialized short-term needs are best served by the private sector.

The institutional tug-of-war over publicness between Congress and the President is in part responsible for the current confusion over what exactly inherently governmental means. If history serves as any guide, we can expect the Executive, particularly OMB, to argue from a public goods position more favorable to greater flexibility in contracting. Congress often argues more broadly from a public interest perspective in response to both interests in their districts and concerns raised by the public and the media about potential and actual contracting abuse.

Thus, an argument can be made that different dimensions of publicness have been emphasized by the dif-

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ferent branches. All three contain in their arguments some hybrid of public interest and public goods. It appears that the legislative branch tends to argue more often from a public interest position, but includes a public goods position, while the Office of Management and Budget, representing the executive, quite often argues more often from a public goods position, but relates it to a public interest focus. Although not covered here in detail, legal arguments usually contain both a concern for the interest of the whole as understood through the Constitution and a public goods argument in the spirit of state action. Each branch is likely to have different evolving definitions for public goods and the public interest as well. In addition, when one considers outsourcing, different views of publicness probably accompany different stages of the process.

## **LESSONS FROM THE TWO EXAMPLES OF EXAMINING MEANING**

### **Example One: Citizens' Voices**

In the first example of citizens' voices in a forum, understanding what citizens are saying reveals that sense-making discourse may be useful at the formative stages of policy development and at the solution-definition stage because sense making may uncover a broad range of possibilities in the process of identifying and understanding viewpoints. The concept of a sense-making discourse may enhance current participation models by recognizing two types of discourse – sense making and solution-definition – with differing, yet complementary goals.

Models of citizen dialogue can be more robust by studying both discourses and recognizing the need of citizens to shift back and forth between them in the process of dialogue. This conception of citizen dialogue as rhetorical shifting emphasizes the complexity of public dialogue alerting us that sometimes the goal is to see the similarities and differences in viewpoints and at other times to reach agreement (Hamilton and Wills-Toker, 2006). Our analysis also reveals that sense making has much to offer public participation theory in reminding us that dissent and incompatibility are also essential features of dialogue (Hamilton and Wills-Toker, 2006).

Lessons may be learned for practice as well as theory. Studying the deliberation of citizens can alert those responsible for reporting on citizen dialogue to work to capture some of the many voices of citizens' views. Further, decision makers can cultivate the ability to acknowledge differences and disagreements that may prevent gridlock later in the dialogue.

### **Example Two: Different Conceptions of Inherently Governmental**

In the second example, the framing of publicness in the inherently governmental dialogue, alerts us to the multi-dimensional nature of concepts. The review of the literature and the review of the inherently governmental policy indicates that publicness is multidimensional with the likelihood that dimensions may be somewhat in opposition (public interest versus public goods); complementary (public interest and constitutional values) and/or in a relationship of balance among them. Depending upon which approach is used, different conclusions may be reached about whether something is public or private. Taking all of these factors into account, Pesch (2005) argues for the need of a balancing approach because both the public goods and public interest perspectives of publicness must be considered and they cannot be merged. Working from a different perspective, the

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constitutional and administrative law perspective, Rosenbloom and Piotrowski (2005) argue also for the “balancing” approach of state level courts. This approach includes protecting the autonomy of the private sector while working to protect individual rights when consumers receive outsourced government services as the courts attempt to prevent the government from evading their responsibilities to their citizens. In a similar manner, Bozeman (2007) argues for a pragmatic conceptualization of public interest theory and a public management approach oriented to achieving public value to serve as a balance wheel to the fundamental philosophy of economic liberalism in American society.

Although important in rhetoric, this multi-dimensionality and the relationship of different conceptions of a concept have not been featured as much in the controversies surrounding problem definition in issue framing. Many different bodies of scholarship portray issue framing as an optimal rhetorical strategy, predicting that opposing sides of a political debate will emphasize different considerations, in reality talking past one another (Jerit, 2008). However, others have maintained that there are occasions when elites have incentives to engage others in dialogue, i.e., to discuss some of the same considerations to maintain public support. Not discussed as well in this controversy is the role that the ambiguity of the policy concepts themselves may play. Here, it is argued that the ambiguity of concepts is quite likely, and sometimes intentional, in policy debates. While promoting one definition of the problem or the other, arguments surrounding publicness in political debate may indeed be working from different conceptions of the term. Furthermore, the different conceptions may be complementary, opposing, or in some sort of balance.

## Implications

Thus, using some of the insights from communication studies to think about the rhetoric in citizens forums and in policy dialogue should enrich our models of policy making and increase our ability to implement these models. Although only examples could be covered in this short paper, a more elaborate and more nuanced rhetorical analysis of both citizens’ comments and of policy assertions could lead us to a richer, more engaged scholarship and practice.

## ENDNOTES

<sup>1</sup> Many other elements of the forums can be explored. These forums will be used along with others in future work to examine reasoned explanations, the sources participants used to buttress their arguments, their level of engagement with each other’s statements, and how equal participation was.

<sup>2</sup> Page numbers of the transcripts are given in parentheses and each asterisk indicates a different speaker.

Although used for a different argument here, some of the material in this section closely follows material in *Need for Balance? Publicness in the Inherently Governmental Dialogue*, Round Table on Sustaining Statecraft under Conditions of Diffused Authority, Minnow brook III, September 5-7, 2008, Lake Placid, New York

<sup>3</sup> Although used for a different argument here, some of the material in this section closely follows material in *Need for Balance? Publicness in the Inherently Governmental Dialogue*, Round Table on Sustaining Statecraft under Conditions of Diffused Authority, Minnow brook III, September 5-7, 2008, Lake Placid, New York

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## ABOUT THE AUTHOR

**Larkin Dudley** is an associate professor emerita of the Center for Public Administration and Policy, School of Public and International Affairs, Virginia Tech, Blacksburg, Virginia. Her teaching and research interests include citizen participation, organizational theory, policy analysis, and privatization, particularly the development of the concept of publicness. She has published in *Public Administration Review*, *International Journal of Public Administration*, and *International Journal of Organizational Theory and Behavior* as well as contributed multiple book chapters.

*Contact information:* Larkin Dudley; Associate Professor; Center for Public Administration and Policy; Virginia Tech; Blacksburg, Virginia 24061-0520; dudleyl@vt.edu; phone: 540-231-5197 or 540-231-5133



# Transparency and Accountability in Governance: Evolving Concepts of Accountability for Governmental and Non-Governmental actors

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**T**he chapters in this section explore the meanings and boundaries of three commonly used concepts – transparency, accountability and governance – as they apply to governmental and non-governmental actors. The themes discussed in the chapters include challenges in implementing transparency initiatives, conflicts between reform initiatives and agency goals, the effects of institutional changes on accountability requirements and the lessons from government interventions. The unifying theme in the four chapters is the complex dynamics at play between transparency, accountability and governance.

Researchers and practitioners have highlighted the need for transparency in order to reform existing governance mechanisms (e.g., Smith, 2008). Holsen and Pasquier provide an in-depth study of a Swiss initiative to improve transparency at the federal level of government. The Law on Transparency (LTrans), was enacted in 2004, to enable a cultural shift from secrecy towards increased transparency. The authors use data from government administrators (collected through semi-structured interviews and surveys) for empirical analysis. The analysis indicates that the LTrans initiative has not resulted in desired levels of transparency. The authors explore different explanations for the lukewarm citizen response. Some explanations offered in the study include inadequate awareness of the initiative, insufficient need for federal information, and limited provisions of the law, among others. This study highlights the nature of challenges involved in successful implementation of reform initiatives.

Hall's chapter offers a comparative study of transparency exemptions across the fifty US states. The fundamental question the author tries to answer is "why do states exempt some facets of their governance from transparency laws?" This is an interesting question with no simple explanation. In an effort to understand drivers of transparency exemptions, the author weaves together different perspectives, such as goal multiplicity, economic development competition between states, industrial recruitment initiatives and conflict between core values of

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accountability and transparency. The author compares transparency exemptions across the states by reviewing core transparency laws and then by reviewing the economic development statutes where such exemptions are listed. The comparisons suggest regional differences in transparency exemption practices. In Public Administration research, there has been a lot of emphasis on reforms and corrective action. This study reminds us that reforms should also be assessed for their constraining effects, and conflicts with agency goals.

Miller, McTavish, and Pyper discuss the evolution of accountability norms for government agencies and officials across various levels in the UK. They note that until the 1980s, political accountability was the dominant norm. Since the 1980s, increasingly complex accountability relationships have been reported in large part due to the advocacy of New Public Management and modernization, increased accountability and transparency agendas. The authors make an interesting point that the polity within the UK has undergone significant change as well, with the emergence of cross-party partnerships and coalition models. The reform initiatives and the change in political machinery together influence accountability practices, and the chapter tries to understand the changes in official accountability. The authors argue that the changing modes of accountability across various levels of government within the UK have resulted in new complexities and challenges.

In the context of the recent global economic and financial crises and unprecedented levels of government intervention, Scorsone proposes that financial bailouts are rich cases well-suited for rigorous research attention. Given the magnitude of the monetary interventions, public sector accountability deserves special attention. Furthermore, the author argues in favor of comparative studies between the financial bailout in the US and the UK. The two countries represent similar business cultures, yet the approaches for financial intervention are very different. This chapter offers case studies of the accountability systems initiated and implemented in both countries since October 2008. The case studies explore themes such as defining expectations of public and private actors, goal ambiguity, and lack of strategic vision and planning, and more importantly the accountability challenges, given the crisis-combating nature of the bailouts.

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## WORKSHOP CO-CHAIRS:

**Suzanne Piotrowski**, School of Public Affairs and Administration,  
Rutgers University-Newark, U.S.A., [spiotrow@rutgers.edu](mailto:spiotrow@rutgers.edu)

**Sarabajaya Kumar**, Skoll Centre for Social Entrepreneurship, Saïd Business School,  
Oxford University, United Kingdom, [sarabajaya.kumar@sbs.ox.ac.uk](mailto:sarabajaya.kumar@sbs.ox.ac.uk)

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# The Swiss Federal Law on Transparency: Much Ado About Nothing?

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Sarah Holsen, Institut de hautes études en administration publique (IDHEAP)

Martial Pasquier, Institut de hautes études en administration publique (IDHEAP)

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## ABSTRACT

The Swiss Law on Transparency (LTrans), enacted in 2004, was aimed at contributing to a culture change from secrecy to transparency within the federal administration and improving the relationship between the state and citizens. According to an analysis of semi-structured interviews and a survey of government administrators on the reality of LTrans implementation, little change has occurred due to low request volume. The paper reviews possible explanations for the lack of uptake on the part of the public, including insufficient awareness, little need for federal information, high trust in federal government, narrow scope of the law, and non-uniform request definition.

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## INTRODUCTION

Sixty countries have passed access to information (ATI) laws since 1998 (Vleugels 2009). Journalists, civil society groups and international NGOs have all campaigned for the adoption of ATI laws, arguing that public access to government information increases governmental transparency and openness, which in turn should contribute to greater accountability of government to the public, less corruption, and more trust in government. The passage and implementation of so many laws over the last decade appears to support the belief that the achievement of these aims promotes stable governance and the strengthening of democracy; some refer to public access to government information as a basic human right (UN General Assembly 1946; Carter Center 2008; Birkinshaw 2006; Mendel 2000).

One of the most recent ATI adopters is Switzerland. The Swiss Law on Transparency (LTrans), which grants people access to Swiss federal government documents, was passed in 2004 and went into force in 2006. As they prepared to implement LTrans many Swiss officials became nervous that large request volumes would increase their workload to an unreasonable level and that they would have to disclose documents whose content might be misinterpreted or misunderstood. Three years on, however, their fears have virtually disappeared – few requests have been made, workloads have not increased, and little to no information that could compromise an organization's or official's work or reputation has been released.

The aim of this paper is to explore the impact of LTrans implementation from the administrators' point of view and assess why there have been such a small number of requests and so little change to the administration's working practices and behavior. If transparency is important to the achievement or maintenance of such goals as good governance and strong democracy, what does the lack of use and impact of the Swiss law say about the need for ATI legislation in other countries? The data on which this paper is based come from preliminary results of interviews with those responsible for LTrans compliance and experts on the law, as well as a wider survey of Swiss federal administrative officials. The paper begins with an explanation of the motivations behind ATI laws and history of their development worldwide. Next the methods are described in more detail, followed by a description and preliminary analysis of the findings. Finally, the paper explains why the public are making few requests and concludes with a summary.

## THE GLOBAL 'TRANSPARENCY REVOLUTION'

Proponents of access to information (ATI) offer different motivations for the laws. Two of the most prominent are: 1) to increase the accountability of public servants to citizens, which should contribute to greater trust in government; 2) to increase the level of transparency of government actions and decisions so that citizens can make informed decisions when participating in the political process and hold the administration to account. There is a perception that over the past several decades the level of citizens' trust in government has fallen and remained low in many advanced democracies, including the U.S., Canada, New Zealand and European countries (Chanley et al. 2000; Deleon 2005).

For the past five years EU member country citizens' level of trust in their national government has hovered

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around 31% (Directorate-General for Communication 2003-2008)<sup>1</sup>. Contributing to the low level of trust have been crises poorly handled by government, scandals, and cases of corruption and fraud in the public and private sectors.

Since public trust furthers the stability of a system of governance (Torney-Purta et al. 2004), it is in governments' interests to take steps to enhance it. Giving people a way to monitor the decisions and actions of the public sector should increase the public sector's accountability and people's trust in it.

To hold public servants and administration to account for their actions, however, citizens must know what they are doing. This requires that the relevant information about decisions made and actions taken by the administration be available (Mulgan 2000), which in turn equates to a degree of transparency. Hood defines governmental transparency as 'government according to fixed and published rules, on the basis of information and procedures that are accessible to the public' (Hood 2001). Transparency plays a role in ensuring accountability by providing a path through which the government 'informs the public of their actions and intentions' (Grigorescu 2003, p.644). The public can use the information they obtain to verify that public officials are acting in their interests and make decisions when, e.g. voting; conversely, as Bentham posited, a government official should be less tempted to misuse power if they know their actions are being monitored (Hood 2006). Thus, transparency functions as a tool against corruption by increasing accountability.

If, as Oliver argues, 'the effectiveness of [government's] accountability to the public depends on the availability of information' (Oliver 1991, p.23), transparency mechanisms must be put in place to make that information available (Kaufmann & Bellver 2005; Piotrowski & Van Ryzin 2007). Such measures include legislative scrutiny of the executive, administrative means, such as the proactive publication of information, e.g. through e-government initiatives, and laws. Legislation that encourages greater openness includes whistleblower protections, which encourage people to expose wrongdoing on the part of others in public office, open meeting laws, e.g. the U.S. Government in the Sunshine Act, which give people the right to attend meetings held by public officials, and access to information (ATI) legislation.

Ninety countries have passed and implemented ATI laws, the bulk of which came into force over the past decade, and at least twenty other nations have drafted legislation (Vleugels 2009). In 1766 Sweden was the first country to give citizens the right to public sector information<sup>2</sup>. The U.S. Freedom of Information (FOI) Act, passed 200 years later, influenced those countries that followed, e.g. Norway (1970), Australia (1982), Denmark (1985), and the United Kingdom (2000) (Hood 2006; Banisar 2006).

ATI laws require that administrative offices disclose information requested by the public within a set time-frame (usually 20 to 30 working days), subject to some exceptions (commonly called exemptions). ATI laws are either enshrined in a country's constitution (Philippines), passed as separate legislation (United States, United Kingdom, Switzerland) or both (Albania, Finland, South Africa) (Banisar 2006). Some ATI laws require the proactive disclosure of information, e.g. the UK's publication scheme initiative, while others implicitly encourage it within the spirit of the law<sup>3</sup>. Most require the establishment of an independent oversight body, such as an ombudsman or information commissioner, who ensures proper compliance with the law when information requesters want to complain about improper procedure or wish to challenge the withholding of information.

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The profile of requesters and subject of requests vary from country to country. However, because most laws do not require people or organizations to identify the capacity in which they are asking for information, e.g. as a journalist or an advocacy group, it is difficult to know exactly who is making the requests and for what purposes. Estimates by public servants who respond to requests point to private individuals, commercial entities and journalists as the most prolific users of ATI in Canada, Ireland, the UK and the U.S. (Glover et al. 2006; Amos et al. 2008; McDonagh 2009). What people want to know varies but frequently requested topics include government costs and expenses, policies and procedures, and contracts between government bodies and private entities (Glover et al. 2006).

## **ATI COMES TO SWITZERLAND**

The Swiss Parliament passed the federal Law on Transparency of the Administration (LTrans) in December 2004 ‘to promote the transparency of the mission, organization and activity of the administration. To this end, it contributes to public information by guaranteeing access to official documents’ (Government of Switzerland 2004). The legislation went into force on July 1, 2006. Since 1993 13 of the 26 Swiss cantons (‘states’) have passed ATI laws, to which the respective cantonal and local authorities are subject, three cantons are in the process of drafting legislation, and one – St. Gallen – has even inserted the principle of transparency in its cantonal constitution.

Switzerland’s implementation of LTrans followed six months after the German federal government put into force their Freedom of Information Law; as such Switzerland was nearly the last Western/Central European country to implement an ATI law. By passing LTrans, the Swiss government introduced two new aims to their mode of governance – one to improve the relationship between the government and the public and the other to replace an administrative culture of secrecy with transparency (Conseil Fédéral 2003).

The process that led to the passage of LTrans began in 1982 when an expert commission, set up to examine the concept of a global media, recommended in their final report that the Federal Council adopt a statutory principle of transparency for the activities of the federal administration (Pasquier & Villeneuve 2006). Although this recommendation was not acted upon, it was followed by studies of the issue by two working groups, one established in 1986 and another in 1991 (Conseil Fédéral 2003). In 1992 the Federal Council decided to include the objective of greater proximity to citizens through increased transparency in their government reform framework but it took eight years to produce a law on people’s access to government documents and an additional four of consultation, debate, and modifications before the legislation was passed.

Nearly all Swiss federal government departments, offices, and agencies must comply with LTrans by releasing documents requested by members of the public<sup>4</sup>. Anyone, i.e. not just citizens or residents, may make a request in written or oral form. However, the Swiss law specifies that only official, final versions of documents are subject to LTrans requests, which is in contrast to other countries’ laws, e.g. Germany and the United Kingdom that cover information more generally. LTrans is not retrospective – only documents completed as of July 2006 must be considered for release. Administrative offices have 20 days to respond to a request and may

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charge if the cost of processing a request exceeds CHF100, the equivalent of one hour of work. The calculation of this amount can include photocopies and preparation of documents for release. Nine content-related exemptions protect such categories of information as national security, legal proceedings and personal data. The Swiss Federal Data Protection and Information Commissioner accepts complaints from requesters whose requests have been refused or treated improperly. If a requester is still dissatisfied after the Commissioner has issued a recommendation, he may take his case to the Federal Administrative Tribunal.

## QUESTIONS AND METHODS

This paper is based on qualitative and quantitative research. The qualitative findings came from semi-structured interviews with LTrans compliance officers, journalists and other experts on the law, while quantitative data was collected in a survey of government administrators. From early 2008 to March 2009 44 in-person and telephone interviews with Swiss federal administration officials and 11 interviews with experts on Swiss public administration and the LTrans law were conducted, as well as an online survey of federal employees. The interviews included:

- one to two hour face-to-face semi-structured interviews with 19 civil servants who head their federal office's LTrans compliance effort ('LTrans officers'), the LTrans officer of the General Secretariat of each of the seven federal departments, and a member of the Chancellerie<sup>5</sup> between March and December 2008<sup>6</sup>;
- 30-minute semi-structured telephone interviews with LTrans officers at 17 additional federal office (based on an abbreviated version of the face-to-face interview questionnaire) in November and December 2008;
- 30-minute to one hour face-to-face or telephone interviews with 11 experts: federal department general secretaries (4), members of the Swiss academic community (4), and journalists (3), who are either users of the law, have studied the law, or comply with the law.

The questions posed to government administrators centered on four main subjects:

- preparation for the implementation of LTrans;
- data about requests;
- perceptions of the effects, changes, and attitudes engendered by the law;
- future plans for compliance.

The 27 in-person interviews were recorded, transcribed, and coded. The coding scheme was developed according to themes that came up as the recordings were transcribed and more specific codes were created as the categories were refined. For the interviews with the 11 experts and 17 phone interviews with federal office LTrans officers notes were taken and responses categorized according to the coding scheme developed while transcribing.

The quantitative survey was administered online. The target population was all managers and scientific collaborators in 24 of the federal offices that had participated in the interview stage of the project. LTrans officers who had been interviewed were relied upon to distribute an invitation and link to the survey. 730 federal employees were invited to fill in the survey.

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Responses were received from 231 federal workers in 21 offices and departments, or a response rate of 32%. Ten percent reported that they have some degree of responsibility for LTrans compliance in their organization, while 55.2% stated that they deal with information requests (of all kinds – not necessarily LTrans) only rarely or occasionally. Overall, 87.5% reported knowing the general principles of LTrans or understanding the law well or very well.

## **APPREHENSIONS ABOUT THE NEW LAW**

This section is divided into two main parts. In the first the paper briefly describes how Swiss federal offices and departments prepared for the implementation of LTrans and what their concerns were prior to its coming into force. The second part reports the number of requests that have been made since July 1, 2006 and the problems that LTrans officers have experienced with implementation. The latter explores whether LTrans officers' worries have materialized, the attitude federal workers now have toward the law, and the changes that LTrans officers have observed in their colleagues' behavior since the law came into force.

### **Preparation for LTrans**

The approaches to preparing for LTrans implementation varied across federal offices. In a few of the offices a team of two or more people was put in charge of preparing the organization but in the majority the responsibility fell to the designated LTrans officer. With the exception of one federal department that decided to centralize the treatment of requests made to all of its offices, federal departments and offices proceeded with preparations in a decentralized manner. Most offices drew up their own implementation plan, while in a handful of offices nothing formal was done beyond sending a letter to employees explaining who was in charge of LTrans compliance in their organization. There was no significant collaboration on the preparation for the law between offices, nor between the departments and their offices – each created its own directives, documents and sample response letters.

None of the offices or departments hired extra staff to deal with LTrans requests; however, in most federal organizations LTrans compliance was added to at least one staff member's official duties. The vast majority of the LTrans officers interviewed said their work contracts had been modified to state that between five and ten percent of their time would be dedicated to compliance with the law, while a few saw no official change to their work contract. No LTrans officers were aware of material resources purchased specifically for the implementation of LTrans.

Fears surrounding the implementation of LTrans stemmed mainly from uncertainty. Roughly half of the LTrans officers interviewed stated that before July 2006 they worried about the impact that the law would have on their organization and on their work. Of those who were not worried, one surmised that the lack of fear could be attributed to the attitude of his organization's leadership and the fact that exemptions make it possible to withhold information: 'I think it is the people who introduce [the law in an office]; they could introduce it with fear or say that it's an opportunity...that it's not a problem and anyway there are exemptions.' Another ex-

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plained that, ‘since we’re in the habit of working with a lot of information and requests for publications, we have a routine in the office. So we don’t have many fears in comparison with other offices where they never had requests for information.’

Other LTrans officers admitted that they feared an increased workload and worried about being asked to disclose certain types of documents. Several expressed that they had worried they would have more work once the law came into effect. ‘The fear that there would be a lot to do was very pronounced,’ stated one officer. Another justified her fears based on the experiences she knew a counterpart organization in the United States had had with the U.S. FOI Act:

‘We have contacts with partner authorities in, for example, the US, and [organization’s name withheld] has been struggling with transparency, with the US FOIA. They put huge systems in place with departments and divisions working only on issues related to FOIA because they receive a lot of requests. And so we were quite frightened to see how [LTrans] was going to impact our work.’

Many LTrans officers mentioned that they or their colleagues had feared having to disclose documents for which the context was not clear, which might lead the requester to misunderstand or misinterpret the content. ‘[We were] afraid of giving out a document that very quickly would be out of date, or releasing one that contained an error, or having to rewrite certain documents so that the people could understand,’ explained one officer. Others cited fears about having to disclose documents like internal memos or contracts their office had with external organizations.

## **Unexpected Results**

In the six months after LTrans came into force (July-December 2006), federal government organizations received 95 requests, while 249 were made in 2007 and 221 in 2008. During 2008 the offices and General Secretariat of each of the seven federal departments together received between eleven (Department of Economics) and sixty requests (Department of Energy, Transport and the Environment). However, the average number per office and General Secretariat was only three and many organizations received no requests at all. Half of the LTrans officers interviewed said they expected more requests than they have received since July 2006.

Requesters are not required to reveal the capacity under which they make their requests; thus, it is impossible to obtain an accurate account of who is using LTrans. However, many requesters’ identities are clear from their correspondence with the administration, e.g. journalists who use email addresses that include their employer’s name – ‘john.smith@newspapername.ch’. According to LTrans officers’ educated guesses, the two most prolific types of requester are journalists and members of campaign or lobby groups.

## **No perception of major change**

Federal administrators’ perceptions of LTrans and its effects since July 2006 have been mostly positive or neutral. The fears that many LTrans officers had before the law came into force seem to have disappeared. According to responses by interviewees and survey respondents, the concern of more work was unfounded, in large

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part because federal departments and offices have received relatively few requests. More than 73% of those who answered the online survey think LTrans has increased the amount of work for public officials only ‘a little’ (36.9%) or ‘not at all’ (36.4%).

Despite the Federal Council’s proclamation that LTrans would bring about change, the majority of LTrans officers and other federal workers interviewed and surveyed have observed little to none since the law came into force. Among survey respondents, 61.5% believe that the law has brought about little to no internal change in the administration. ‘The mindset is still as it was before,’ stated one interviewee. ‘The change was very, very small. It was a change in mindset, perhaps, but in practice it is very small,’ said another. One officer hypothesized that the law is just not well-known enough among federal employees: ‘I don’t believe that everyone has really incorporated the basic principle [of transparency], or that everyone is really very conscious of this law.’

It may also be that the lack of change stems from the fact that some offices already considered themselves transparent before the law came into force. ‘We were already a transparent enough office, we did not see a paradigm change,’ offered an LTrans officer. Another remarked that the shift toward transparency had occurred as early as the 1990s – before LTrans had been written. ‘We see some effects that date back to the 1990s because we spoke in the nineties of the principle of transparency and [at that time] journalists who were requesting information were referring to this principle.’ A solid majority (58.3%) of administrators think LTrans has increased the administration’s level of transparency to some extent, although 26% feel the law has had very little or no impact on how transparent the administration is. Over 65% believe that the federal administration rates between a seven and ten [on a scale of one to ten] in terms of its actual level of transparency, independent of the effect of LTrans. Solid proportions of those who answered the survey have noticed no effects of the law on the administration’s level of effectiveness (43.2%) or on the quality of information management (48.7%) at their organization<sup>7</sup>.

Nor do federal employees think that LTrans has brought about much, if any, of a change to the relationship between the administration and citizens. Fifty-nine percent think the law has had little to no effect on the balance of information flow from government to the public and an even larger proportion – 73% – believe the law has had little to no effect on the participation of citizens in the development of public policies. Overall they think LTrans has made little or no impact on the improvement of relations between the state and its citizens. Among the interviewees, approximately a quarter said they thought the law had improved the relations between administration and the public or resulted in more trust in government on the part of citizens, roughly equal to the 30% of survey respondents who said the same.

Despite the lack of change that LTrans officers and other federal administration employees perceive the law to have caused, some of the interviewees did mention that coworkers had altered (or threatened to alter) behavior to avoid disclosing documents. Several talked about separating out sensitive information so that it could be withheld, making documents more presentable to outside eyes, or avoiding certain written communication altogether. ‘We used to put notes on documents and then we had to release the whole document. So now we have to put the notes on a separate piece of paper,’ admitted one LTrans officer. ‘I would say that we pay a bit more attention to making notes a bit cleaner, to having a bit more order in the files,’ stated another. Yet another offi-

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**Table 1: Absolute number of ATI requests made in five jurisdictions (2005-2008)<sup>8</sup>**

	Canada*	Ireland	UK	Switzerland	Germany
2005	25,207	6,455	38,108	-	-
2006	27,269	3,680	33,688	95 (Jul-Dec)	2,276
2007	31,487	2,645	32,978	249	1,265
2008	-	1,666	34,883	221	1,548

\* Based on annual calendar of April 1 to March 31. The data for the other four countries' data are calendar year-based.

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cer revealed, 'I heard that papers should be titled "memorandum to person X" so in this way the paper is designated for personal use and then it's exempt from disclosure.' The same interviewee reported a manager's reaction to the possibility of having to disclose sensitive documents: 'The director said: "if we have to give these reports here...or the minutes of our directorate's meetings, we stop taking minutes at the meetings."'

## EXPLAINING LOW USAGE AND LITTLE CHANGE

In absolute as well as relative terms the number of LTrans requests is low compared to the number of ATI requests made at the federal or central government level in other countries. The number of requests made in Switzerland in each of the first three years of the law was roughly similar to the number made during the same period in Germany, but far lower than in Canada, the United Kingdom or Ireland (see Error! Reference source not found.).

It is important to acknowledge that the number of information requests is only one indicator of whether an ATI law works properly. Many other factors, such as the rate of disclosure, application of fees to requests, and other (softer) indicators like whether ATI officers provide assistance with requests, can and should be considered when evaluating the legislation's ability to meet its aims in order to have a fuller picture of compliance and people's experiences using the law. Moreover, it is often difficult, if not impossible, to obtain accurate data on the number of requests, which is certainly true of Switzerland. Most laws do not require government organizations to keep statistics on – or even to record – request numbers. Despite these limitations, however, exploring why few requests have been made in Switzerland seems a logical first step. At the very least, it helps explain why the impact on administrative work culture and practices has been minimal but it can also point to weaknesses in the implementation of LTrans and other factors external to the law.

With the evidence described in the preceding pages, several plausible explanations to help answer the above question emerge. These have been ordered according to the presumed impact they have on request numbers

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and the scale of generality to specificity, from ‘applicable in any jurisdiction’ to ‘applicable only in Switzerland’. This paper suggests that the number of requests made to federal offices depends on:

- a. problem with the definition of a request
- b. public awareness of the law, which in turn depends on the degree of promotion of the law and prevalence of the law in news articles;
- c. people’s level of trust in government;
- d. whether and to what extent people can use other avenues to obtain information from government;
- e. scope of the law that encourages or discourages its use;
- f. whether requests can be (and are being) made at the regional or local level;
- g. system of government.

On the following pages these potential explanations for few (or many) requests are explored in more depth.

### **Definition of a Request**

The definition of an LTrans request is not contained within the law, which means that interpretations of what an LTrans request is and whether a request for information should be classified as such vary widely across federal administration. This can cause discrepancies in the recording of an information request and distort the official LTrans statistics. It is therefore impossible to know whether there were only 221 made in 2008 – perhaps federal organizations received many more but did not acknowledge them as such.

Some organizations treat all information requests received through an online form (standardized across many offices) as LTrans requests: ‘If someone uses the internet form to present their request to the office, then that is an LTrans request; it’s certain, even if it doesn’t require any work. In most cases it’s something else but officially it’s considered under LTrans,’ stated one LTrans officer. Others consider only those that specifically mention the law as LTrans requests: ‘If the person who makes the request doesn’t invoke LTrans, it won’t be classified as a request under the law and I won’t be informed about it.’ Still others reported that they consider any request for information that requires some work an LTrans request. ‘For me it is a request when it requires making a decision – if it is a document that has not been published until now that requires me to speak with different people about whether it includes secret issues, or if I have to ask myself if there would be a problem making it public.’ The fact that federal organizations have different ways of identifying an LTrans request may explain the low number of requests – it is possible that they receive far more requests for information than are evident in the statistics because they do not register them all under LTrans.

### **Low Awareness**

Without knowing that they have the right to obtain information from the government, it is unlikely that people will make requests. Although there is no empirical data linking awareness with usage in Switzerland, it is generally believed that few people know about the law. Several of the experts and members of the administration

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interviewed for this study stated that they think few members of the public are aware of the law and therefore do not make requests. In contrast, there are relatively high levels of awareness and use of the FOI Act 2000 in the United Kingdom – the proportion of the population that reported knowing about their right to information rose from 74% in 2004 (the year before the law went into force) to 86% in 2008 (Social and Market Strategic Research 2008).

Two possible explanations for the difference between the two countries in this respect is that 1) one of the responsibilities of the UK Information Commissioner's Office (ICO) is to promote the law to the public and he takes this duty seriously, while the same is not true of the Swiss Information Commissioner; and 2) relatively few articles about LTrans or based on information obtained through LTrans appear in Swiss newspapers (see below for an expansion on this) and few of the latter include an acknowledgment of the fact.

In the UK the ICO undertakes several activities to promote the FOIA 2000. His interpretation of the section of the law about dealings with the public include the duty to 'provid[e] an enquiry service for individuals and organizations, publish guidance and information to... help individuals to understand their rights, and speak to groups to raise awareness of the law and how it works' (United Kingdom 2009). To these ends, the commissioner maintains an extensive web site with information about the FOIA 2000, including guidance on making requests and an up-to-date database of all formal decisions, makes many public appearances and press statements, and conducts an annual survey of public awareness of the law to monitor his success in this area.

It is widely accepted that the media play a large role in raising awareness of ATI, given their relationship between government and the public. The more they use and publish information about the law, the better the chances that people will learn about it. However, little information about LTrans appears in the Swiss press. One journalist who said that he uses the law quite often explained that reporters in Switzerland prefer to hold the means by which they get information close to their chest; to cite the law is tantamount to revealing a professional tool, which could mean the loss of one's competitive edge. In contrast, in the UK nearly 5,500 newspaper articles were published in national broadsheets and tabloids between 2005 and 2007 either about FOI or using information obtained through FOI from central government, which also mention the law (Worthy 2009). From these citations grows public awareness (Hayes 2009).

## High Trust

However, assuming people know about the law, are they interested in using it if they already trust what the government is doing on their behalf? If the hypothesis that distrust in government can be partly ameliorated through the use of transparency mechanisms holds, perhaps the opposite is also true – that a high level of trust explains the lack of use of those mechanisms. Of the populations of all European countries, Swiss people have the highest level of confidence in their government – 67.2% reported 'a great deal' or 'quite a lot' of confidence in government in 2007, which is just above Finland (64.1%) but double the rate – 33.7% – among British citizens (World Values Survey Association 2007). One reason for this may be that corruption in Switzerland is perceived to be low – it ranks as the fifth least corrupt country in the world according to the

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2008 Corruption Perceptions Index by Transparency International (Transparency International 2008). This does not help explain, however, the similarly low use of the ATI law in Germany, where trust is even lower (22.5%) than it is in the United Kingdom.

### **Other Avenues to Information**

Whether they know about the law and trust government may affect usage of the law; however, another explanation for many or few requests may be the fact that the public already have access to the government information they need. In Switzerland the low number of LTrans requests could be tied to the fact that federal offices and departments already make much information available to people and organizations who need to make informed decisions when becoming involved in political decisions, voting (there are a minimum of four opportunities for citizens to vote each year), or participating in public debates. Not only do government organizations publish a great deal of information on their web sites, they also circulate information as part of the consultation process and send out information prior to votes, initiatives and referenda. The consultation process guarantees that all stakeholders with a vested interest in a proposed law can obtain the necessary information to understand and comment on it prior to it being put to vote. This includes NGOs, companies, and academics. From these sources it is not difficult for individual citizens who have connections to access the information.

Journalists are a specific type of requester that has access to government information through other means. Despite federal administrators' belief that they make the most requests, journalists who were interviewed for this study reported that, to the best of their knowledge, most of their peers actually use the law infrequently. Experts hypothesize that this is because they have not been trained to use the law (as many have in the UK, for example) and that they already have well-established informal avenues for receiving information from the government and administration, so they do not need the legislation.

### **Limited Access**

Journalists and other requesters could also be put off use of LTrans because of clauses that limit the type of documents that organizations are obliged to release, which make withholding straightforward in many cases, and delays in appeal cases to the commissioner. Though it seems that offices and departments comply with the law to the extent necessary, few appear to have gone beyond what is required (i.e. following the 'spirit' of the law), and some actually look for ways to avoid disclosure. Evidence for this appeared both in interviews as well as the high percentage of requests that are refused.

The Swiss transparency law offers the administration several ways to avoid disclosing information. First, as stated above, the law is not retrospective (in contrast to the laws in jurisdictions such as the UK, Australia, and Scotland). This means that any documents completed prior to July 1, 2006 are exempt from disclosure requirements. Several interviewees told us they categorically refuse to release documents that date before July 2006. Second, only finished documents must be released – drafts and incomplete versions do not fall under LTrans; nor does information in general. Federal administrators seem to be in broad accord with the latter – survey re-

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spondents overwhelmingly agreed (94.4%) that drafts of documents should not be released. Third, the exemptions that can be used to justify withholding information are broad and protect wide swathes of existing documents. Swiss federal administrators have used these fairly liberally – over the past two and a half years 43% of requests have been refused in part or in full, much higher than percentages in the UK (33%) or Ireland (23%).

The proportion of complaints that are appealed and the average amount of time to deal with each are also high. Of the total number of requests (595) made in Switzerland since the law's inception 11% have been appealed to the Commissioner. This is a much higher percentage than in the UK, where only an estimated 1% of requests reach the appeal level, and Ireland, where 5% of all requests made to public bodies in 2008 were appealed. For those who pursued a complaint in the first three years, the waiting time for a decision was roughly 178 days.

### **Useful Information Closer to Home**

Another possible explanation for the lack of requests to federal authorities is that people are more interested in information that regional and local governments hold. The proximity of cantonal authorities to the people – and relative distance of the federal administration – might promote more use of cantonal ATI laws than the federal LTrans. The reason for this is that services of highest importance to individuals, such as education and health, are provided by cantonal organizations and it is about these that people make requests. In the UK, whose FOI Act covers the entire public sector, the number of requests at the local level is estimated to be over 40% higher than at the central government level. The most plausible explanations for this are that local issues are more compelling to people than national issues, and local government may seem more accessible to potential requesters than central government offices.

In Switzerland, however, the results of exploratory research for evaluations of the Berne and Vaud cantonal laws on access to information over the past nine months make it difficult to categorically support the hypothesis that people use the local laws to a greater extent than the federal legislation. Whereas all 19 of the 22 cantonal offices that responded to a survey about the Berne legislation had received between zero and five requests in the past year (Wicki 2008), which would appear to disprove it, of the 24 out of 45 cantonal offices that answered the survey on the Vaud ATI law 13 had received between zero and five requests in the past year, two between 11 and 15, and three over 100 (five replied that they had no idea how many requests they had received and one said they had gotten 'a lot')<sup>9</sup>. The latter figures would indicate more requests in one canton over the past year than at the federal level, thus partially supporting the hypothesis.

### **Unique Characteristics of Swiss System**

A final possible explanation for the low number of ATI requests is the unique characteristics of the country's political system; in Switzerland these include direct democracy, the 'consensus system', and the Milizsystem. The fact that the Swiss government operates under the principles of a direct democracy helps to explain why and the frequency with which citizens are provided with information not only about political candidates running for office but also on issues up for a vote. Their ability to make informed decisions in elections, referenda

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and initiatives is based on access to sufficient – and supposedly balanced – information. This information is sent out to all voters by post prior to each election or vote and includes a statement by the Federal Council as well as the views of each political party.

The law may also be infrequently utilized by politicians for two main reasons. First, the ‘consensus system’ guarantees that all main parties in government have access to all information needed to vote and make policy decisions; second, as non-professionals according to the Milizsystem<sup>10</sup>, they spend a large proportion of time at their day jobs, many of which are with influential companies and NGOs from which they can receive the information they need to make decisions as members of Parliament.

## WIDER LESSONS FROM THE SWISS CASE?

The original aim of this research project was to determine the impacts of LTrans on the working practices of federal administrative organizations – has the law affected change and, if so, how? Interviews with LTrans officers and experts on the legislation, as well as the responses to survey questions, reveal that the Swiss Law on Transparency seems to have barely made a ripple on the surface of the administrative culture. Few requests for information have been made, relative to the number in most other countries, and few LTrans officers or other federal employees have noticed changes to the culture or working practices of their organizations.

It is unclear whether LTrans has actually increased transparency of the Swiss federal administration. While the results of the survey and responses from interviewees seem to indicate that federal employees think the administration is transparent, there is little evidence that this it can be directly attributed to LTrans. It could be that the increase in transparency has been a gradual trend since the 1990s; the opposite could also be true – that the law has actually made federal employees more cautious about releasing information, leading to selective disclosure and less written communication.

It is quite early in life of the Swiss law to make definitive statements about its effects on transparency. However, it is a noteworthy example of a recent ATI implementer from which to understand low usage of the law. If experience is any guide awareness of the law will increase over time, which should boost the number of requests, but there are four main reasons the law might not attract much attention. First, people’s trust in government may be high enough that they do not feel the need to ask for information. Second, publicity of the law may be low because journalists do not use it and government does not promote it. Third, people are more interested in information at the local government level. Fourth, the political and government system might promote a free and steady flow of information from government to population; perhaps ATI is not as necessary in a direct democracy with a consensus system of governance. If the Swiss case (and those of other countries, like Germany) can be used to draw conclusions useful to other jurisdictions, these are the points to take into consideration.

## ENDNOTES

<sup>1</sup> The Eurobarometer’s question of Europeans’ trust in their national institutions was first asked in the spring 2003 survey. The proportion of Europeans who claimed to trust their national government fluctuated during the

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period 2003 to 2008. From spring 2003 to autumn 2003, the percentage dropped from 37% to 31%, while it stood at 32% in spring 2008.

<sup>2</sup> A revised law was passed in Sweden in 1949.

<sup>3</sup> The UK FOIA 2000 requires public authorities to publish publication schemes (a list of all categories of information they already make available to the public) electronically and/or in paper form. In addition, many public bodies have created ‘disclosure logs’, which are online lists of ATI requests and responses, sometimes with the disclosed information included.

<sup>4</sup> Exempt institutions include the Financial Market Supervisory Authority, the Swiss National Bank, and the private sector functions of organizations such as Swisscom, Swiss Rail Service (CFF), and Swiss Post.

<sup>5</sup> The Chancellerie is the staff office for the Federal Council, the country’s highest executive governing body that consists of seven Ministers, who share equal power in decision-making for the country at the federal level.

<sup>6</sup> Switzerland has seven federal government departments, each of which is headed by a member of the Federal Council and includes a General Secretariat and between five and eleven separate offices.

<sup>7</sup> The meaning of effectiveness was defined for respondents as ‘work done well, more quickly’.

<sup>8</sup> These numbers reflect only the number of ATI requests at the federal or central government level in each country. All U.S. states, most German Länder, all Canadian provinces and over half of Swiss cantons have their own ATI law, while in the UK the Freedom of Information Act 2000 covers the entire public sector from central government departments to individual National Health Service general practitioner practices and in Ireland most public authorities at all levels of government are subject to the 1997 FOI law.

<sup>9</sup> Data collected by Philomène Meilland, MPA student at the Swiss Graduate School of Public Administration for her Masters thesis completed in September 2009.

<sup>10</sup> The Milizsystem characteristic of the Swiss political culture refers to the fact that nearly all politicians are nonprofessionals and hold separate day jobs.

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## ABOUT THE AUTHORS

**Sarah Holsen** is a research associate and doctoral candidate at the Swiss Graduate School of Public Administration (IDHEAP). She holds a Bachelors degree in International Relations and Communications Studies from Northwestern University and Masters degrees in Latin American Studies from University of California, San Diego and Public Administration from Syracuse University. Prior to pursuing a PhD, she was a research fellow at University College London's School of Public Policy where she evaluated the implementation of the British Freedom of Information Act at the local government level. She is currently working on a Swiss National Fund research project studying the effects of the Swiss Law on Transparency at the federal level. Her research interests include policy implementation, intra-governmental regulation, citizen participation and trust in government.

*Contact information:* Sarah Holsen; Research Associate; Swiss Graduate School of Public Administration (IDHEAP); Route de Mouline 28 - CH-1015 Lausanne; Switzerland; [sarah.holsen@idheap.unil.ch](mailto:sarah.holsen@idheap.unil.ch); phone: 021 557 40 86 - F: 021 557 40 09; [www.idheap.ch](http://www.idheap.ch)

**Martial Pasquier** is Professor of Public Management and Marketing at the Swiss Graduate School of Public Administration (IDHEAP) in Lausanne. Professor Pasquier completed his studies at the University of Fribourg in Switzerland, University of Berne, and University of California Berkeley. From 1998 to 2003 he was the director of a consulting firm and lecturer at various universities. Since 2003 he has been full professor at IDHEAP where he is the director of the Masters in Public Management and Policy program as well as the Swiss Doctoral School of Public Administration. Professor Pasquier has been a guest professor at the Universities of Berne, Lugano, Strasbourg, Nancy II and Paris II. He is a member of the Board of the Swiss Marketing Association (GFM) and the Swiss Competition Commission. His research interests include national image, marketing and communication of public organizations, and the transparency of public bodies.

*Contact information:* Martial Pasquier; Professor; Swiss Graduate School of Public Administration (IDHEAP); Route de Mouline 28 - CH-1015 Lausanne; Switzerland; [martial.pasquier@idheap.unil.ch](mailto:martial.pasquier@idheap.unil.ch); phone: 021 557 40 03 - F: 021 557 40 09; [www.idheap.ch](http://www.idheap.ch)



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# Transparency and Accountability in Economic Development Efforts: Causes with Consequences<sup>1</sup>

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Jeremy L. Hall, University of Texas at Dallas

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## ABSTRACT

This paper considers the forces of accountability that shape state transparency laws. It then examines the competitive nature of economic development competition to explain why states emphasize accountability of one form while overshadowing others, such as transparency and openness. State transparency exemptions for economic development are identified and portrayed graphically to demonstrate the pattern of competition among the states in this area. Directions for future research are suggested as a result, including investigating the causes and effects of state transparency law exemptions for economic development purposes.

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## INTRODUCTION

Piotrowski and Rosenbloom (2002) contend that transparency policies make the administration comport better with U.S. democratic-constitutional values. Government accountability requires transparency to provide the necessary, though insufficient, procedural accountability upon which substantive accountability may develop (Koppell 2005). This being said, why do states exempt some facets of their governance from transparency laws? Given multiple accountability expectations, states seem to place different weights on the accountability and performance expectations they confront. In some places economic development and potential industrial recruitment outweigh the value of holding agency decision makers accountable to the electorate for their actions. Some states emphasize economic development, no matter the cost, by exempting economic development activities from transparency laws; other states emphasize accountability for responsible decisions first and foremost by covering economic development activities in transparency laws. Koppell's (2005) multiple accountabilities disorder explains why agencies fluctuate in their response to various accountability demands; transparency exemptions are distinct in that they focus on broader accountability decisions that are relatively stable over time.

Many policy decisions are framed as competitions, creating obvious winners and losers, though a preferable frame would be to make responsible decisions that maximize expected value for the jurisdiction over time (Bazerman, Baron & Shonk 2001). Competitive escalation and competitive irrationality (Bazerman 2006) can lead states or nations into bidding wars for employment-generating industry even when they should avoid bidding altogether. In the case of economic development competition, this means the winning state may afford excessive tax abatements and location incentives relative to the employment and tax value the industry will generate. If covered by transparency laws, constituents have recourse to hold the agency accountable; if exempted, the cognitive dilemma can play out with detrimental long-term, even intergenerational, consequences.

In the U.S., state transparency laws determine the openness of government and its activities related to economic development. Variance in laws across states, particularly with regard to the types of information that are covered or exempted, produces a landscape of asymmetric and therefore inefficient economic development competition. This paper evaluates transparency laws, and specifically their exemptions for economic development activities, across the fifty U.S. States. The paper is organized in two sections. The first examines the cognitive limits that shape state motivation to treat economic development as a win/lose game (leading to the transparency exemptions that manipulate the game's rules). Key elements of attention include decision framing, bounded rationality, and competitive irrationality. Decision theory is applied to recommend techniques for framing decisions so as to better integrate transparency into the accountability mix. The paper's more significant contribution is an examination of states' economic development exemptions from state transparency laws. By categorizing states and evaluating patterns of state competition, the paper provides a foundation on which to develop theory to explain how and why state transparency exemptions evolve. This theory will be applicable to other settings (including Europe) and additional contexts (policy areas). Though the paper's subject is economic development in the U.S. context, the resulting theory is salient to nations within the European Union or any inter-jurisdictional competition in which information asymmetry may skew the process outcome. It has

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been noted, for example, that Scandinavian nations conceptualize transparency in government quite differently than other European countries, leading to conflict in the E.U. regarding the appropriate form of policy making (Grønbech-Jensen 1998).

## TRANSPARENCY POLICY: BACKGROUND

Our modern democratic society has embraced the values of openness and transparency as keystones of accountable government. Most widely recognized is the federal Freedom of Information Act (FOIA), but it is not a singular policy. Multiple federal policies have enhanced government transparency over time, as have state FOI laws, open records laws, and open meetings laws – often referred to as ‘sunshine’ laws. Such change occurred in response to public pressure to make government more accountable and responsive following an era of corruption and secrecy. The transformation ended the image of shady ‘smoke-filled room’ handshake deals, and became the newfound arbiter of efficiency and honesty in government. In short, transparency provides accountability in government.

Unique windows of opportunity often result in dramatic policy shifts, such as that demonstrated by the adoption of government transparency laws in the U.S., including the widely recognized federal Freedom of Information Act. However, transparency laws in the U.S. pre-date the FOIA by at least three decades, with gradual incremental shifts advancing the public’s right to know. In fact, some states already had open records laws in place when FOIA was adopted. As Piotrowski and Rosenbloom (2002) note, “From the 1940s to the present, considerable legislation and judicial effort has focused on infusing public administration with constitutional values” (p. 644).

Using the metaphor of a window to equate the opening of government actions to public scrutiny, we might think of the early 1930s as a window in a very old house, sealed shut by age, frosted over by many years without use or attention. The creation of *The Federal Register* marks a key initial step in opening the actions of government to public scrutiny. “Reasonable transparency of government and its accountability under law are enduring goals of the American public administration. *The Federal Register*, created in 1935, is a historic institutional tool designed for these purposes, and it represented a seismic shift in the way government functions” (Feinberg 2001, 359). *The Federal Register* transformed participation in American government by documenting the substance of, and the reasoning behind, regulatory action (Feinberg 2001). A decade later, incremental change continued; the Administrative Procedures Act (APA) of 1946 required agencies to solicit written public comment on their actions through notice of proposed rulemaking published in *The Federal Register* (West 2004).

One cannot consider these landmark policies to represent vast departure from the status quo, however. Bureaucratic resistance in implementation dramatically reduced their effectiveness – particularly the APA. “[A]dministrative secrecy was so ingrained by the late 1940s that the [APA]’s language requiring the release of information to persons ‘properly and directly concerned’ was immediately misinterpreted as a significant ‘standing’ requirement and misused to withhold information” (Piotrowski & Rosenbloom 2002, p. 644). The Freedom of Information Act of 1966 corrected this interpretive malady.

Further legislative change has continued to enhance government transparency. The Government in the Sun-

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shine Act (1976), the Inspector General Act (1978), and the Government Printing Office Electronic Information Access Enhancement Act (1993) all provide the public with greater access to government information. The latter, for example, requires free online availability of *The Federal Register* (Feinberg, 2001) – taking information access far from its humble beginning into the 21st Century. Moreover, executive policy has also played a significant role in opening government information to the public, from President Clinton’s memorandum for Plain Language in Government Writing (Feinberg, 2001) to President George W. Bush’s E.O. 13392, *Improving Agency Disclosure of Information*. (I revisit this latter policy change below.)

The FOIA represented a more fundamental shift in thinking as it moved the burden from the requestor (to prove that they needed to know) to the government agency (to prove that there is an identifiable reason why the requestor should not obtain the information) (U.S. GAO 2006). Just as the APA was met with resistance in 1946, so the FOIA found resistance from a federal bureaucratic enterprise steeped in the tradition of secrecy. No “federal agency urged its passage, and, for a time, even the president’s approval of it seemed uncertain” (Relyea 1975, 3). Looking back on the first decade of the FOIA, Relyea (1975) notes:

[A]dministration of the statute has not been particularly impressive. The bureaucracy did not want this law. Unfortunately, this attitude of opposition has manifested itself during the first years of the act’s operation in excessive processing fees, response delays, and pleas of ignorance when petitioned for documents in terms other than an exact title or other type of precise identification (4).

In spite of this resistance, Relyea (1975) goes on to observe that, “[a]lthough the administration of these laws has not always been consistent with the spirit of their enactment, these policy instruments generally reflect a desire to open government information, at least at the federal level, to the citizenry” (p. 8). The record demonstrates “a new operating presumption that government information, whether in documentary or observable form, be available to the public unless it is otherwise specifically exempted” (Relyea 1975, 8). Transparency policy change has adhered to fairly stable shifts throughout its history, but, if one overlooks the temporary bureaucratic resistance to the FOIA, that landmark legislation nevertheless represents a major reorientation of thought regarding the proper role of the public in the day-to-day business of government. “FOIA establishes a legal right of access to government records and information, on the basis of the principles of openness and accountability in government. ... FOIA established a ‘right to know’ standard for access, instead of a ‘need to know.’” (GAO 2006, 4).

Diffusion of transparency laws through the several states has taken place over time. The primary impetus came with the federal FOIA but diffusion and internal determinants have played a role in state adoptions since that time, enhancing transparency throughout the intergovernmental system (as state laws govern their non-sovereign local governments and public bodies). If we view the federal change from the perspective of a punctuated equilibrium (Baumgartner & Jones 1991), the dramatic shift has been followed by a lengthy period of relative incremental stability at the federal level and incremental change at the state level. In the post-transparency adoption environment, change has been gradual – with the obvious windfall punctuation in 1966 with the passage of the FOIA.

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However, this shift has not been unidirectional as one might suspect. The FOIA's reach has been constrained by altered interpretations over time. Even as soon as it was passed, a stalwart administration began to incrementally carve out additional exemptions. President Nixon's E.O. 11652 expanded exemption from issues of national defense to interests of national defense or foreign relations (Relyea 1975, 6). While transparency serves a high purpose, most states and the federal government have rejected its universal application in favor of varied exemptions. Today, the federal Freedom of Information Act, for example, includes nine categories of exemptions under which requests may be denied in whole or in part (GAO 2006). The most commonly used exemptions among federal agencies to deny requests for information are personal privacy related (U.S. GAO 2002). Other exemptions include national defense, law enforcement techniques, the location of wells, and so forth.

Incremental broadening of the general scope of transparency laws has continued at the state level as well, as has the concomitant narrowing of applicability to certain situations and in particular policy arenas. The field of economic development provides one example which I elaborate below. While sunshine laws, public meeting laws, and other transparency policies have been added by states over time, the application of those laws has generated concern for performance of particular functions, such as industrial recruitment, leading to gradual exemption of those specific government functions from the ever-broadening general policy. To summarize, although changes to governmental transparency policy have been general in nature, the actualized policy change across substantive policy fields has not been uniform. Transparency exemptions for economic development may be characterized as incremental, gradually diffusing across states (see, for example, Berry & Berry 1990).

In order to fashion a better understanding of the changes we observe in transparency policy – both historically and at the present – it is worthwhile to review the rationale dictating transparency's application to governance. The following section provides that rationale, drawing on transparency's role as a core democratic-constitutional value necessary for government accountability, and then elaborating the ensuing conflict resulting under the New Public Management's dictum of performance measurement. I now turn to considering the competing meanings of 'accountability.'

## **TRANSPARENCY AND ACCOUNTABILITY: CORE VALUES IN CONFLICT**

"Belief in the openness of government to regular inspection is so firmly ingrained in our collective consciousness that transparency has innate value" (Koppell 2005, 96). Why have we come to place such a high value on transparency? Perhaps because the "growth in the size of the bureaucracy and the development of immensely technical and complex fields of specialization have placed tremendous powers in the hands of public officials" (O'Brien, Clarke, Kamieniecki 1984, 339). Powerful parties in government require checks on their actions. Whereas the bureaucracy was impotent in the early days of the republic, it required no significant checks on its action. The Constitution institutionalizes checks among the executive, legislative, and judicial branches of government because it grants each of them specific powers. The bureaucracy has increased in power over time as it has expanded in size beyond the manageable limits of executive control by the President.

Piotrowski and Rosenbloom (2002) contend that transparency policies make the administration "comport

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better with U.S. democratic-constitutional values” (645). “In democratic-constitutional theory, the question is not simply whether government does the right thing most of the time. A central issue...is how to prevent it from doing the wrong thing some of the time – or ever.” (p. 648). What determines whether an action is wrong? How is it that we should not trust public officials to execute their duties honestly and rightly? The founding fathers struggled with such difficult questions, but had the foresight to understand that government must come with restrictions to prevent it from overstepping its intended bounds. Writing in *Federalist 51*, James Madison observed:

“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions” (Madison 2006).

In Madison’s words we find recognition of a stark reality – a government by the people is fallible, and so precautions must be taken. Speaking from hindsight, or experience, as he does, Madison brings to mind the atrocities of government unbound by limitations on its action. As the framers agreed, checks and balances are necessary for government to control itself. This basis serves as a foundation of values upon which our government is built, and central among them is transparency. “If the fundamental basis of democracy is an alert and aware public, active in the affairs of government, such measures [as the Freedom of Information Act] seemingly have a potential for fostering an informed citizenry” (Relyea 1975, 3). Moreover, “[t]he fundamental basis of a democracy lies in an alert and articulate public, active in the affairs of state. Without that participation, a democratic government cannot truly be said to exist” (Relyea 1975, 8). Piotrowski and Rosenbloom (2002) suggest that “the Freedom of Information Act embodies the democratic-constitutional value of government transparency; ...Freedom of information is an archetypal democratic-constitutional value” (649).

Transparency is a core democratic value; however, its value comes not from its existence but from the results it brings to bear. Transparency fosters accountability, holding public officials and administrators responsible for their actions. We rely on transparency to examine the inner workings of an agency and to assess its performance. What makes an organization transparent? According to Koppell (2005), the “critical question for evaluating organizational accountability along the transparency dimension is straightforward: Did the organization reveal the facts of its performance?” (96). Public meetings are one mechanism for ensuring government transparency. Such meetings provide valuable opportunities for citizen participation in the political process; public meetings may not contribute to deliberation or rational persuasion, but they do allow opportunities for providing information, showing support, shaming, and agenda setting, among others (Adams 2004). In other words, they may influence, but not directly change votes.

West (2004), writing on the value of public comment in agency rulemaking procedures, finds that variation in the level of public participation in such activities varies as a result of the level of controversy surrounding the rule, the breadth of its effects, the degree to which it is based on agency discretion as opposed to legislative

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or judicial directives, and the resources available to participants. This suggests that it is not necessary to receive public comment on every action – in fact there will be many actions that do not receive nor require comment – but that the public must at least have the opportunity to participate. “Obviously, public comment must occur in order to influence what agencies do” (West 2004, 70). Scholars have variously assessed the effects of agency rulemaking procedures as an opportunity for interests to participate and influence policy, as a symbolic gesture, and as a ‘fire alarm’ mechanism to trigger political accountability: “rulemaking procedures promote responsiveness by triggering political involvement in the administrative process” (West 2004, 73).

If we can observe the organization’s outputs, and the process by which they were derived, then we can make valid assessments about its effort and overall performance. In order to hold an agency accountable for its actions, one must be able to observe those actions. Accountability conjures images of effective and responsible government when used in such general terms, and indeed that may be the result. The reality is a much clumsier term with varied and often misunderstood interpretations. What is accountability?

“Accountability is good – there is little disagreement on this point... And yet while everyone agrees on its desirability, the meaning of accountability remains elusive.” (Koppell 2005, 94). Koppell’s (2005) key concern with accountability is that the scholarly literature has failed to achieve a uniform understanding as to what the term means; it refers to bureaucratic control in some contexts and transparency in others. He adds: “[r]elying on a single word to convey disparate conceptual understandings masks disagreement over a core issue of political science. The perpetuation of fuzziness regarding this important term is a failing of our discipline” (Koppell 2005, 94). And “[I]ack of conceptual clarity presents more than a rhetorical problem. The many meanings of accountability suggested by the varied use of the word are not consistent with each other: that is, organizations cannot be accountable in all of the senses implied by this single word” (Koppell 2005, 95).

So does accountability refer to control by political principals, or does it mean openness to public scrutiny? The answer is ‘yes,’ but under different conditions. These two conceptualizations together still do not cover the gamut of meanings accountability carries. Romzek and Dubnick (1987) differentiate accountability in terms of the source (internal or external) and degree (high or low) of control, labeling varied realities as bureaucratic, legal, professional, or political in nature. Roberts (2002) proposes an administrative model of accountability that includes direction-based accountability (goals and objectives), performance-based accountability (specification of outputs and outcomes), and procedure-based accountability (specific laws and rules for conduct of bureaucratic activity).

Transparency is one of five dimensions of accountability, including transparency, liability, controllability, responsibility, and responsiveness (Koppell 2005). The problem of accountability is that each component of this set of varied conceptualizations of the term results in a different expectation for the agency; hence, an organization’s effectiveness may be decreased to the extent it faces conflicting expectations derived from simultaneous application of conflicting definitions of the term. Such a situation is what Koppell (2005) refers to as the multiple accountabilities disorder. The disorder manifests itself when an organization alternates among behaviors consistent with conflicting definitions of accountability, sometimes serving principals, sometimes serving clients, but pleas-

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ing neither in the end (Koppell 2005). The five dimensions, while potentially conflicting, are not purely mutually exclusive. Transparency and liability, according to Koppell (2005), are prerequisites for the remaining three substantive dimensions, among which conflict is expected to be more heated. Transparency, then, is essential to accountability because it is a tool without which other forms of accountability would not be possible.

At the end of the day, tension among various conceptualizations of accountability exists, and it often leads to difficulty for administrators striving to prioritize particular roles and functions of their agencies. The essence of the problem is that, agreeing on the necessity of accountability, there is little agreement on which particular accountability mechanisms should receive priority (Roberts 2002). Different parties can – and do – press for accountability for such diverse concerns as finances, performance, and fairness (O’Connell 2005). Most notable among these pressures are the oft divergent foci of achieving core organizational tasks and providing the due process and transparency necessary to ensure a properly-functioning democratic government. As O’Brien, Clarke and Kamieniecki (1984) have observed, “[t]he problem that public officials now face is how to combine the core democratic values of accountability [sic] and representativeness with the tenets of administrative efficiency, e.g. increasing demands for technical expertise, economy, and efficiency” (339). The varied meanings of accountability, and the varied mechanisms for achieving it, result in a web of overlapping accountability relationships in which public officials must work (Roberts 2002).

Variations in accountability are not always irreconcilable. Roberts (2002) finds that the paradox of accountability can be avoided even in complex settings with multiple actors. She found that dialogue, while time consuming and resource demanding, enabled participants to build a “system of responsibility based on personal agency, accountability to authority, and obligation to external principles and standards” that reinforced traditional accountability mechanisms by making them more transparent and visible (Roberts 2002, 666).

O’Brien, Clarke, and Kamieniecki (1984) emphasize the new era ushered in by the advancement of transparency policy: “expertise and economy were the values emphasized in the past. Today, however, these must be tempered by more democratic norms, i.e., greater public involvement and a more open decision-making process” (339). As trends are wont to change in cycles, the emphasis on accountability to the public (through democratic values derived from transparency policy) has given way to focus on the performance aspects of accountability (holding government agencies accountable for their performance) as a result of the performance emphasis of the New Public Management. The reality of the complex web of meaning surrounding *accountability* has real significance for our understanding of organizational performance, particularly under the NPM which emphasizes outputs and outcomes as the basis of agency success. As Koppell (2005) notes:

[T]he lack of specificity regarding the meaning of accountability – or failure to articulate a choice – can undermine an organization’s performance. First, the organization may attempt to be accountable in the wrong sense. Second, and perhaps worse, an organization may attempt to be accountable in every sense” (95).

The NPM focuses on achieving results in the most cost effective manner, rejecting input and process requirements in favor of output and outcome expectations; the NPR viewed democratic-constitutional values as incompatible with highly cost-effective, results-oriented public administration (Piotrowski & Rosenbloom

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2002). The problem, simply stated, is that transparency and similar red tape requirements redirect time, energy, and resources away from the agency's primary goals, and thus negatively impact outcome performance over what might be possible under a system with no such constraints. As Piotrowski and Rosenbloom (2002) have succinctly described, "much of what encumbers conventional administration is the requirement that it comport with democratic-constitutional values such as transparency and due process, which in the NPM's sense are neither mission-based nor part of a results-oriented calculus" (p. 643).

Piotrowski and Rosenbloom (2002) examine the extent to which democratic-constitutional values are integrated into agencies' performance calculi, finding, to their surprise, that freedom of information is not integrated. Their analysis finds that "improving performance on the FOIA is, in fact, not a substantial goal – or even *any* part – of major federal agencies' performance plans" (p. 651). They fear that the exclusion of transparency measures from agency performance plans is a natural side effect of the NPM, and without finding ways to explicitly include it in measurement, the democratic values will be displaced by performance goals. You get what you measure, so to be sure you get democratic values, their performance ought to be measured as well.

Concern that renegade agencies may disregard democratic values and the foundational accountability resulting from transparency is warranted, though somewhat premature. To allay some of the concern, the U.S. Government Accountability Office (2006) finds that FOIA requests received and processed continue to rise. The NPM indeed focuses on results, and hence agency effort is directed toward performance of those direct mission-oriented tasks, but few agencies function with singular goals, instead pursuing multi-pronged programs and various activities aimed at achieving multiple objectives. Simply ensuring that non-mission oriented transparency is a priority, alongside traditional mission-oriented goals, means that performance outputs and outcomes for those efforts, too, may be tracked and monitored under the framework of the NPM. "The Constitution recognizes higher values than speed and efficiency" (Piotrowski & Rosenbloom 2002, p. 646). Better linking rewards to the stated goals is essential to effective performance management systems.

President George W. Bush issued E.O. 13392, *Improving Agency Disclosure of Information*, in December, 2005. The Executive Order requires agencies to develop FOIA improvement plans, and focuses "agency managers' attention on the important role that FOIA plays in keeping citizens well-informed about the operations of government. By requiring measurable goals and timetables, the Executive Order provides for a results-oriented framework by which agency heads can hold officials accountable for improvements in FOIA processing." (U.S. GAO 2006, p. 26-27). This effort reflects a desire to prevent freedom of information from being overshadowed in the NPM environment, though freedom of information is only one component of the larger transparency picture. Moreover, the fact remains that efficiency in attaining the mission-oriented goals will be compromised by transparency activities; focusing on accountability for results necessarily leads to neglect of other kinds of transparency, and vice versa. Focus on results decreases commitment to democratic-constitutional values, especially when they are not a priority, or are not central to the organization's goals (Piotrowski and Rosenbloom 2002). Or more generally, "the NPR was correct that the accretion of administrative law and other regulations sometimes stifles results-oriented public administration. Nevertheless – both in theory and in

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practice – deregulated, empowered, results-oriented administrators imbued with a utilitarian ethos can create a tension with the rule of law” (Piotrowski & Rosenbloom 2002, p. 649).

## **THE POLICY ARENA: ECONOMIC DEVELOPMENT**

One of the more common exemptions to state open records laws covers negotiations tied to state economic development activities, and particularly industrial recruitment. States continue to view industrial recruitment as a competition, offering hefty incentives and tax breaks to footloose firms in search of a future home; Eisinger (1995) observes this reversion to industrial recruitment in light of significant increases in state competition for firms and the drastic increases in incentives states have placed on the table to land major manufacturers. Economic development performance has been particularly challenging for researchers and practitioners to measure as a result of disagreements regarding which outcomes are most important and as a result of plausible alternative explanations. Thus, the adage “shoot anything that flies, claim anything that falls,” which emphasizes the importance of firms landing in one’s own jurisdiction.

Firm location choices are observable, as are the jobs they create, so performance-minded development practitioners are apt to focus on this aspect of their role; firm locations become the mission-oriented goal of many state development strategies. Once a firm has settled on a short list of potential sites, government incentives have been shown to affect firm location decisions. Academicians have found that incentives prove to be effective only when a place is already on a firm’s short list, but the effects of economic development efforts are generally very limited (Goss & Phillips 1997, Clark & Montjoy 2001, Saiz 2001). As such, a state’s (or community’s) competitive edge results from offering the best incentive package out of a short list of competing sites. Information asymmetry among the players forms the basis of negotiations, with firms asking for more than they need, and governments offering as much as (or more than) they can afford; revealing the details of your offer provides an edge for those places competing against you. Cautious prescriptions have been offered for governments to evaluate the relative costs and benefits of incentive packages (such as with Tax Increment Financing, Weber 2003), seeking to offer only an amount the net present value of which is less than the expected net present value of benefits to be derived from the investment.

Firms locate where they maximize profits, and government incentives interfere with otherwise efficient market decisions. Since all firms must locate somewhere, industrial recruitment has often been called a zero-sum game; to be sure, there is no prize for second place. In order to capitalize on the inherent information asymmetries among contenders, states have adopted transparency policy exemptions to protect the details of these negotiations from public scrutiny. The value of jobs and industrial growth – the direct mission-oriented goals of economic development efforts – in these states would seem to outweigh the potential negative consequences of recruitment packages developed outside the scrutiny of the public eye.

## **COGNITIVE ERRORS AND ECONOMIC DEVELOPMENT DECISION MAKING**

Economic development has traditionally been viewed as an extremely competitive policy arena with states, lo-

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calities, and nations competing with each other to lure businesses and industries to their jurisdictions to create jobs, local tax revenue, and positive externalities through economic multiplier effects. The competitive framework puts competing jurisdictions in a winner-take-all mindset that precludes rational analysis of costs and benefits. The result is escalation of competition through bidding wars with tax abatements and other spending and concessions by the competing parties. The winning bidder of a competitive game, assuming no information asymmetry exists, by definition offers more than the market price – the price all others were willing to pay. The result of such irrational decision making is often buyer’s remorse – the realization that you have paid too much for the item of interest (Bazerman 2006).

While most competition is of a direct nature, with localities or states vying to assuage footloose firms to locate within their jurisdictions, a more sinister form of competition has been taking place indirectly and behind the scenes. To keep states accountable to their constituents for the economic development decisions they make, transparency laws including open meetings and open records acts provide the public with access to information about government decisions in most forums. With knowledge pertaining to local or state government decisions at hand, constituents can evaluate the costs and the benefits and critique the decision on rational grounds during or after it has been made. Consequently, the other avenues for enforcing accountability can then be applied – at the ballot box, for example.

The negative effect of such transparency, of course, is information asymmetry in an otherwise competitive game. Were the details of an economic development recruitment offer to leak out of government through such transparency processes, they may give other players an unfair advantage in the negotiation process. This underlying detail – the substance of economic development negotiations – becomes the focus of indirect competition through limits on what may and may not be disclosed under state transparency laws.

As indicated above, numerous exemptions have been applied by states for as many reasons – privacy, security not among the least of them. And because state laws apply not only to state economic development efforts but to the municipal creatures of those states, state transparency policy exemptions stand to influence economic development outcomes and long term state budget performance. States with exemptions to their transparency laws for economic development competition are expected to outperform states without such exemptions in firm recruitment. However, those more competitive states are likely to suffer worse economic performance and poorer long-term economic development performance as their less progressive approach favors decisions that overcompensate firms for their location decisions and focus on irrationally winning the competition rather than maximizing long term expected value. Exemptions may serve the competitive process directly, but other exemptions may aid in recruitment by creating a business friendly atmosphere. For example, protection of trade secrets to which government agencies have access or protection of information obtained through corporate regulation and investigation are both examples that protect firms from competition. These exemptions are not the focus of this paper; I look exclusively at exemptions focused directly on competition and general economic development activities.

While this paper provides exposition to the topic and assesses differences among the states in transparency law exemptions for economic development purposes, it does not extend to the deeper analysis of causes of

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state behavior (i.e. adoption of such exemptions) such as political, social and economic conditions. Nor does it assess the impacts of transparency on state economic development and budget performance. Both of these elements provide significant opportunity for further research in the area. I turn now to examine the nature of state transparency law exemptions for economic development purposes.

## **EXCLUSIONS AND EXEMPTIONS: EVIDENCE OF GOAL MULTIPLICITY IN ECONOMIC DEVELOPMENT**

The effects of goal multiplicity – expected to vary according to the degree and type of conflict (related to the model of accountability in use) – are observed in differences across states, but also across policy arenas. Concurrent with the theme of this paper, the indirect conflict between the goals of economic development policy and transparency policy has led to alterations in state transparency laws (such as exemptions for specific activities) – open meetings, open records, or freedom of information more generally – over time. I next examine the case of indirect goal conflict (and partial, temporary, and varied exemptions) found in economic development policy.

Turning to economic development (and industrial recruitment, specifically), I focus primarily on the South, where most states have at least some exclusion, exemption, or exception for economic development recruitment activities in their FOI laws. The variety of exemptions and their diversity necessitates a greater number of examples. To identify provisions in state law pertaining to transparency, I first look to the core statute governing government procedures for meetings or information, and subsequently review the authorizing statutes for economic development activities. The latter category serves as the primary mechanism for exemptions, in the least transparent fashion possible. That is, the FOI law is not directly amended, but its effect is marginalized for specific activities or for economic development more generally in program authorizing legislation by exempting those activities from transparency statutes.

I begin with the short list – those that do not appear to have an exemption to FOI for economic development activities. Delaware lacks an exemption (Title 29, Ch. 100, Delaware Code). Georgia presently lacks an exemption, but the topic has received attention. Georgia House Bill 218 was introduced in 2005 to “provide for an exemption for certain records of an agency engaged in a program of economic development” (Georgia General Assembly, 2006). The bill passed the state House, but was ultimately tabled in the Senate. Maryland does not have a specific exemption for economic development, but has a general provision allowing records to be withheld if their inspection could be “contrary to the public interest,” allowing significant discretion in interpretation (Maryland Code §10-618(a)). Maryland does have a more specific exemption for confidential financial information of the Maryland Technology Development Corporation (Maryland Code §10-618(i)); Though MTDC is an economic development venture, it operates as a corporation, so this exemption should probably not be construed as an exemption for economic development competition purposes.

Moving to states that have some specific form of exemption, we find increased variety. Alabama has a specific exemption for economic development in the open meetings statute, but no specific exemption in the open

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records law (36 Code of AL 25A-7). South Carolina has the exemption, but once a recruitment offer is accepted, or the deal is announced (whichever is later), the exemption expires (S.C. Code of Laws 30-4-40.9). Virginia has an exemption that permits discretion on the part of the custodian as to whether or not to release the record (Code of Virginia 2.2-3705.6) (Virginia's law also permits closed meetings for the purpose of discussing economic development recruitment [Code of Virginia 2.2-3711(5)]). Florida permits exemption, but the potential beneficiary of the economic development negotiation must first request in writing that records indicating their interest be kept confidential (2005 Florida Statutes 19-288.075(2)). Perhaps more interesting is the trade-off observed in subsection (4) of the same statute, which prohibits a public officer from entering into a binding agreement with such a party until 90 days after the information has been made public.

Tennessee exempts any record the release of which is determined to “harm the ability of this state to compete...for economic or community development” for 5 years time (Code of Tennessee 4-3-730(c)(1-2)). And Mississippi also exempts economic development records that disclose client information for a period of two years (MS Code § 57-1-14(1)). North Carolina's exemption is intriguing, on the one hand allowing for exemption of records associated with an industrial development project (§132-1.2(1.c)), but on the other specifically requiring the release of methodology and assumptions used in cost benefit analyses associated with such projects (§132.1.11(a)). Arkansas exempts records maintained by the Arkansas Economic Development Commission related to “any business entity's planning, site location, expansion, operations...unless approval for release of those records is granted by the business entity” (AR Code 25-19-105(b.9A)), though the exemption doesn't apply to expenditures or grants made (AR Code 25-19-105(b.9B)). Kentucky exempts public records “pertaining to a prospective location of a business or industry” (KRS 61.878(1.d)). So secretive is the KY Economic Development Cabinet that the Commonwealth's Legislative Research Commission has been unable to access information regarding the level of tax breaks received by individual companies. KY House Bill 745 (2006) sought to ‘open’ the records to state government itself! (Stamper, 2006). Louisiana permits exemption of records (or identifying information on financial records) when requested in writing by the beneficiary for a period of 12 months (LRS 44:22(A-C)). Texas, Oklahoma, and West Virginia each have similar exemptions to FOI laws for economic development purposes.

These examples demonstrate the variety of approaches states have taken to restricting access to information that may place them at a disadvantage in competition for economic development. None of the states listed here provides absolute exemption for such activities, but partial, temporary, or contingent on custodial discretion. This descriptive treatment is exemplary in nature; the systematic assessment follows.

## **STATE ECONOMIC DEVELOPMENT EXEMPTIONS**

State statutes were reviewed to identify whether there are specific provisions allowing general economic development activities to occur without respect to transparency requirements. This was achieved by first reviewing the core transparency laws where exemptions are often listed, and then by reviewing the substantive economic development statutes where such exemptions are often tucked away out of sight of those interested in trans-

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parency issues. The search resulted in the list of exemptions noted in table 1. For geographic comparison, this data is transferred to a map of the U.S. states to reveal the patterns of competition (figure 1). Generally speaking, it appears that expected patterns of diffusion and internal determinants are relevant (Berry & Berry 1990). States with exemptions for economic development activities tend to be contiguous, and the South, Midwest, and Pacific Northwest states appear to be competing in this fashion while states in the Southwest, Northeast and the Rocky Mountain region are not. As mentioned previously, it is beyond this paper to assess the specific causes or effects of economic development competition through transparency law exemptions. However, these results suggest a need for further consideration in this area.

## ENDNOTE

<sup>1</sup> The author wishes to thank Trish Hutcheson for her valuable research assistance on this project.

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**Table 1: State Exemptions to Transparency Policy for Economic Development Purposes**

State	Economic Development Exemptions	Statutory Reference
Alabama	Y	Ala. Code § 41-6A-7 (2000); Ala. Code § 2-15-62(e) Ala. Code § 9-16-83(b)(16) (2001)
Alaska	Y	AS 27.09.030.; AS 27.30.090. ; AS 10.13.930; AS 41.41.150. AS 43.55.025(f). AS 43.82.310AS 44.88.020.
Arizona		
Arkansas	Y	Ark. Code Ann. § 25-19-105(b)(9)(B); § 15-4-606 (
California		
Colorado		
Connecticut	Y	Conn. Gen. Stat. § 32-244a.
Delaware		
Florida	Y	F.S. 196.1995
Georgia		
Hawaii		
Idaho	Y	Idaho Code § 9-340D(2). ; Idaho Code § 9-340D(6). ; Idaho Code § 9-340D(7). ; Idaho Code § 9-340D(8). ; Idaho Code § 22-436. Idaho Code § 9-340D(9). ; Idaho Code § 9-340D(10). ; Idaho Code § 9-340D(16). ; Idaho Code § 9-340F(5).
Illinois	Y	5 ILCS 140/7(1)(k).
Indiana		
Iowa	Y	Iowa Code § 22.7(8); Iowa Code § 22.7(25).; Iowa Code § 22.7(20).
Kansas	Y	. K.S.A. 45-221(a)(31). K.S.A. 45-221(a)(32)K.S.A. 45-221(a)(37). K.S.A. 40-2c20K.S.A. 45-221(a)(43).
Kentucky	Y	KRS 61.878(1)(c)(2); KRS 61.878(1)(d)
Louisiana	Y	Op. Att'y Gen. 86-669.La. Rev. Stat. Ann. § 27:237.
Maine		
Maryland	Y	§ 10-617(d); § 10-618(i)(1).
Massachusetts	Y	G.L. c. 30, § 39R. ; G.L. c. 40G, § 10
Michigan		
Minnesota	Y	Data Pratices Act § 13.62. : Agricultural Loan and Grant Programs. § 13.643).
Mississippi		
Missouri	Y	Mo.Rev.Stat. § 100.296
Montana		
Nebraska		
Nevada	Y	NRS 701A.200-230
New Hampshire		
New Jersey		
New Mexico		
New York		
North Carolina	Y	G.S. § 132-6(d)
North Dakota	Y	N.D.C.C. § 10-30.2-07. ; N.D.C.C. § 44-04-18.4; N.D.C.C. § 44-04-18.4; (§§ 44-04-18.2(1)(a) and (b)).
Ohio	Y	Ohio Rev. Code §§ 149.43(A)(1)(w), 150.01
Oklahoma		
Oregon	Y	ORS 192.501(25); ORS 192.502(16); ORS 192.502(30); ORS 192.502(5); (ORS 194.160)
Pennsylvania	Y	53 Pa. Cons. Stat. § 39862
Rhode Island		
South Carolina	Y	S.C. Code Ann,§ 30-4-49(9); S.C. Code Ann. § 48-30-70.
South Dakota	Y	S.D.C.L. § 1-16B-14.1; S.D.C.L. §§ 1-16G-11 and 1-16H-28); S.D.C.L. § 9-34-19
Tennessee	Y	T.C.A. § 10-7-504(a)(10); T.C.A. § 4-3-712; T.C.A § 13-27-113 (
Texas (ORD)	Y	(§ 552.113) ; (§ 552.128) ; (§ 552.131)
Utah	Y	Utah Code Ann. 63-2-304(ii)
Vermont		
Virginia (FOIA)	Y	Va. Code Ann. § 2.2-3705.6(2). ; Va. Code Ann. § 2.2-3705.6(3).Va. Code Ann. § 2.2-3705.6(13).
Washington	Y	RCW Ch. 42.56; RCW Ch. 42.56; RCW 42.17.31
West Virginia		
Wisconsin		
Wyoming		



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## ABOUT THE AUTHOR

**Jeremy L. Hall**, Ph.D., is Associate Professor of Public Affairs at the University of Texas at Dallas. Hall's research expertise is in public policy and public management, including specialties in public policy formulation & implementation, performance measurement, public sector capacity, and fiscal federalism, emphasizing state and local economic development. His research appears in *Public Administration Review*, *American Review of Public Administration*, *Economic Development Quarterly*, *Publius: The Journal of Federalism*, *Policy Studies Journal*, and the *Journal of Public Affairs Education*. Dr. Hall currently serves on the editorial board of *Public Administration Review*. He is Chairperson of ASPA's Center for Accountability and Performance and he is a member of the executive committee for the American Political Science Association's Section on Federalism and Intergovernmental Relations. Hall is a member of the Southeastern Conference of Public Administration board of directors where he has chaired the policy and procedures and finance committees.

*Contact information:* Jeremy L. Hall, PhD; Associate Professor of Public Affairs; University of Texas at Dallas; 800 W. Campbell Rd., WT 17; Richardson, TX 75080; [jeremy.hall@utdallas.edu](mailto:jeremy.hall@utdallas.edu); phone: 972-883-5347



# Changing Modes of Official Accountability in the UK

Karen Johnston Miller, Glasgow Caledonian University

Duncan McTavish, Glasgow Caledonian University

Robert Pyper, Glasgow Caledonian University

## ABSTRACT

Accountability norms for governmental officials (central government civil servants to local government officers) in the UK were traditionally stable and predictable, and based upon the primacy of political accountability. At central government level the mode of accountability was through the doctrine of individual ministerial responsibility within a majoritarian setting, and in local authorities, the accountability of officers was to committees of elected councillors normally dominated by one party. From the 1980s onwards, however, a series of new dynamics created more complex accountability relationships. These developments stemmed in part from the emergence of the New Public Management and ‘modernisation’ agendas, restructuring of central government through the process of agencification, the rise of consumerist modes of accountability, and the establishment of statute-based freedom of information. Beyond this, the creation of a devolved polity based upon non-plurality electoral systems produced governing executives in Scotland and Wales on cross-party partnership or coalition models, and these introduced new accountability challenges for civil servants in Edinburgh and Cardiff. Somewhat ironically, despite the traditionally stable UK Whitehall system’s conceptualisation of accountability being under-pinned by a plurality based electoral system (first-past-the-post), the UK now has a proliferation of electoral systems ranging from mixed member proportional systems, using party lists in Wales and Scotland to the single transferable vote based proportional system in Northern Ireland, the latter also including the principle of power sharing under the D’Hondt formula. Furthermore, at local government level in Scotland there is a single transferable vote (STV) based proportional system with multi member electoral units (wards). This paper will summarise the impact of these developments on the understanding and functioning of official accountability in the UK polity. The paper will draw upon empirical research to illustrate the impact of the new accountability dynamics, and place these in the context of the evolving nature of official accountability in the UK. Moreover, the paper intends to argue that the political and administrative reforms and developments have resulted in changing modes of accountability across various levels of government within the UK resulting in complexities and challenges for public officials.

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## INTRODUCTION

Modern democracies are founded on a combination of two basic principles: those who rule do so in the public interest or in response to the public will; and that they will do so when they are representative of, and/or accountable to those they rule (Philp, 2009). Thus embedded in the principles of democracy is the concept of accountability. Accountability in conceptualization and implementation has become increasingly complex in the modern state. Flinders (2001: 16) for example views accountability in the British state as a ‘complex, fragmented and evolving concept’. Numerous conceptual approaches have been forwarded as attempts to capture the meaning and scope of accountability. Mulgan (2000) argues that accountability is an ever-expanding concept requiring constant clarification and increasingly complex categorization. Lawton and Rose (1991: 23) for example categorize accountability in terms of political, managerial, legal, consumer and professional typologies, and Elcock (1991: 162) discusses accountability in terms of the ‘upwards, outwards and downwards’ directional model. Similarly, McGarvey (2001) argues for a multi-faceted approach to understanding the concept of accountability in terms of traditional, professional, managerialist, democratic, governance, regulatory and rational choice perspectives. It is not the intention of this paper to revisit various categorizations and theoretical models of accountability, rather to add to the debate on accountability by providing an explanation of accountability as applied to the modern UK state.

A prerequisite for this is a contextualization of our main arguments. The literature on accountability in public administration defines it in terms of: an inward sense of values by public servants to serve the public according to professional standards – a public service ethos; and to external mode of operation in the direction of the political realm (see Mulgan, 2000). Thus, accountability is ‘to account’ to some authority for one’s actions (Jones, 1992:73). Accountability is therefore external since it requires account to be given to some person or body; it involves an exchange in that there is quest for information, answers and/or rectification; it implies rights of authority in that those who are calling for account are asserting superior authority over those who are being held to account, including the right to impose sanctions (Mulgan, 2000:555). The dimensions of accountability include: a sense of individual responsibility or concern for the public interest (inward and professional accountability); involves checks and balances to control actions of state actors (regulatory accountability); is related to the pursuit citizens’ needs or wishes (responsiveness and consumerist accountability); and a dialogue with citizens on which democracies depend (political and democratic accountability) (see Mulgan, 2000).

The traditional perspective of accountability is underpinned in a Weberian conception of bureaucracy with hierarchical structures and clear chains of command from official to official, official to minister, minister to Parliament and from Parliament to the people (McGarvey, 2001). This traditional perspective still resonates with the Westminster model and as discussed in Section 2 of this paper underpins the notion of ministerial responsibility. However, changing modes of governance and New Public Management (NPM) have seen a challenge to traditional perspective. Increasingly, there are managerialist, governance and regulatory perspectives of accountability. Thus, the very concept of accountability has become a contested one, particularly in relation to official accountability (see Massey and Pyper, 2005: Chapter 8) suggesting that there is a need for an alternative per-

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spective, based on the concept of accountability ‘layers’, starting with the relatively basic answerability, or in Marshall’s (1986) terms, ‘explanatory accountability’, and building in strength through amendatory accountability (changing systems, processes or policies which have caused problems), redress of grievances in instances of proven error causing difficulties for clients or service users, to the most developed form of accountability which would allow for the exposure of office holders to sanctions in cases of serious error.

The authors prefer to use the term official, as opposed to professional and managerial, accountability to refer to the accounting of those employed within the civil and public service – state actors. Firstly, not all of those employed as public office holders are managers and the term managerial accountability is often in observation to NPM redefinition of public officials’ roles (see McGarvey, 2001). Secondly, although the authors acknowledge that there is a professional public service ethos (inward accountability) within the public service and that there are many professions (some adhering to the ethics of their professional bodies e.g. social workers) within the civil and public service, professional accountability includes those outside of the civil and public service – non state actors, increasingly working alongside state actors in the delivery of services (see Section 4). The paper is concerned with official accountability; the accountability of state actors in the employ of the civil and/or public service. The political context of official accountability cannot be ignored and the paper incorporates the principle of official accountability as an external exchange with officials accountable in terms of various ‘layers’ and upwards to politicians at central, devolved and local government; outwards to various state and non state actors; and downwards to the citizenry. We will argue that there is an increased complex array of modes of accountability and delivery of public services with questions remaining about the extent to which in the modern democratic state of the UK there is a line of accountability running from the electorate to the public official.

## **ACCOUNTABILITY AT CENTRAL GOVERNMENT LEVEL**

The complexities associated with the advent of an asymmetrical form of devolution across the UK polity (see Section 3) should not be understated. However, at the centre, the system of government remains relatively straightforward, and is based around the traditional British mix of formal published rules and principles, and a myriad of uncodified constitutional conventions and doctrines. The latter have particular implications for the practices and processes associated with official accountability, as we shall see.

At the heart of the system lies the nexus of Parliament, Prime Minister, Cabinet and civil service. The link between the elected body and the executive is sealed by the (normally) majoritarian outcomes of the plurality electoral process. In simple terms, the leader of the political party securing a majority in the House of Commons following a general election is invited to become Prime Minister and form a government by the monarch, and the resultant Cabinet (membership of which is conventionally drawn from the ranks of the majority party across the two Houses of Parliament, but predominantly from the Commons) seeks to secure the passage of its programme in Parliament, while being collectively accountable to the elected body.

The doctrine of ministerial responsibility is the starting point for an understanding of official accountability

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in UK central government. This doctrine has two strands, the first of which, collective responsibility, is meant to function as a device to bind ministers into supporting all aspects of government policy, and to secure the confidentiality of ministerial discussions. In practice, collective responsibility has historically been enforced with less than complete success, but it remains the keystone of ministerial conduct. It is the second strand of the doctrine, individual ministerial responsibility, which leads us to the civil service.

The British civil service ('British' rather than 'UK' because the civil service in Northern Ireland is technically distinct) consists of the officials who work for central government departments and agencies, including those based within the devolved administrations in Scotland and Wales. Significant elements of the broader public sector, including local government officers, and health service managers, are not part of the civil service. Also formally excluded are those who work in the diplomatic service and in the armed forces (with the exception of the officials based in the Ministry of Defence). The civil service which emerged from the Northcote Trevelyan Report, from the 1850s onwards, was based upon the principle of recruitment and promotion on merit. Consequently, the model was that of a 'permanent' or 'career' civil service, free from political patronage. Although lateral modes of recruitment, allowing for the appointment of talented 'outsiders' to senior posts, are now commonly deployed, the great majority of civil servants are still 'career' officials. Where lateral recruitment is used, this is done without direct ministerial involvement, thus preserving the political neutrality of the service. Even the most senior officials remain in place on a change of government, and they are expected to work impartially with ministers of any political persuasion.

The doctrine of individual ministerial responsibility establishes a simple, hierarchical mode of accountability for civil servants. In all parts of the system, officials are deemed to be accountable upwards through their line managers, ultimately to the most senior civil servant in each department (the Permanent Secretary), and also to ministers, who, in turn, are held accountable externally (through the medium of Parliament) for the work of departments of state. The 'unwritten' doctrine feeds into the formal documentation governing the activities of officials, the *Civil Service Code* and the *Civil Service Management Code*. The Codes establish rules strictly limiting the political activities of all officials, set out standards of objectivity and impartiality, and provide civil servants with guidance on how to avoid political partiality. The primacy of ministerial responsibility runs through the Codes.

The simplified, hierarchical mode of accountability suggested by the doctrine of individual ministerial responsibility is an important statement of the normative constitutional position of officials in UK central government. However, the practical working realities of civil service accountability are more complicated, and the dynamics of the accountability relationships involving officials at the centre of UK government have become increasingly complex over recent years.

Over the period of the past twenty years, the NPM and modernisation agendas in the UK have had a significant impact upon certain aspects of official accountability, albeit as a by-product of the drive for 'efficiency' and 'service quality', rather than as an end in its own right. The net impact was the emergence of particular foci on specific aspects of accountability, particularly the internal managerial and the external 'consumerist' el-

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ements. The negative and positive features of these changing modes of official accountability at the centre have been analysed by Massey and Pyper (2005: 158-70).

It can be argued that the NPM and modernisation agendas served to problematise civil service accountability in some respects. Particular emphasis was given to the drives for ‘efficiency’ and ‘value for money’, which tended to override considerations related to accountability *per se*. Certain strains of official accountability came to be favoured, as part of a differentiated, disaggregated approach which stemmed in part from the managerialist predisposition towards pursuing a ‘policy’ and ‘management’ dichotomy. The result was the emergence of accountability gaps, perhaps most clearly illustrated in the case of the Next Steps initiative, under which in the period after 1988 the traditional central government departments of state were carved into core, ‘parent’ departments with a policy focus, and a myriad of executive agencies, focused on service delivery. The agencification process was not without benefits in terms of civil service accountability (see below), but it blurred the distinction between ministerial and civil service accountability to a significant degree, and raised questions about the extent to which the new regimes were doing much more than expanding the ‘softer’ forms of accountability (i.e. answerability). Serious problems arose in the case of some agencies, most notably the Child Support Agency and the Prison Service Agency for England and Wales. From the late 1990s, the Labour Government was obliged to re-establish clearer lines of ministerial accountability in these agencies. Beyond this, the modernisation of civil service accountability also involved a drive towards improved relationships with service users, customer and clients (see for example Hood and Lodge, 2006). Again, while the emphasis on consumerist accountability, via such mechanisms as ‘charters’, and the publication of clear service standards and targets was positive in many respects, the real emphasis seemed to be on enhancing the weaker forms of accountability (answerability and perhaps some mild forms of redress).

On the other side of the balance sheet, the more positive elements of the accountability impact of the NPM and modernisation agendas should be noted.

A new regime of parliamentary accountability (the origins of which certainly pre-dated NPM but formed part of an early drive to modernise Parliament as an institution) spawned an expanded set of scrutiny mechanisms, which served to develop a *de facto* (not *de jure* in strict constitutional terms, however) line of civil service accountability to Parliament, and enhance the internal accountability of officials within their departments as a by-product of the investigatory processes triggered by the inquiries of the expanding select committee systems and the Parliamentary Ombudsman.

Beyond this, while we noted above that the process of agencification created some accountability problems, the emergence of the executive agencies from the traditional departmental structures resulted in an (albeit unplanned) enhancement of official accountability in some respects at least. Civil servants working in the agencies were explicitly subject to scrutiny by parliamentary select committees and the Ombudsman, and, furthermore, agency Chief Executives came to be required to provide detailed written answers to Parliamentary Questions about matters relating to agency management and operations. Internal lines of official accountability, particularly for budgets, were also strengthened as a consequence of waves of change sweeping through White-

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hall, encapsulated by the Financial Management Initiative, IT based management information systems, devolved budgeting and resource accounting.

External accountability was the focus of the consumerist modes developed around the charters and associated initiatives designed to oblige officials to answer more directly to customers, clients and service users for organisational performance and the use of resources. While allowing for the relatively diluted forms of accountability in this sphere, it is important to note the significance of the explicit cultural change involved in moving the civil service into a more ‘customer-facing’ mode of operation.

Enhanced external accountability, again largely of the answerability or explanatory type, also resulted from the advent of statute-based freedom of information (Freedom of Information Act, 2000, and Scottish version 2002), under which government departments were obliged to produce publication schemes indicating which types of information they would place in the public domain, providing guidelines on access, and then subsequently being exposed to requests from members of the public seeking access to documents not necessarily in these categories. Civil servants were now aware that all documents they produced could be subject to FoI requests, with appeals against refusals to disclose subject to adjudication by the Information Commissioners, even if the legislation gave ministers the final say on decisions to release information (for the background on FoI, some illustrative examples and comments on the impact of the legislation on the civil service, see Burnham and Pyper, 2008: 186-91).

Finally, viewing the advent of the devolved polities in the UK as part of the drive to modernise the system of government, we can see that the introduction of the Scottish Parliament and the National Assembly for Wales brought about significant changes to the accountability dynamics of the civil service in Edinburgh and Cardiff. The previously remote and limited parliamentary scrutiny systems and processes based at Westminster were superseded by new, locally-based devices and mechanisms which served to increase the volume of accountability, at least in its ‘answerability’ or ‘explanatory’ form, for civil servants working in the new administrations (for more on this, see Kirkpatrick and Pyper, 2001; 2003; Pyper, 1999; and Rhodes, Carmichael, McMillan and Massey, 2003). Section 3 now examines in more detail the implications of devolution for official accountability.

## **DEVOLUTION: BRINGING ACCOUNTABILITY TO THE NATIONS OF THE UK**

In accountability terms the UK Parliament remains sovereign and could if it wished reverse or suspend the legislation which brought the devolved institutions and governments into existence (testament to how far removed the UK is from a federal system); in fact there have been periods when this has occurred in Northern Ireland with direct rule from Westminster for a lengthy period from 1972 due to communal conflict, and also for times since the ‘peace process’ and Belfast Agreement in the 1990s. Nonetheless, it is worth noting that the post 1922 settlement, problematic although it was in many respects, saw Northern Ireland as the home of the first devolved institutions in the UK..

What is now in place, in Northern Ireland, Scotland and increasingly in Wales, is the separation of power

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and accountability for devolved functions and services on the one hand and those reserved to the UK Parliament on the other. In inter-governmental terms this makes the UK arrangements different from other decentralised systems which often rely on framework legislation where state level legislatures set base line standards; or concurrent legislative arrangements where both devolved and central government bodies can make laws but the centre may take precedence to set uniform standards. The literature suggests that power and accountability between devolved and central state legislatures is likely to have a dynamic along a spectrum: the centre's role is to maintain the territorial integrity of the state, so consequently the strategic drive in responding to increasing demands of devolved polities, ranges from legal prohibition to granting of autonomy (Esman, 1977; Rudolph and Thompson, 1985; Mitchell, 2006).

The devolution trajectories in Scotland and Wales are contrasting. The Welsh settlement could be considered 'devolution lite' compared to Scotland. The National Assembly for Wales (NAW) does not have the power to pass primary legislation; devolution was based on the NAW issuing secondary legislation where empowered to do so by individual (Westminster) laws; NAW as a corporate body was not distinct from the Welsh Assembly Government. The single body therefore confused accountability to the public, responsibility of officials and obfuscated the relationship between the Assembly as a whole and Ministers (Wales Office, 2005).

The Scottish Parliament by contrast has primary legislative powers in a range of areas (Sewel, 2005). The prevailing assumption is that powers are devolved, with the exception of those set out in the legislation as specifically reserved to the Westminster Parliament.

Although an analysis of electoral systems is beyond the scope of this paper, it is important to note that there is a linkage between electoral systems chosen for the devolved institutions and notions of accountability downwards to the citizenry. The Welsh Assembly and Scottish Parliament have mixed systems giving a degree of proportionality to representation (combining a single member constituency based plurality element and additional members from regions using party lists to give an element of proportional representation). This design was based on a belief that a strict first-past-the-post system in a relatively small assembly or parliament would have disproportionate results compromising the institutions' democratic accountability to its respective electorate as a whole. The means of ensuring accountability to the electorate in the Northern Irish Assembly is different and is based on a consociationalist model involving a 'grand coalition' representing Northern Ireland's religious – communal groups, a mutual veto between the groups, autonomy for these groups from each other (Horowitz, 2001; Lijphart, 2002). Cited as a model to resolve conflict in communally divided or fractured societies, the electoral system (STV) reinforces group representation rights in that STV requires candidates to secure only a minority of votes to reach the quota required for election – obtained simply by mobilising their core constituency (Wilson and Wilford, 2003). Whether this model of accountability will bring stability over the longer term is increasingly doubted (see Section 4 for the application of STV in the local government context).

## **Devolved Institutions Across the UK**

The current position in terms of definitions of democratic accountability (downwards to citizens) within the

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different polities of the UK therefore displays a very varied geometry. Scotland's devolved government since May 2007 – a minority government – is Scottish National Party (SNP) run. A party whose main aim is independence for Scotland from the UK clearly has a different view of Scotland's position in electoral accountability terms than a UK government premised on the territorial integrity and unity of the UK. Three months after its election the SNP Government launched a 'National Conversation' to discuss the constitutional future of Scotland with the aim of gathering support for independence in a referendum planned for 2010 (Scottish Executive, 2007). Later that year in December 2007, the opposition parties in the Scottish Parliament supported the idea of an official commission to review the Parliament's powers; this received support from the UK Prime Minister and the Calman Commission was announced in February 2008 'to review the Scottish Parliament's powers...and to consider all options except independence' (Bradbury, 2008: 169).

In Wales the implementation of the 2006 Government of Wales Act formalised the split between the executive and Welsh Assembly: the Assembly is now a legally distinct body from the Assembly Government; the Assembly's committees are now composed to scrutinise the work of the executive (Bradbury, 2008). The Act also enables the Assembly to propose Legislative Competence Orders (LCOs) to make a case for specific powers (in certain specified fields) to be passed from Westminster to the Assembly subject to scrutiny both in the Assembly and by Westminster; and if LCOs are passed the Assembly can then introduce appropriate legislation for Wales. While this represents a strengthening of the Welsh Assembly it falls far short of the cross party Richard Commission: calling for a move towards the Scottish model, recommended powers to legislate in certain areas whilst others would remain reserved in Westminster (Richard Commission, 2005). Instead, the Government of Wales Act 2006, while conferring legislative powers akin to other devolved legislatures, bases this on the use of Parliamentary Orders in Council with Assembly Order in Council requirements subject to veto of the Secretary of State for Wales, House of Commons or House of Lords (Government of Wales Act, 2006). Downward accountability is somewhat diluted or fragmented. Whether this will provide a platform for a dynamic towards the Welsh Assembly having greater responsibility and accountability for legislation and policy more akin to Scotland remains to be seen. Of fundamental importance in negotiating the deal between Labour and Plaid Cymru to form an administration in 2007 was a commitment that both parties would support a 'yes' vote on a referendum, but that such a referendum would only be held after consultation with public opinion (Labour and Plaid Cymru National Assembly Groups, 2007, cited in Bradbury, 2008: 172).

In Northern Ireland, given that the power sharing assembly has been under suspension, the fact that it has legislative powers has almost gone un-noticed: the executive has ten departments with legislative functions vested in these departments through the 108 member Northern Ireland Assembly. Perhaps more fundamentally the consociational model of governance has resulted in accountability being defined in group / political elite representation terms rather than in debates about the specifics of wider geographical-territorial aspects of electoral, legislative and policy issues; this is reinforced by communal registration (where all members of the legislative assembly – MLAs – register as 'unionist' 'nationalist' or 'other') and executive formation (the securing of ministerial positions on the proportionality rule) leading to ministerial fiefdoms '...[the result being that]

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collective responsibility is for the most part absent and the executive fails to supply the cement between otherwise mistrustful political factions...’ (Wilson and Wilford, 2003:8). Areas where the Assembly does have legislative competence (e.g. in education) have proved fractious with little results to show; and there have also been examples of clientalism (Bradbury, 2008; Wilford and Wilson, 2009). Thus, downward accountability here is very much influenced by the consociational model designed to respond to an environment of group or communal strife.

### **Devolved Institutions’ Capacity to Respond to Citizens’ Needs**

The NAW, despite its limitation in legislative competence, has pioneered new initiatives in early years child-care policies and has reduced and subsequently abolished NHS prescription charges; there has been no use of the Private Finance Initiative in the NHS (though endorsed and used in other ways); new approaches to Welsh transport strategy. However, it is widely recognised that largely for historical reasons (a very weak administrative infrastructure inherited from the pre devolution Welsh Office) there is an under powered policy capacity in Wales (Devolution in Wales, 2006) which has led to the call for the creation of a unified Welsh public service (see Sir John Shortridge, Public, 3 April 2008).

The stronger Scottish devolution settlement with a preceding historical accretion of administrative capacity from the Scottish Office and elsewhere has increased the scope for policy divergence from the UK in response to closer territorial accountability in Scotland. There have been areas of policy development in response to differently articulated needs; and indeed in some areas there is a separate policy system with distinctive policy communities and actors (e.g. in health – see Greer and Trench, 2008). However, the extent to which a polity’s capacity to legislate and implement policy represents full or complete accountability and responsibility for this policy is more complex in fact as contrasting cases can illustrate.

Firstly, in a devolved area there can be implementation gaps due to the often entangled nature of funding flows between the UK Treasury and the Scottish Government as in the case of free care for older people in Scotland (McGarvey and Cairney, 2008). Secondly in some reserved areas where there is considerable discretion and responsibility for implementation at devolved level (e.g. in equality legislation) the research and literature suggest that insufficient consideration, planning and scrutiny is given to ensure the devolved polities’ needs are fully realised (Trench, 2004; Cairney, 2006; Fyfe, Johnston Miller and McTavish, 2009).

Other factors may disrupt a more direct relationship between policy and territorial accountability. In policy areas where the devolved polity has clearly recognised authority, it can abrogate its authority and give consent to Westminster to legislate in this devolved area (the Sewell Convention). Sewell motions can be used for a variety of reasons including administrative convenience which have little or any bearing on accountability of the Scottish Government, but there are areas of contention: for example unpopular policies may be deflected – like Westminster enacting a Scottish section to the Civil Partnership Act (2004) thereby enabling the Scottish polity at the time to abscond on a controversial issue (McLean, 2007). The frequent use of Sewell motions has been of concern to some in the Scottish Parliament (see e.g. Winetrobe 2001; 2005). But perhaps the most important

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gap in the link between a polity and its accountability to its electorate is at the heart of the design of the devolution arrangements in the UK. Only the Scottish Parliament has the power to raise taxation (and this very minimally with the power to vary by 3 pence in the pound, a power never used); the basis of funding is subvention from the UK Parliament via the Barnett formula. Scotland as the largest of the devolved governments receives almost £30bn annually by this method. The Scottish Government and Parliament has no substantial fiscal powers, with the consequence that the Scottish Government (and the other devolved administrations) have no responsibility and accountability to the electorate for raising the taxation it requires to fund a wide range of services and related expenditures; funding is under consideration at present by the Calman Commission in Scotland and in Wales the Independent Commission on Funding and Finance (<http://Wales.gov.uk/icffw>).

### **Dimensions of Accountability: Issues within and Between the UK polities**

Constitutional and accountability issues within and between the devolved polities are clearly of importance. With regard to the civil service (where Scotland and Wales are part of a unified British service), Parry (2002) has written about the instinctive collegiality (extending this to the Northern Ireland civil service) which often informally supports co-ordination and smooth working between different polities in the UK. There is also substantial evidence that traditional accountability (as described in Section 1) and political management arrangements continue and are endorsed by the devolved polities. In Scotland the Calman Commission (established by the UK Government and not endorsed by the SNP Government) is serviced by the civil service in Scotland without any apparent process difficulties, the SNP Government 'instructing its officials to provide assistance to the Commission on factual matters only' (Jeffery, 2009: 9); all the evidence, much of it as yet anecdotal, suggests little change in the traditional relationship between civil service in Scotland and the Scottish Government, despite the latter's aim of breaking up territorial integrity of the UK with the knock on implications for the civil service in Scotland – in fact Sir John Elvidge, the most senior civil servant in Scotland has been reported as 'being extremely relaxed about a separate Scottish civil service' (Herald, 24 August 2008).

Yet the dynamic for differential development and layering of official accountability within with the UK is significant, reinforcing (e.g. in Scotland) the civil service connection to Scottish rather than UK governmental concerns: contact between Scottish civil servants and Whitehall generally has been rather low and is reducing (Parry, 2003; Keating and Cairney, 2006). Also, as Parry points out in all the devolved institutions, the intensity of contact with UK officials reduces the lower the official's grade; and even at the highest level it is becoming less systematic. At a more fundamental level, the cohesion of a unified service, serving the entire UK in a relatively homogenous way could be stressed. While the UK civil servants' prime role is to serve ministers and governments in their respective polities, they are expected to take part in government modernisation initiatives and are accountable for this.

The accountability and scrutiny arrangements between legislatures / assemblies and their executives is fundamental in traditional definitions of official accountability. In theory at least the subject committees of the Scottish Parliament are very powerful, able to alter the relationship between legislature and executive. They

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combine the standing (which scrutinises legislation proposed by the government) and select (which performs a broader monitoring role of a government department) committee functions of Westminster and also possess the right to initiate legislation; they have a supervisory role in the preparation of government bills (Arter, 2002); research has indicated that while these committees have given a new dimension to parliamentary politics in Scotland, the force of party discipline has limited their action (Arter et al, 2004) – this may alter with a minority government where there is not a governing coalition which can command majority support.

There are important issues of lateral accountability in electoral terms within the UK polity. Given the power of the Scottish Parliament over legislation in many key areas and the continued representation (though reduced from the pre devolution period under the terms of the Scotland Act) of Scottish MPs at Westminster, the ‘West Lothian question’ arises in terms of defining politicians’ mandated electoral accountability: currently, matters like health and education are devolved to Scotland therefore policy and legislation is for MSPs to make in the devolved Parliament; Westminster MPs cannot vote on such matters. However, Scottish MPs at Westminster as UK MPs representing Scottish seats can vote on all matters, even these which are specifically English. Although there are arguments on both sides, it is likely that a Conservative Government would move to introduce proposals to reduce the ability of Scottish based MPs in the UK Parliament to vote on English laws (Guardian, 17 January 2007; Daily Telegraph, 29 October 2007; 9 June 2008).

## **UK LOCAL GOVERNANCE AND ACCOUNTABILITY**

In the changing and complex map of accountability, local government is important since it falls within the locus of the devolved bodies and in terms of democratic accountability is the tier of government closest to the citizenry. In the UK, the normative traditional accountability arrangements are such that the Council is the legal entity of the local authority and ultimately responsible and accountable for policy and actions of the authority (see Wilson and Game, 2006). Officers of the local authority are responsible for implementation of policy as decided upon by the Council. The Chief Executive (CE) is ‘head of paid service’ and the most senior officer (ibid). The other important role of the CE, in terms of official accountability, is advisory in the development of policy, which is ultimately decided upon by elected members of the Council. However, numerous reforms and more watershed changes to local government from 2000 have created a ‘complex, fragmented and evolving concept’ of accountability with a complex array of official accountability arrangements.

Local government in the UK, like other tiers of government, has faced a number of reforms. These reforms challenged the dominant 1960s and 1970s model of self-sufficiency and the relative power of local government (Leach and Wilson, 2004). From the late 1970s to early 2000 there was a significant challenge to local government power and authority manifested in the reduced role of service provision by local authorities (ibid). Much of this reduced role was a function of NPM influenced structural reforms, such as contracting out of services, central government performance regimes, etc. (for a comprehensive review of local government reform in the UK, see for example Wilson and Game, 2006; Elcock, 2006; Beecham, 1996).

From the 1970s UK local government was based on a traditional committee system with the policy and re-

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sources committee of the council providing overall policy co-ordination (Wilson and Game, 2006; Stewart, 2000). The structures followed relatively strong corporate policy focus and executive systems. Committees, consisting of elected members, followed council departmental structures and had direct lines of accountability (Liddle, 2007:451; Wilson and Game, 2006). In the traditional committee structure, councillors as elected members would represent the interests of their constituents at ward level and would be directly involved in the overall Council decision making body (ibid). Councillors could therefore call upon officers to account for operational decisions and service provision (ibid). Thus, there was a direct relationship between political and democratic accountability (Councillor-Constituent) and official accountability (Councillor – Officer).

By the later 1990s the New Labour government sought as part its modernisation agenda to reform local government. The Local Government Act of 2000 introduced ‘executive local government’ which required all major local authorities in England and Wales to choose one of three specified forms of governance structure: mayor and cabinet executive; leader and cabinet executive; mayor and council manager. An alternative for an executive could be possible but only after approval by the Secretary of State and argued as more suitable to council’s needs than the three prescribed models. By 2007 twelve local authorities opted for the elected mayor option; one had chosen the mayor and council manager option; and the majority of local authorities opted for the cabinet system with scrutiny committees (Liddle, 2007).

According to Wilson and Game (2006:93) the Act was an overthrow of two centuries of committee-based decision making and accountability as the introduction of mayoral and cabinet executives constituted a ‘revolution’ in political management and accountability arrangements. Council leaders and other senior councillors are now much more engaged in the management of authorities than in political party management or in engagement with external partners (Rao, 2005: 28). This effectively changed the nature of accountability between officers and councillors. In other words the relationship of senior officers being accountable to the full elected body of a Council was altered: the senior officers are now accountable to a mayor and/or executive body (depending on the chosen governance structure). Stewart (2003: 88-89) argues that ‘if structures are adopted drawing on parliamentary models, it is no surprise if officers come to regard themselves as no more responsible to the whole council as civil servants are to parliament’. According to Liddle (2007:413) in terms of accountability at local level, the notion that elected local government has a legitimate and automatic role in making authoritative decisions on behalf of local communities and constituencies has severely been challenged with the introduction of the Local Government Act (2000).

Local government accountability in England and Wales is complex and fragmented in a number of ways. Firstly, under the traditional committee system of governance councillors acted as elected members representing the interests of their constituent community and officers were recruited to offer policy and technical advice as well as implement policies of the full Council (Wilson and Game, 2006; Elcock, 2006; Liddle, 2007). The majority of local authorities in England and Wales have opted for the Cabinet style governance structure where most policy decisions are made and there is direct overall control of the operational matters of the local authority (Liddle, 2007; Leach and Wilson, 2004). The Cabinet arrangement requires scrutiny by backbench council-

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lors in order to advance local accountability and democracy, but this has not been as effective as first envisaged (Leach and Copus, 2004; Liddle, 2007; Gains, Greasley and Stoker, 2004). For various reasons such as resource constraints, lack of capacity, adversarial politics and/or poor skills the scrutiny role of councillors has been negligible (ibid). The balance of political and democratic accountability has therefore altered within local government with an erosion of councillors' role in policy making and ultimately the articulation of constituency interests. According to Gains, Greasley and Stoker (2004: 89) the legislation aimed to provide backbench councillors with a role in representing the interests of communities and challenge the performance of the authority, but research had shown that the aim had not been achieved.

Secondly, the traditional committee system aligned service departments with officers accountable to the committee, but the 2000 legislation altered this direct relationship between officers and councillors (Liddle, 2007). Within the Cabinet system local authority departments are organised along cross-cutting themes (e.g. Sustainability and Regeneration) thereby crossing departmental boundaries in an effort towards 'joined-up' governance (Liddle, 2007; Leach and Wilson, 2004). The lines of accountability are therefore much more amorphous and difficult to discern (Liddle, 2007: 415). Most officers are now deployed to service the work of Cabinet members which leaves few resources available for backbench councillors to scrutinise the work of the Cabinet and the local authority (Liddle, 2007:415). Within the mayoral system, CEs have to redefine the boundaries of their respective roles, in particular clarifying the distinction between the role of the political leader and that of the professional administrator (Fenwick, Elcock and McMillan, 2006: 436). The CE is relatively more directly accountable to the mayor, if the mayor is directly elected, rather than the full Council per se, as the mayor is politically accountable on the basis of individualism (Fenwick, Elcock and McMillan, 2006) and it is similar in the case of the mayor and council manager arrangement (Leach and Wilson, 2004).

The third complexity of local government accountability in England and Wales is the introduction of Best Value Reviews and Comprehensive Performance Assessments (CPA). These performance management regimes are intended to improve service delivery, value for money and enhance responsiveness to the 'customer'. In particular, CPAs requires external networking arrangements and partnership working with other public and community agencies (Liddle, 2007; Leach and Lowndes, 2007; Fenwick, Elcock and McMillan, 2006). Thus, local officers are expected to work in collaboration with partner organisations in the delivery of services and draw upon support in policy development. England and Wales have seen a multitude of partnership arrangements such as Area Committees, Local Strategic Partnerships, New Deals for Communities, Health Action Zones, etc, which in terms of accountability has resulted in a challenge as to who is responsible and accountable for decisions, actions and funds within these partnership arrangements (Liddle, 2007: 418-419). Partnership arrangements could not only be contributing to the fragmentation of accountability but its diffusion as well. Thus, although there is an increased level of consumerist and external accountability, according to Liddle (2007:423) 'traditional lines of accountability are ever more complicated, and are now as blurred as the boundaries within which state actors are exhorted to work alongside non state actors.'

A related and fourth feature of the complex nature of local government accountability is the auditing of

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performance by central government agencies. Best Value Reviews and CPAs have resulted in accountability upwards towards central government with the ‘panoply of other regulatory and inspection mechanisms to maintain standards, transparency and good governance’ (Liddle, 2007:418). Since local government in England and Wales do not have much local income tax generating powers English local authorities are reliant on central government (and Welsh on the devolved authority), and consequently are held accountable for financial and service delivery performance. The result is regulatory accountability towards the central polity according to nationally determined performance targets while concurrently external accountability outwards towards partnerships agencies. However, there remain real questions on the extent to which democratic accountability is taking place within local government with a lack of scrutiny. Moreover, the plethora of local government (mayor, cabinet, etc.) and governance (various partnerships) arrangements have made the system somewhat opaque to citizens (there is much evidence of voter apathy and low electoral turnout – see Liddle, 2007) which over-and-above the issue of complex and fragmented accountability, may substantiate arguments of a democratic deficit at local government level.

A further dimension is that accountability arrangements for Scotland are different to England and Wales, but similarly complex and fragmented. The Local Governance Act (2004) changed the voting and political systems within Scottish local government which consequently altered accountability arrangements. Scotland adopted a proportional voting system – STV – and restructured the electoral wards by introducing 353 multi-member wards (MMW). In the 2007 Scotland used the STV to elect 1200 councillors for the 32 local authorities on the basis of wards consisting of three to four members. Briefly, STV allows voters to rank candidates in order of preference with surplus votes redistributed once a candidate had achieved the electoral quota for the ward, or was eliminated from the count. The outcome of STV is a changed political landscape with no longer one party (under the previous electoral system of first-past-the-post the Labour Party invariably made the most electoral gains) forming the governing party and thereby from a position of majoritarianism dominated local authority policy and procedures. STV has resulted in the majority of local authorities having no overall majority (NOM). This has required 30 local authorities in Scotland to form coalitions or govern by a narrow majority – a minority administration. In terms of MMW communities are represented by councillors of various political parties and/or independents per ward. The consequential political change has seen an increase in the level of politicking and political competition within many local authorities with implications for official accountability.

Senior officers view their role as being responsible and accountable for administrative matters and the implementation of policy as decided upon by the council. CEs, as the most senior officer, normatively define their role as policy advisors and accountable for performance to all councillors – different official accountability arrangement to their counterparts in England and Wales. However, the high level of unpredictability in coalition and minority administration politics requires senior officers to work across the political spectrum as the collapse of a governing coalition or minority party could see officers being accountable to councillors of another political persuasion. The uncertain political landscape has therefore seen CEs increasingly use their political management, conflict resolution and negotiation skills to navigate the increased political environment as

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well as secure strategic direction from the council. It is therefore in CEs' personal as well as for the strategic interest of the local authority to maintain a stable policy making environment (see Lowndes and Leach, 2007).

Arguably, the increased level of scrutiny by elected members has enhanced official and democratic accountability and improved policy decision making. For example, CEs no longer take the view that their advice will be a *fait accompli* as in the previous political dispensation, but expect their policy advice to be scrutinized given the level of political competition within the council. Similarly, there is increased responsiveness and consequent levels of downward accountability at ward level. Constituents engage in game-playing whereby they engage one councillor against the other councillors representing the ward and in the context of rivalrous politicking, councillors have a heightened level of responsiveness to constituents. Arguably, this increased responsiveness and downward accountability to voters enhances political, democratic and to some extent consumerist accountability. In terms of official accountability the impact of STV and MMW has seen an increase in political accountability in response to requests from councillors and democratic accountability to constituents' demands.

A further outcome of STV and MMW is either (a) a deflection from scrutinizing policy decisions because of the preoccupation with ideological or personal politicking, or (b) an arduous and protracted process of scrutiny, negotiation and consensus building which both diffuses accountability. In other words, increased political competition among councillors may be undermining accountability and distracting from coherent decision making. Policy decisions are 'satisficed' rather than real political ownership of a decision: thereby diffusing accountability, particularly in the context of coalition arrangements.

Nonetheless, there are indications that political accountability is enhanced within wards with councillors holding each other accountable for responsiveness, answerability and service delivery needs to local communities. The test however will be in the next election (2011) with councillors vying for electoral gains – this may increase political competition and consequently political and democratic accountability. However, for many voters STV and MMW remain an opaque system. The electoral fiasco of May 2007 (occasioned by Scottish Government and local government elections being held on the same day, each with different voting systems and the latter being used for the first time) substantiated arguments that voters do not understand the system and are not even aware that they have up to four councillors representing a local council ward. This is arguably a democratic as well as accountability deficit and it may be difficult for voters to discern who among the three to four councillors in the ward merits electoral success.

In the Scottish local authority environment there is much evidence of 'outward' (to state and non state actors) and 'upward' (to central government) accountability. The Scottish Government and the 32 local authorities through the representative body of the Convention for Scottish Local Authorities (COSLA) have entered into Single Outcome Agreements (SOA). These agreements in addition to Best Value Audits as per the Local Government (Scotland) Act of 2003 are essentially performance and regulatory accountability systems to ensure the local authorities improve service delivery and meet the strategic objectives of the Scottish Government. Local authorities entered into these agreements (with approximately 80% of funding from the Scottish Government in the form of a block grant) and an agreement by local authorities not to raise local tax (an elec-

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tion pledge by the SNP). Best Value Reviews and SOAs (agreed with other public sector agencies) have increased regulatory accountability of financial and service delivery performance to the devolved government. It is recognised that much of the implementation of SOAs requires external network and partnership working with other bodies. For example, the outcome of creating a safer community requires partnership working with the police and other criminal justice agencies. This partnership working takes place in Community Planning Partnerships, an unelected body, which membership consists mostly of state and non state actors. This is similar to Community Health Partnerships, a statutory requirement since 2004, for all Scottish National Health Boards to have state (local government representation a requirement) and non state actors. In terms of external accountability the argument is similar to that of English and Welsh local government partnership working – a fragmentation of accountability.

In summary the relationship among Scottish local government elected members and senior officers has altered senior officers more involved in political management by brokering consensus among political parties and independents in order to maintain a stable decision making environment and strategic direction. As in the case of England and Wales, local government in Scotland has seen a fragmentation of accountability with a complex array of accountability arrangements to elected members at local, devolved and central government levels; to constituents and communities; and external partners consisting of state and non state actors.

## CONCLUSION

This paper provides a study of varying modes and layers of accountability within a modified unitary state. Accountability in the UK has become fragmented across various tiers of government and within the multi level arrangement there is a complex array of official, regulatory, consumerist, political and democratic accountabilities. However, what remains true is an externalisation of accountability: state actors have to account for their decisions and actions to another person or body; there is an exchange of information, answers and/or rectification; and the rights of authority are observed. Nonetheless, the question remains: does the fragmentation of accountability lead to increased levels of accountability or diffusion to the extent that the line running from the electorate to the public official is obtuse?

Perhaps herein lies the paradox of accountability within the modern UK state: in an attempt to enhance accountability through the modernisation agenda in terms of consumerist and regulatory accountability, official accountability has become fragmented in various directions. Public officials face increasing performance regimes in terms of regulatory and consumerist accountability with the direction of these external accountabilities towards the central or devolved polity. The idea being that there is then political and democratic accountability with politicians able to account for public service delivery according to the doctrine of ministerial responsibility. However, there is evidence of goal displacement when meeting regulatory and consumerist accountability – the pursuit of performance target rather than actually improving quality of public service provision. Does this advance political and democratic accountability? Furthermore, public officials are facing increased levels of external accountability outwards with service delivery and policy development encompass-

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ing network relationships but without the resource or authority to account for partnership actions. In terms of the downward accountability to the citizenry, the various electoral and political systems created political and democratic accountability arrangements within the various tiers of government requiring a reconfiguration of official accountability. For example at central government the agencification process; at devolved level ‘devolution gaps’; and at local level the changed alignment of the political-administrative have created a complex accountability milieu.

Thus whether it is within and between central, devolved and/or local governments; in partnership networks; or even within and among public agencies - who is accountable for what is becoming increasingly blurred. This paper suggests that the accountability line running from the electorate to the public official is layered, fragmented and complex resulting in a diffusion of official accountability.

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## ABOUT THE AUTHORS

**Dr. Karen Johnston Miller** (BSoc.Sc., BA Public Admin (Hons.), MPA, PhD.) is a Reader in Public Policy and Management. She has qualifications from a number of institutions in South Africa and the United States of America, and has worked in Africa, the USA and UK for public, non-governmental and academic institutions. She has

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a rich and nuanced understanding of the complexities of political and public sector environments after working at various levels of government. Dr. Johnston Miller's research focuses on public sector reform, the political-administrative interface and gender in public administration. She has published in these areas and is joint editor of the journal, *Public Policy and Administration*.

*Contact information:* Dr. Karen Johnston Miller; Glasgow Caledonian University; Cowcaddens Road, Glasgow G4 0BA; United Kingdom; k.miller@gcu.ac.uk

**Dr. Duncan McTavish** is Reader in Public Policy and Management at Glasgow Caledonian University, Scotland, UK. He has worked for (and held senior positions in) public and private organisations in the UK and internationally. He has written extensively on strategy and policy in business and public sectors, modernisation of public services, accountability and multi level governance; has managed major research and consultancy projects and has a wide range of book and journal publications; is an active member of a number of learned and scholarly societies included the UK's Public Administration Committee (PAC) and Political Studies Association (PSA) and the International Research Society on Public Management (IRSPM). He is joint editor of the journal *Public Policy and Administration*.

*Contact information:* Dr. Duncan McTavish ; Glasgow Caledonian University; Cowcaddens Road, Glasgow G4 0BA; United Kingdom; d.mctavish@gcu.ac.uk

**Professor Robert Pyper** is Professor of Government and Public Policy and Head of the Department of Social Sciences at Glasgow Caledonian University, UK. He has published widely on aspects of British government, with a particular focus on issues of civil service policy and management, official and political accountability, and the modernisation agenda in public services. He is the author or co-author of nine books, including *New Public Management and Modernisation in Britain* (with Andrew Massey) and *Britain's Modernised Civil Service* (with June Burnham). His articles have been published in a range of journals, including *Parliamentary Affairs*, *The Political Quarterly*, *Policy and Politics*, and *Public Policy and Administration*.

*Contact information:* Prof. Robert Pyper; Glasgow Caledonian University; Cowcaddens Road, Glasgow G4 0BA; United Kingdom; r.pyper@gcu.ac.uk

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# Accountability Pressures and Financial Rescue Plans: Insights from the US and UK Bailout Proposals

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Eric A. Scorsone, Michigan State University

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## ABSTRACT

The economic and financial crisis of 2008 has raised some particularly thorny transparency and accountability issues facing governments worldwide. The need for quick action to avoid financial disaster often precluded a full airing of the possible advantages and disadvantages associated with the accountability mechanisms put in place. Previous approaches such as Romzek and Dubnick (1987) have provided some conceptual frameworks that advance our understanding of the different types of mechanisms upon which accountability can be based. It is felt that these financial bailouts provide a rich set of case studies upon which new insights and the advancement of knowledge can be constructed. The United States and United Kingdom models represent important cases where large scale financial bailouts have occurred in two countries that have similar business cultures and yet there remain important differences in their approaches. These similarities and differences are the backdrop for the empirical case studies. The analysis will examine both the proposed accountability systems as well as their subsequent implementation since September 2008. The findings from these case studies will serve to raise research questions and suggest modifications and alterations to the Romzek and Dubnick (1987) as well as more recent models of government accountability.

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## INTRODUCTION

It has been argued by some authors, such as Dubnick (2008) and Bovens (2007), that accountability is the hallmark of modern governance. As has been cited by numerous authors, accountability is a chameleon, often defying any easy ability to define itself. One definition is that it is "a social relationship in which an actor feels an obligation to explain and to justify his or her conduct to some significant other" (Bovens, pg. 184, 2005). Dubnick (2008) takes a different approach calling accountability: 1) multifunctional, 2) polymorphous, 3) situated and 4) promiscuous. In essence, Dubnick is saying that accountability means different things to different people, depending on the context of the situation but is used almost everywhere in modern governance. In either case, the concept of accountability has become an important component of the debate regarding the authorization and implementation of the 2008 international bank bailout plans and laws.

Thus, a healthy debate continues regarding the nature of accountability in government and its purpose and usage. This analysis seeks to address and frame the issues surrounding the transparency and accountability provisions associated with the United States and United Kingdom bank bailouts beginning in the fall of 2008. These bailouts were in response to a major credit crisis which had its genesis in the provision of subprime and alt-A mortgage market in the United States and other countries. As these mortgages began to fail due to poor underwriting standards, these toxic assets began to create major problems for banks and other financial institutions. Balance sheet problems for financial institutions led to credit contractions in the rest of the economy leading to a major economic recession. To date, the bulk of the policy debate has been around the effectiveness of these plans.

There has been less exploration in the scholarly world to date regarding the nature, impact and potential efficacy of the accountability provisions contained in the bank bailout plans. Given the scale of these programs and their importance to the economy, it seems to be a natural question to ask whether and how the actors involved in these programs are acting and will be justifying their behavior. Thus, in this analysis, the perspective is from assessing the instrumental value of accountability in ensuring that these programs are effective. It is still too early to determine or evaluate these programs in full. Therefore, the research question will be to ask if the current accountability provisions appear to be functioning and how they line up relative to our understanding from previous research regarding the effectiveness of accountability mechanisms. Ultimately, these case studies should expand our understanding some exploratory hypotheses assessing the adoption of accountability mechanisms across countries for the same type of programs.

## AN ACCOUNTABILITY FRAMEWORK

Generally among scholars, accountability is viewed as being a very difficult to pin down concept. However, amidst this accountability bog, lie some basic underlying concepts common to most conceptual frameworks. Perhaps the most important concept is that accountability is a social relationship between an accountant and acountee. It is also generally agreed that there is some type of forum in which the acountee must provide to the accountant a justification, rationalization or excuse making for some behavior or activity that has occurred. An-

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other common concept is that, at least in many contexts, the role of the accountability relationship is instrumental in nature in guiding and encouraging the proper behavior that the accountant expects of the accountee. In this sense, the accountability mechanism is one format for dealing with the classic principal-agent problem in its many manifestations.

In one of the original pieces of accountability, Romzek and Dubnick (1987) examined the space shuttle Challenger disaster in the light of accountability concerns. They developed a typology of accountability relationships that exist including bureaucratic or hierarchical, political, legal and professional. They further argued that civil servants and public agencies are often subject to the “pressures of multiple accountability expectations” (Romzek and Dubnick, pg. x, 1987). This was one of the first pieces in the literature to specify this type of classification of accountability systems.

In a more recent piece, Romzek and Dubnick (1993) define a more specific framework to understand the nature of accountability expectations on public bodies and public officials. In defining the nature of these expectations, they use (1) number, (2) scope, (3) depth, (4) translucence, (5) diversity, (6) structure, (7) intensity, (8) temporality, (9) tractability (10) consistency and (11) interrelatedness. These eleven characteristics of expectations can serve to guide the analyst in constructing and understanding the nature of the accountability relationships in a given situation. So in combination, a classification of accountability can be viewed as taking on a number of characteristics (number or scope) while working through a variety of routes. Presumably, although this has not been explored in the literature, different situations or organizational types adopt different types and characteristics of accountability systems for whose explanatory variables are yet to be determined.

Dubnick (2008) has more recently argued that accountability is a multifunctional term that implies both a means and an end. As an end in itself, accountability serves to ensure that those who do wrong must justify their actions and behavior to a broader public. As a means, accountability relationships infer that agents will act in ways that promote the public interest rather than their own interests. He finally states that accountability is a “meta problem” based on the age old conflicts between “finding some means for reconciling the demands of autonomy and the need for authority”.

Other authors have weighed into the debate to classify and understand the concept of accountability in the public sector and its multifunctional role. Bovens (2005) tries to refine these issues of the nature and the participants in an accountability relationship. He argues that the actor (accountee) is typically a civil servant or government minister and that the accountability forum can be a person such as a superior (akin to Dubnick’s bureaucratic accountability) or a board or government elected body (akin to political or legal accountability). Finally, he argues that the other essential elements are the ability of the accountant body to pass judgment such as penalties or sanctions.

Bovens (2005) also argues that “public” accountability implies openness or an airing of answerability in the public domain. However, a counter argument could be that “public” refers to the nature of the organization and not to openness. For example, a hierarchical accountability relationship between employee and manager may not occur in public. Often, personnel deliberations by elected boards may be undertaken outside of

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the traditional sunshine or openness of public meetings. In all other aspects, this is an accountability relationship as defined by Bovens. He argues, in the same vein as Dubnick, that accountability can act as both a “virtue” and a ‘mechanism’. In the sense of virtue, accountability is an inherent characteristic of an agent in that they seek to act in manner of answerability for their behavior and actions to others. As a mechanism, it is a forum or venue by which agents are held to be liable and answerable to their principals including political, legal, social and hierarchical.

In another piece, Bovens, Schillemans and Hart (2008) further refine the notion of the accountability trap or deficit. They acknowledge that many practitioners and scholars have noted that accountability can go too far and create perverse incentives and not achieve its intended objective. They do raise the point that the intended objective may in fact be multifaceted. From one perspective, the objective of accountability mechanisms is to ensure democratic control by citizens and politicians over the bureaucracy. From another perspective, public accountability acts as a constitutional check and balance on the power of elected executives and their unelected executive branch agents. Finally, a third perspective is that accountability is useful in creating feedback from which lessons can be learned from errors, mistakes and other agency behavior. Clearly, each of these approaches to accountability would result in the adoption of very different mechanisms and very different expectations of impact and performance.

Schillemans and Bovens (2008) in another piece define a fairly narrow definition in order to empirically assess the phenomenon of accountability. They argue that an accountability relationship is between an accountant and accountee in a formal forum where the accountee is able to judge the behavior of the accountant. Using this definition, they assess accountability relationships in regards to the introduction of Dutch ministry boards. These boards have authority over decisions such as setting tariffs or hiring managers which are normally the responsibility of a government minister. These boards then serve as a one type of accountability pressure on government departments along with the more traditional hierarchical relationship with the minister. The research was conducted via a content analysis of meeting minutes, reports and other available activity reports. Despite the potential negative consequences of this multiple accountability relationship, their case study findings indicate some potential positive consequences as well. One argument is that it helps to eliminate the information asymmetry by having multiple actors seeking potentially different information or different perspectives on the same information base.

In an earlier empirically oriented piece, O’Loughlin (1990) attempts to measure accountability and characterize the relationship as strongly accountable, weakly accountable or sporadically accountable for a medium sized government agency in the United States in the case of an employment training program. He argues that there are three defining characteristics of an accountability relationship including outside actor influence on an agency, quality and quantity of information passed between an agency and outside actors and discretionary and nondiscretionary decision making spheres. He measures these factors relative to items such as timeliness of information provided to outside actors, quantity of information provided, intensity of participation in decision making and number of outside actors involved. Evidence from the case study suggests a weak accountability

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relationship between local elected officials and local workforce training officials. The agency officials were able to dictate the agenda to the board via the use of technical jargon, poor timeliness in reporting and the lack of willingness of elected officials to use their oversight authority. O'Loughlin (1990) closes by stating that he hopes his approach will lead to more empirical examination of accountability relationships building on the work of Romzek and Dubnick (1987).

Koppell (2005) also attempted to develop a different type of classification system or typology for accountability in government. Using the example of the assignment of Internet domain names, Koppell (2005) argues that the five key characteristics are: (1) transparency, (2) liability, (3) controllability, (4) responsibility and (5) responsiveness. He further argues that the Romzek classification does not make sense because it confuses different types of accountability. For example, with political accountability mechanisms, one can imagine both stakeholder groups and political organizations (legislative bodies) being classified the same even though they operate very differently. In his model, government bureaucracies and bureaucrats are held to account for their actions (transparency), must face consequences for wrong behavior and are responsible to a higher authority or outside body. In the context ultimately, while using a different typology, Koppell finds, similar to Romzek and other authors, that agencies and bureaucrats are subject to multiple accountabilities and he terms the problem multiple accountability disorder (MAD) which is at least partially responsible for poor and confused performance by the Internet domain naming agency.

As has been stated many times, accountability is very difficult term to define which makes it very difficult to carry out analytical and empirical analysis. Nevertheless, to carry forward, some attempt must be made to refine these concepts. A combination of the concepts derived from Bovens work and Romzek and Dubnick's various pieces will be used to derive a conceptual framework in order to assess the bank bailout case studies. Accountability is being used in the sense of a forum where agents are held to answer to principals such as politicians and other stakeholders and potentially subject to sanctions and penalties. This includes the use of other bodies such as special inspector generals who act as information conduits to elected bodies and citizens. For our purposes, the framework addresses the political accountability mechanism only. At this time, given the relative newness of these programs, there have been few attempts to utilize legal accountability mechanisms and no information is available regarding possible professional or bureaucratic accountability mechanisms.

A second aspect of the conceptual framework is the specification of the characteristics of the accountability mechanism at play. Romzek and Dubnick's (1993) piece provides a starting point for assessing the specific accountability mechanism. To add to these eleven elements, Boven and Schilleman (2008) add the idea of examining three phases within any accountability relation including the information gathering phase, the debate phase and the penalty or sanction phase. Adding these two basic ideas together, we will examine the characteristics as expressed by Romzek and Dubnick within the information gathering and debate phase of the bank bailout programs. There have been no real penalty or sanction phases to date. Perhaps most importantly, while we will not be able to test hypotheses with these cases studies, it will be possible to pose hypotheses about the factors that lead to the adoption of different specifications within the political accountability mechanisms for

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the same type of domain problem (financial crisis). The analysis seeks to assess effectiveness and possible rationale behind the accountability regimes in the case of the bank bailout schemes across the United States and the United Kingdom.

## **LEGAL AND POLICY BASIS FOR THE BANK BAILOUTS**

In October 2008, both the U.S. and U.K. governments moved into place massive bank bailout legislation and implementation. The Emergency Economic Stabilization Act of 2008, the US bank bailout plan, is one of the most important laws in modern American economic history. Its main purpose is to stabilize what was considered a failing financial system due to the implosion of the mortgage asset-backed security system. The genesis of these bank bailouts originates from the crisis that faced Lehman Brothers Investment firm and the AIG insurance corporation in the middle of September 2008. While there were warning signs in the latter part of 2007 and the early part of 2008 of serious problems in the financial system, it was these individual firm crises that led to the passage of this landmark legislation.

### **U.S. Bank Bailout Law**

The proposed law in the United States was originally introduced to Congress by U.S. Treasury Secretary Henry Paulson on September 21, 2008. As conceived, the plan asked Congress for access to \$700 billion to purchase troubled assets from banks who were in serve danger of failing due to the collapsing asset backed security market. As these assets fell in value, banks were forced to come up with further capital to cover losses. These losses were draining capital from the financial system leading to major restriction of credit flow against all firms including those who were high quality borrowers. This contagion threatened a shutdown of the entire U.S. financial system. The plan, only three pages in length, stated that the decisions taken by Treasury were not to be reviewable by any court or administrative agency thus providing near absolute immunity from any traditional accountability mechanisms. The rationale for the provision was that absolute immunity was necessary for the program to work and investors to have confidence in such a plan.

The plan as introduced was met by intense criticism in some quarters and support in others. Many economists felt that the asset purchases, the heart of the proposal, would not work. Some commentators, such as Paul Krugman of the New York Times, felt that the government should buy stakes directly in the banks rather than purchasing assets (Krugman, 2008). The plan was attacked by both liberal and conservative economists. Liberal economists attacked the plan because it was seen as a subsidy to rich corporations with very little assistance to homeowners and conservative economists because it threatened to involve the government too heavily in the affairs of private companies.

The U.S. Congress initially balked at the plans provisions and voted the original version down which immediately led to the biggest stock market selloff in history. After several changes to the law, it passed with several important new provisions. The major portion of the bill was the so called Troubled Assets Relief Program (TARP). The TARP was originally designed to be a program where the government would purchase “toxic”

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asset backed security assets from the financial institutions in order to restore stability and liquidity to the credit system. The Office of the Financial Stability (OFS) was established in the U.S. Department of Treasury to implement this program. The TARP was funded to the tune of \$700 billion. Of this amount, \$350 billion was immediately available the executive branch had to return to Congress to ask for the second \$350 billion.

The revised plan included new language on the goals of the program. As envisioned, the plan was to achieve four goals including: 1) protects asset values, 2) preserves home ownership, 3) maximize taxpayer return and 4) provide public accountability. It can be argued that some of these objectives can actually be in conflict with one another. For this current paper, the most important point is that congress explicitly enacted a public accountability goal in the legislation. Later in the legislation, Congress enacted several accountability mechanisms which will be discussed later.

The TARP plan, as passed by Congress, did contain accountability provisions. In fact, of its four main goals which included home ownership preservation and financial stability, public accountability was one of the four. As stated, the law explicitly provided for "provides public accountability for the exercise of such authority" (H.R. 1424, Section 2, 2008). Throughout the law, there are references to accountability particularly in regards to the oversight by the Government Accountability Office (GAO). In terms of accountability, Congress also created the Congressional Oversight Panel (COP) whose main function is to determine if the policy objectives of Congress are being carried out.

There are four separate entities that have responsibility for overseeing the implementation of the TARP. These include the Government Accountability Office (GAO), a Special Inspector General for TARP (SIG-TARP), Financial Stability Oversight Board (FSOB) and the Congressional Oversight Panel (COP). The SIG-TARP lays out its responsibilities as: 1) promoting the transparency of how TARP funds are being disbursed and used, 2) promoting coordinated oversight of the funds in conjunction with GAO and COP and 3) detecting and investigating cases of fraud and abuse in the program. The SIGTARP appears to be playing the lead role in the detection and investigation of fraud relative to the other two overseers. The FSOB also provided oversight function but consisted of the "insiders" such as the Federal Reserve Chairman and the Secretary of the Treasury.

The Government Accountability Office (GAO) was widely mentioned throughout the Emergency Economic Stabilization Act. There were directions in the law to GAO including internal controls, compliance with applicable laws, characteristics and dispositions of assets, efficiency of the operation, efficacy of the contracting procedures, efforts to prevent and control conflict of interest and information on the types of transactions the TARP entered into. All of these areas were under the purview of the GAO.

In the law, another layer of oversight or accountability mechanism was created through the U.S. Comptroller General. This accountability body which was created was known as special inspector general of the TARP also known as the SIGTARP. The SIGTARP was specifically charged with reviewing specific transactions with financial institutions and all of the information surrounding those transactions. Here the emphasis, while again consisting of some overlap with the GAO, was targeted at criminal prosecution of any wrongdoing found in the implementation of the law. Thus, GAO had an auditing and accounting type role whereas SIGTARP had more

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of a law enforcement and investigation role. It was not determined in the law how the either GAO or SIGTARP should balance the four objectives as stated in the first part of the law were to be balanced or assessed relative to one another.

A third accountability mechanism was the Financial Stability Oversight Board. The goal of this board was to ensure that the funds were being allocated in fair and efficient manner. The Financial Stability Oversight Board membership includes the Chairman of the Federal Reserve, US Treasury Secretary, Director of the Federal housing Authority, chairman of the Securities and Exchange Commission and the Secretary of the US department of Housing and Urban Development. A second panel, directly reporting to congress, was established known as the Congressional Oversight Panel.

The Congressional Oversight Panel was also established in section 125 of the law as the fourth accountability mechanism. This panel was charged with a set of specific task different from the GAO. Under the law, the panel would issue regular reports to Congress regarding the impact of TARP purchases on the overall marketplace, impact on market transparency and the effectiveness on foreclosure mitigation. While there is some overlap with the GAO mission, it appeared the GAO was charged with ensuring compliance with the law whereas COP was charged with the impact of the policy on the overall marketplace.

## **UK Treasury Bailout Plan**

On October 8, 2008, the British Prime Minister Gordon Brown announced a major bank rescue plan that became known as the bank recapitalisation scheme (BRS). A week later, on October 13th, three of the five largest UK banks were bailed out by the UK government for a total of 62.5 billion pounds. These institutions included the Royal Bank of Scotland, Lloyds and HBOS. This plan differed initially from the focus in the U.S. plan because it was specially designed to directly inject capital into troubled banks as opposed to purchasing troubled assets off the bank's balance sheets. The UK government began by pumping 30 billion pounds into the Royal Bank of Scotland. In January of 2009, the government was forced to nearly completely takeover this same bank and increase its stake to over 70 percent. Taking a somewhat more hardline approach, in agreeing to buy up the bank, the UK government announced that the bank had agreed to an extension of lending commitments to large business customers as well as additional lending capacity to the tune of 6 billion pounds over the course of 2009. Also significantly different from the US approach, the RBS senior management team was expelled and a new management was put in place.

As part of the UK plan, banks were required to sign contracts with several important provisions. One provision was that there lending levels must return to the calendar year 2007 level for businesses and households. A second provision was that the government had a right to reject bank board of director positions and senior management and that government would be given preferred shares of stock in the bank. Also under the terms of the agreement, banks had a strong incentive to hold a strong cash position to repay the government's capital injection as quickly as possible. This last provision had some parliamentarians upset stating that for example "They are making them do the wrong things –making them store up cash to repay the government – when what

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you want them to do is lending out to businesses" (Telegraph, 2009).

In the UK bank bailout situation, several policy expectations were expressed as conditions for receiving government funds. Among the most important of these conditions was the stipulation that banks return to the 2007 lending levels. Another condition was that banks had to address and create programs for home mortgage modifications and the reduction of foreclosures. Under the UK plan, the government has established an asset manager called the UK Financial Investments company. This company has under its purview the Royal Bank of Scotland (70% government owned), Lloyds (43% government owned), Bradford and Bingley and Northern Rock (both 100% government owned). The British banking system is highly concentrated with the eight firms, the so called major British banking group (MBBG) accounting for 2/3 of all British mortgage lending, half of consumer credit and 70% of credit card debt access. These firms include Barclays, Lloyd's, HSBC, Abbey, Alliance and Leicester, Bradford & Bingley, Northern Rock, and Royal Bank of Scotland. Of this group, the government has taken equity investments in Lloyds, RBS, Northern Rock and Bradford and Bingley.

The UK Treasury plan did not include any explicit language regarding new accountability mechanisms. It was unclear who or what would be responsible for ensuring the oversight of the expenditure of the funds and the compliance with the law by the banking institutions. Clearly, the House of Commons Treasury Select committee will have oversight authority into these bank recapitalization funds. It was unclear beyond this arrangement as to whether other bodies would be involved in some form of an accountability regime for the UK bank bailout.

## **CASE STUDY EVIDENCE AND ANALYSIS**

The case studies of the US and UK bank bailout will be analyzed in the following section. These cases will serve to motivate the framework depicted in section two. Each case will be analyzed one at a time followed by a comparative analysis of both cases. Finally, exploratory hypotheses of the adoption and potential impact of accountability mechanisms in these contexts will be made.

### **U.S. Bank Bailout Analysis**

The basic accountability mechanisms examined here concerning the TARP program are primarily in the form of political accountability. In this context, the U.S. congress has instituted several layers of political control via its ability to audit and oversee the TARP program. The operative theory being that the heavy oversight of these funds will ensure their proper usage. Given this level of scrutiny, it remains clear that there is a significant degree of ambiguity over questions such as the amount of TARP funds spent and available at any given time, the impact these funds are having on the economy and finally the oversight of the funds usage in terms of items such as executive compensation and conflict of interest in the case of government contractors.

This analysis is based on a review of the written reports and legislative testimony of the four political accountability bodies that are currently in place reviewing the TARP program. In December 2008, the first report on TARP was issued by the government Accountability Office (GAO). The report noted several important deficiencies in the operations of the TARP program. The auditors noted that the department was struggling with the

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hiring process for the Office of Financial Stability, internal controls related to contractors, protocols for addressing conflicts of interest and finally the overall impact of the program on financial stability. One important point was that Treasury worked with GAO to establish some reporting requirements for TARP recipient banks in terms of loan balances, new loan originations by category and purchases of any type of asset backed security. These statistics were collected in part to determine if government funds were being used to continue or increase the flow of credit to consumers and businesses. Further, according to GAO, the Treasury had agreed to review quarterly call report data for all financial institutions receiving CPP funds. The GAO findings include the fact, that of the eight largest banks taking TARP funds, only one of those were separately tracking the use of the CPP funds. However, reviewing these reporting requirements, the deficiency in the accountability of tracking the impact of the CPP funds on consumer and business loans remained a critical gap.

On January 30th 2009, the GAO issued its second report on the TARP. This report noted both some improvements along with some important continuing deficiencies. Partly in response to accountability and transparency concerns, Treasury had announced and it was reported by GAO that a new monthly lending report would be required from the largest TARP recipients. All other recipients would only be tracked via the quarterly bank call data available from the Federal Reserve. This appeared to be a compromise even as GAO noted that they would prefer to see more intense reporting from all TARP recipients. There was new criticism from GAO to the fact that Treasury had not formulated or communicated an overall vision for how the TARP program was supposed to operate and improve the economy; it appeared generally to be an ad hoc strategy. In terms of internal control and hiring, GAO did report that Treasury had made progress in ensuring the control of conflicts of interest, better compliance with government contracts among recipients and continued hiring of key positions. Finally, GAO noted that some evidence pointed towards the stabilization of the credit market but that this remained an open question of the overall effectiveness of the TARP.

Finally, a third major GAO report was issued in March of 2009 (GAO, 2009). GAO notes that Treasury has made some improvements including better compliance management, better tracking of the use of funds by large institutions, better hiring practices and contracting oversight. On the other side, GAO still has cited that certain issues remain such as the fact that Treasury remains dependent on the banks for compliance information related to issues such as bonuses and dividend payment policy. Finally, while GAO notes some progress in Treasury defining the overall goals and objectives of the TARP, there remain important gaps in what exactly the strategy of the program is and how it will be tracked. To the extent that it is possible to track the impact of the program on the economy, the GAO reports that there are mixed signals in terms of improvements in the credit markets.

On February 5th, 2009, the Special Inspector General for the TARP program issued their first report (SIG-TARP, 2009). According to the report, the US Treasury had established several key elements to implement the TARP program. One program was the Capital Purchase Program (CPP). As of the end of January 2009, 317 banks had received funds from the CPP. A second program was the Systemically Significant Failing Institution (SSFI) program which constituted the funds used for the bailout of the AIG Corporation. A third program con-

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sisted of the Targeted Investment Program (TIP) and Asset Guarantee Program (AGP) was a specific insurance type program used to stabilize Bank of America and Citigroup. As the Treasury switched from purchasing toxic assets to the direct injection of capital into banks, there was significant concern over the transparency and accountability for US investments. As of the end of January 2009, the US treasury had purchased 280 billion shares of preferred stock in 319 different financial institutions and also received warrants of common stock from over 230 banks (SIGTARP, 2009).

The second SIGTARP report was issued in late April, 2009. In this report, most importantly for the Capital Purchase Program (CPP), the SIGTARP noted that it was possible to receive full reporting from all TARP recipients regarding their use of the government funds. They strongly recommended, similar to GAO, that Treasury monitor the use of all government funds and not just the largest banks. Also in the report, the SIGTARP was very concerned that Treasury had no plan on how to manage its preferred stock in the banks nor the strategy behind the warrants received and noted that Treasury had set aside no funds in there was a desire to exercise such stock warrants.

The Congressional Oversight Panel (COP) has issued several monthly reports. Several basic themes have run through these reports. One, the Treasury vastly overpaid for the investments (preferred stock and warrants) received in exchange for the TARP funding. The panel notes, based on its expert analysis, Treasury received only stock and warrants worth 66 cents on the dollar. This subsidy, which they acknowledge, may have been necessary, has not been justified or rationalized by either the Bush or Obama Treasury department. Their other major area of concern is the lack of strategic goal setting or vigorous performance metrics for measuring the success of the program. They note that the absence of both goals and measures makes it very difficult to assess or evaluate whether the TARP is having an effect on the financial system or economy or even what the intended effect should be defined.

At the end of April 2009, three of the accountability bodies, GAO, SIGTARP and COP, testified before the Senate Finance Committee. In prepared remarks, Neil Barofsky, Special Inspector General noted that the SIGTARP had taken action and asked and received from each TARP recipient a report on their use of government funds. He noted that this information would allow them to address the tracking of fund and that banks had reported using it for additional loan programs, capital cushions and repayment of lines of credit being called in by other financial institutions. Elizabeth Warren, the chairperson of the COP, remarked that her panel was still struggling with what were the strategic goals of the TARP and how they were to be tracked.

The fourth accountability body, the Financial Stability Oversight Board (FSOB), also released a report at the end of April 2009 ([financialstability.gov](http://financialstability.gov), 2009). In a much more optimistic tone, the FSOB provided evidence, such as the narrowing of the London interbank offering rate, as evidence that the TARP program in fact is working. These positive statements are in contrast to the more carefully nuanced evaluations of this same data as provided by GAO or COP in their own reports. The FSOB also spent considerable time in their report providing evidence that the loan or lending activity by banks had declined for a number of reasons including the reduction in consumer and business demand. Again, they appear to be at great pains to demonstrate the TARP has in fact

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worked in the sense that credit conditions would have been worse without the program. The FOSB also noted that treasury is addressing internal control issues by creating two committees including the executive committee and the new program implementation team. It must be remarked that this report is far more favorable towards the TARP, including the capital purchase program (CPP) than the other three accountability bodies.

Other than the FOSB, all three other oversight bodies have noted that a major problem with regards to transparency in TARP is the inability to track the use of the TARP funds and their impact on the overall financial stability of the economy and the protection of assets values. One crude measure of lending activity is the outstanding level of loan activity by TARP recipients. On January 26, 2009, the Wall Street Journal reported that of 13 the biggest TARP recipients, 10 saw a decline in their overall loan balance outstanding. The overall lending activity for the 13 banks fell from \$3.36 trillion to \$3.31 trillion in the fourth quarter of 2008. From a program evaluation standpoint, the relevant question is not whether loan balance has fallen; rather the question should be what the loan balance would have been in the absence of the TARP program, the so called counterfactual statement. This alternative evaluation question poses some significant methodological and data changes. It is very difficult to assess the activity of loan balance or lending activity in the absence of the TARP. This is partly due to the fact that in periods of economic decline, as the United States is currently experiencing, it would be expected that lending activity would likely fall. Therefore, the question may be has lending activity fallen less than it would have in the absence of the TARP.

The COP, SIGTARP and GAO oversight bodies generally appear more interested in being able to separate out TARP funds from the banks existing funds. An audit trail would allow them to determine if the funds were used to pay large executive bonuses, simply be placed in the banks loan loss reserves and build up capital reserves or be actively used in lending activity. Others have argued that this separate tracking of funds is misguided and misunderstands the basic problem facing the financial system (Bailey, 2009). Banking operates via leverage of its capital or deposit base. Generally, in normal times, one dollar of deposits or capital leads to \$10 dollars of lending activity. The general assumption is that the vast majority of these loans will be paid in a timely fashion with some accounting for loan loss reserves. However, beyond these fairly minimal normal defaults or delinquencies, major repayment problems can lead to a major constriction of banks capital reserve and its ability to provide further lending. If this becomes too severe, the bank may become insolvent. It was also true that the FOSB did not attempt to address the fund tracking accountability issue.

On February 17, 2009, in response both to the SIGTARP and GAO criticism regarding fund tracking, the US Department of Treasury released its first monthly bank lending survey via the Office of Financial Stability. This was at least in part due to the criticisms from the Government Accountability Office (GAO). Some important insights can be gleaned from the nature of the material in these reports. The first important point is that Treasury will only be surveying the top 20 recipients of TARP funding. One argument may be that accountability is not free; therefore prudence dictates that only the largest banks should be subject to constant oversight. Of course, while these banks have received the bulk of the funding, it does open the question as to the lack of answerability required by smaller banks and lenders.

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A second important point is that the banks themselves are allowed to respond in the report to the data detailing their current lending activity. In essence, this is certainly part of any accountability framework where there is justification or rationalization for bank activity to the government. The following table represents some of the common statements or lack of statements regarding the justification or excuse making in terms of the banks use of the TARP funds. Several criteria were used to assess the banks own statements including: (1) documenting the change in lending from a previous quarter or year, (2) return on investment or payoff in terms of bank lending relative to TARP investment. These criteria were included because they give the reader a sense to which bank lending has changed relative to the past, an important indicator of the success of the program as well as the banks use of funds relative to the government's investment.

The table illustrates several important elements of this part of the accountability forum. Each bank responds in unique ways to the common questions posed by the US Treasury. Some banks, in particular Wells Fargo and Northern Trust, have explicitly chosen to state their aversion to state income loans, interest loans and other types of subprime mortgage market loans. This is likely to emphasize and signal to potential investors and regulators the banks soundness of decision making. Other banks, such as Citigroup, chose to avoid the question of their involvement in subprime or toxic assets and instead to focus on homeowner assistance programs in attempting to prevent "avoidable foreclosures". This was likely done to preempt congressional scrutiny and criticism of their use of TARP funds.

The Treasury did not explicitly ask the banks to prevent lending on a year over year basis but rather only for each month of the 4th quarter of 2008. This is in contrast to the UK treasury approach which explicitly placed in the bank recapitalization contracts that lending must be maintained at the 2007 level. In some cases, banks such as Northern Trust explicitly provided additional information comparing their new and total lending activity between calendar year 2007 and 2008. Most other banks, following the Treasury guidelines, provided no explicit comparison to the lending activity of 2007. It is a valid question whether lending activity in 2007 is a fair or relevant comparison under the current economic circumstances. However, it does provide an additional benchmark from which a comparison of the credit contraction can be compared. The comparison of the three months in 2008 or even 3rd versus 4th quarter lending activity is fraught with seasonality challenges. Nevertheless, the accountability regime question is the explicit choice of accountors in how they respond, or do not respond, to questions about lending activity. The answers to these questions by banks reveal much about their willingness to fully inform versus provide cover for their activities. It should be noted that GAO, in one of its monthly reports to congress, noted this problem of the appropriate relative comparison for lending activity to assess the success or failure of the TARP program.

The accountability regime also involves the types of questions, the timeliness and the format upon which Treasury constructs its system. This part of the regime is subject to the oversight by the three bodies appointed or directed by congress including SIGTARP, GAO and the COP. There has been a continual back and forth between these bodies which has reshaped the accountability regime. In this case study, the Treasury's Office of Financial Stability (OFS) has been very flexible and adaptive to changes in the accountability regime. These

Bank	Loan Balance Comments	Foreclosure Prevention Comments
Bank of America	Slight decline due to countrywide acquisition and higher credit card risk standards	230,000 home loan modifications
Bank of New York Mellon*		Purchase of US agency securities
BB&T Corp.	5.3% increase in year over year lending due to decline in competition	No comments
Capital One	Slight decline in average loan balance from 2007 due to poor economy	Not a major player in mortgages
CIT Group	Commercial loan activity down due to poor economy from 2007	Not a major player in mortgages
CitiGroup	Comparison only to third quarter 2008, new consumer loan activity down	No comments, but a major player
Comerica	Stated that while loan declines occurred in 4th quarter 2008, smaller decline than 3rd quarter 2008	No comment, some mortgage activity noted
Fifth Third	Decline in new loan activity due to seasonality and weaker demand, only compared 3rd and 4th quarter 2008	No comment, has a mortgage business
Goldman Sachs	Major reduction in underwriting business due to credit crisis, no comparison to 2007	Not a major mortgage player
JP Morgan Chase	Flat or no change in consumer lending, no comparison to 2007	Homeownership effort expected to assist 400,000 homeowners
KeyCorp	Loan balances trended lower due to weaker demand and credit tightening; no comparison to 2007	No comment, but is a mortgage player
Marshall & Ilsley	Small gain in consumer lending, no comparison to 2007	90 day foreclosure moratorium
Morgan Stanley	Major decline in underwriting business and commercial loans compared to 2007	Not a major mortgage player
Northern Trust	Explicitly states that company avoided subprime market; 21% increase in consumer lending from 2007	Established a homeownership retention program
PNC Financial	Consumer lending is down, no explicit comparison to 2007	Established Borrower Outreach Team
Region Financial	Consumer lending down, no explicit comparison to 2007	Established a customer assistance program
State Street*	Decline in activity due to poor economy, no comparison to 2007	
SunTrust	Mortgage activity declined from same period 2007	No mention, but a mortgage player
U.S. Bancorp	Consumer lending increased 6.4% from 3rd quarter 2008 to 4th quarter; no comparison to 2007	No mention, but a major mortgage player
Wells Fargo	Extended \$75 billion in new credit (noted a three to one match on TARP investment); no comparison to 2007	Established homeowner assistance program to assist 500,000 homeowners

\* Bank of New York Mellon is not a traditional commercial or consumer lender, but rather a provider of liquidity and financing to large institutional investors and banks.

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changes included, perhaps most importantly, was the new snapshot report which allowed Treasury to begin to address the impact of TARP investments on lending activity. The timeliness of this snapshot reporting has been adjusted to a monthly basis which is more frequent than the current bank “call reports” that are reported to the U.S. Federal Reserve on a quarterly basis regarding lending activity.

## **UK Bank Bailout Analysis**

In the United Kingdom, The UK financial Services Authority is responsible for the financial regulation of the banking system. In the UK, under the Special Liquidity Scheme as announced in October 2008, the Bank of England and UK Treasury both made substantial sums of money (roughly 250 billion pounds) available to the largest UK banks including Royal Bank of Scotland, Abbey, Barclays, Lloyds, HBOS, HSBC and others.

The British Bankers Association, via their website, provided some degree of accountability by reporting on overall bank lending (BBA, Feb 2009). It is important to note that they did not report on an individual bank basis but rather for the entire MBBG membership. This makes it impossible from this information to assess the degree of lending compliance by the banks that have taken part in the bank recapitalisation scheme. They report that mortgage and remortgage lending was down over 30 percent from activity levels in February 2008. This was also true for consumer credit lending which was down 12 percent from the previous year and the same was true for business lending. Thus, it would appear that at least in aggregate, banks were not able to maintain lending levels at their 2007 previous highs. In the narrative of the report, the justification for these lower lending levels is that demand for credit has fallen with the recession.

A second source of accountability reporting is via the Bank of England's monthly lending report (Bank of England, 2009). This report also does not break out lending for individual institutions. This lending report began in April of 2009. In the first report, it was noted that business lending had fallen significantly from 2008 levels. The report also notes that mortgage and remortgage lending has fallen to its lowest level since 1988. Unlike the US treasury reporting, the Bank of England has explicitly addressed the issue of trying to sort out whether lending is fallen due to demand reductions or supply constraints. This is critical to assessing the claims and justifications of the banking sector that it is a reduction in demand that is leading to a falloff in lending and is out of their control. The bank report also notes that tightening credit standards may be responsible for the falloff in demand rather than voluntary reductions by consumers. It has stated that it will rely on other reporting tools to ensure this is not the case. Again, the US Treasury has not attempted to provide a clear cut set of protocols for addressing these issues. The Bank of England report notes that the evidence is mixed regarding supply and demand factors in the credit situation. For example, with regards to mortgages, the report states that "it may be that part of the apparent weakness of mortgage demand perceived by lenders reflects constraints in loan supply" (Bank of England, pg. 13, 2009).

The UK approach has relied on third parties to provide much of the data regarding bank activity and use of the bailout funds. In these cases, one nonprofit association, the British Bankers Association and in the second a government institution, the Bank of England has reported on lending activity. It cannot be denied that bank lend-

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ing has actually fallen in the UK despite the government agreements with the bailout banks. At the same time, the rationale or justification for these lending declines appears to come with mixed signals as to whether banks can actually control such activity levels. This approach, with much of the accountability reporting coming from third parties, stands in contrast to the US approach. The US approach relies much more heavily on the reporting of lending activity by the financial institutions themselves. This allows for individual identification of the lending activity of any given firm. The UK approach reminds us that in accountability regimes or relationships, third parties may play an important role in both informing and justifying the behavior of accountors.

In terms of accountability, the UKFI is in a unique situation compared to the US bank bailout or even other countries bailouts. It is designed to be at arm's length from the UK government and UK Treasury in order that professional expertise and management will guide decision making rather than politics. The long term goal of the UKFI is to return tax payer money and ensure that the banking system remains in private hands (UKFI website, 2009). There is less debate or discussion in Britain regarding the overall level of lending although banks have promised to maintain 2007 lending levels. Certainly, the level of scrutiny and transparent reporting in the US is absent in the UK plan. The UKFI has not been required at this time to provide extensive reporting on its own activities, internal controls or decisions it has made regarding the UK governments investments. A review of their website found only as publication regarding the framework document between the UK Treasury and the UKFI and no data was provided (UKFI, 2009).

## **US and UK Bank Bailouts: A Comparative Accountability Analysis**

The UK and US bank bailout plans have engendered very different approaches to accountability. These different approaches, given the same type of policy program being implemented, may teach us something about the factors that guide the adoption of accountability regimes. In both countries, explicit goals were laid regarding the intent or purpose of these programs. Generally speaking, they revolved around continued lending to consumers and business, home mortgage modification and the overall stability of the financial system. The major differences have been in the type of reporting and accountability mechanisms used to assess and provide forums for the rationalization or justification of both government and private banking behavior and activity.

The table, as adapted from Romzek and Dubnick (1993), is an attempt to formulate differences in the accountability regimes for the US and UK bank bailout plans. As expressed in this analysis, some of these characteristics take on the role of explaining the foundation through which the accountability mechanism will be placed. In this case analysis, we are focusing on the political accountability of the UK and US bank bailouts. One critical point is that in the UK case, the government is dealing with a small number of very large banks whereas in the US case the government with several hundred banks. The transaction cost of managing within the political accountability mechanism is very different in both cases. This may explain the fact that the US has four different auditing and accountability groups overseeing the TARP while the British have not designated any additional resources other than the traditional accountability groups to oversee the BSR. It actually appears the accountability groups in the US case have more employees than the entire Office of Financial Stability itself.

## US and UK Accountability Regimes

Accountability Expectations	United States	United Kingdom
Participant Base	Several hundred banks (both major and regional)	Four major banks
Levels	Treasury and Banks (2)	Treasury, UKFI, banks (3)
Number	4 major accountability commitments	6 major commitments
Scope	Targeted more specifically to lending and bonuses	Greater set of issues addressed such as board appointments
Depth	Transaction level detail, individual institution fund tracking	Only aggregate level tracking of data such as lending
Translucence	High degree of transparency	Low degree of transparency
Diversity	Very diverse; internal control policy evaluation, criminal wrongdoing	Less, compensation limits and board guidance
Structure	Very complex; four accountability bodies with different tasks	Uses existing government bodies with exception of asset manager UKFI
Intensity	Significant quarterly and monthly reporting; frequent testimony	Minimal reporting and parliamentary testimony
Temporarality	Short and Long term focus	Short term oriented
Tractability	High numbers of participants, difficult to manage	Low numbers, more manageable
Consistency	Generally consistent expectations	Generally consistent expectations
Interrelated		

Moving beyond the structure or underlying environmental conditions within the accountability mechanism must operate, we can then define the operational characteristics that makeup the mechanism. In this case, characteristics such as depth, clarity and translucence and number are considered part of that portfolio. The number and scope of accountability expectations are different across the two countries. In the US case, the US Congress, via its oversight and auditing bodies, is requiring a much greater degree of reporting and rationalization of activity including contracts, internal controls.

In terms of the structure and diversity of the expectations, the US and UK are very different. The US has a very structured set of accountability bodies, four in number, who have oversight over TARP activities and each have a separate set of responsibilities. In the UK, there is not a great deal of diversity regarding accountability expectations and the government is using its current auditing structure versus establishing new offices for such matters.

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The intensity of expectations is much greater in the US particularly for the individual banking institutions. Three of the oversight bodies have each begun different but very intense reviews of all TARPO actions from internal hiring, contract management to fund usage and in some cases even criminal prosecution. The UK bailout, at least for an external viewer, appears far less interested in these kinds of questions. There is a lack of clarity in the case of the UK regarding the extent of accountability, and the intensity of that relationship between the UKFI and the four banks under its control.

These differences in the accountability regimes or set of expectations appear to be very important in understanding the different approaches to adopting or establishing such systems. The US Capital Purchase program and the UK Bank Recapitalization scheme both directly injected into the banking system to avoid collapse in exchange for warrants and stock equity investments. What explains the differences in the two approaches? One key factor is the number of participants in the programs. The UK program being only four participants versus the US which has several hundred has clearly shaped the nature of how policymakers have wished to hold bureaucrats and private actors accountable. Other issues are less clearly delineated at this time. With this increased number of bodies, there comes a much greater degree of intensity, diversity, (in) consistency and depth of analysis. The UK system, with its small number of participants, provides very little details to the nature of the relationship between the bureaucracy and the banks. In fact, it appears deliberately designed to avoid a great deal of scrutiny.

On the other hand, the US bank bailout and its accountability system invokes a great deal of transparency. This is manifested through the massive number of websites, huge reports and constant stream of legislative testimony. However, this accountability comes at a price. Multiple accountability disorder or the cross pressures of accountability is often conceived of in terms of several distinct accountability bodies such as courts, legislators and professional bodies or internal superiors holding agencies and bureaucrats to answer for their actions. In these cases, we have learned that these same pressures lead to important differences in even the definitions or interpretation of evidence. So for example, the FOSB and COP/GAO disagree over the interpretation of the evidence with regards to the impact of the TARP on credit programs. The FOSB/Treasury is also aligned against the other three accountability bodies in terms of the importance of individual form data collection versus taking an aggregate view to assess efficacy. Both of these issues illustrate the challenge of multiple accountability disorder going beyond its traditional definition but encompassing the challenge of defining the performance and process metrics and the interpretation of those metrics when in the debating or evaluation phase between accountant and accountee.

In the ICANN case study by Koppell (2005), the main questions revolved around who was in charge of the group which led to confusion over responsibility for actions. In the NASA and Air force cases, the questions were which accountability mechanism played a role in guiding the behavior of the bureaucrats in implementing policy. In the case of the Dutch water boards, the major questions revolved around how and to what extent were the accountors willing to address issues with the accountees. Koppell (2005) argued that five dimensions matter in addressing accountability including transparency, liability, controllability, responsibility and responsiveness. The US Treasury and the banks associated with the program have over time revealed more and more

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of their activities and use of the funds. Given the SIGTARP's proactive law enforcement strategy, bad actors will face consequences for the behavior on both public and private side. Given the broad nature of original bill and certainly in the case of the UK, the treasury departments did enact policies that matched the request of the legislative bodies. It is not clear that the TARP program suffers from what Koppell (2005) defined as the multiple accountability disorder. In fact, all four accountability bodies generally were in agreement with regards to the challenges facing the implementation of the program.

The big problem facing both the UK Treasury and US Treasury was the programs never had a clearly defined set of metrics upon which success or failure could be judged. This is not surprising and undoubtedly intentional on the part of Congress and the UK Prime Minister. It has led to the most significant debate among the accountability bodies over the whether the program is "working". For FOSB, the US program is stabilizing the credit system and economy while for GAO and the COP the evidence is not clear. Further, there is disagreement over the level of analysis for this metric. SIGTARP and GAO are clearly pushing for individual level transaction detail and tracking of funds while FOSB is focused on aggregate level outcomes. The evidence presented here indicates that even when an agency is seen as complying with many of the accountability characteristics as described by Koppell, a lack of clearly defined goals, objectives and expectations will defy many easy attempts to assess the "true" accountability of an organization.

A major problem with the Koppell (2005) model is that he advances the notion that for example a key question is whether or not an organization has revealed the facts. However, it may be the case that there is dispute over the very nature of evidence of acts of a situation. For example, the FOSB March report panel states that "there remain significant conceptual and practical challenges to identifying the effect of Treasury's actions on financial markets (financialstability.gov, pg. 9, March, 2009). The COP Panel, in their April six month report, noted that "Treasury has yet to identify the metrics by which they will measure the ultimate success of the programs they have implemented" (COP, pg. 35, April 2009). Finally, the GAO suggested in its report that "While these indicators may be suggestive of TARP's ongoing impact, no single indicator or set of indicators will provide a definitive determination of the programs impact" (GAO, pg. 63, March 2009). All of these accountability reports, in essence what Bovens describes as the debating phase of the accountability forum, state that it will be very difficult to actually assess the facts of the situation (what Koppell described as transparency) and given the confusion over facts it will be difficult to assess the of the control of the bureaucracy. This raises the question of even if an agency only faces the transparency aspect of what Koppell describes accountability, that there remain multiple problems of accountability. The problem may be faced more the accountors than the accountee. It may be difficult to exert control or impose liability or penalties if the accountors do not agree on the facts of performance and behavior. Thus, the problem of defining accountability lies not just with the accountee but with the accountors.

## CONCLUSION

The financial crisis that began in the spring of 2008 and exploded in 2009 has led to unprecedented govern-

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ment intervention in the financial services marketplace and across the entire spectrum of the economy. Enormous sums of money, totaling into the trillions of dollars and billions of pounds, is being expended in an effort to achieve financial stability, secure home ownership and many other goals and objectives, some better specified than others. In such an environment, public sector accountability for such funds and behavior takes on a new level of importance.

The analysis presented here started with recognition that accountability can be defined as a social relationship between an accountor and accountee. This relationship takes place within a forum where information is gathered about behavior and activity, such behavior is scrutinized and debated and then the potential for rewards, sanctions and penalties are assessed. These relationships can occur in several different mechanisms including political, bureaucratic, professional and legal approaches. It was noted that much of the literature has been preoccupied with the notion that conflicting accountability mechanisms are at play and that this has been termed multiple accountability disorder.

Several particularly important accountability questions are in the cases of the UK and US bank bailout situations. One, the instrumental value of the accountability mechanism may exist in the sense that these are forums able to encourage appropriate behavior and activity by the government actors and the private sector as well. Another important question is the challenge of defining the number and type of expectations that will be imposed on both public and private actors. Both within and across the two case studies, from the US and UK, much can be learned as we attempt to understand the hypotheses and research questions that can guide future research.

The research conducted here points to several new insights into the nature of the functioning of the political accountability mechanism in particular. There is some evidence here of the traditional types of potential problems associated with the cross pressures of accountability or multiple accountability disorder. These cases in particular focus on the unique problems of establishing accountability when the basic goals of an organization are unclear and no strategy has been established. In other cases analyzed, such as ICANN (Koppell, 2005), NASA (1987) and the Air Force (1993), there were questions for the organization or individual bureaucrats as to whose was in charge for example or how to best manage between control and flexibility in the administration of policy. While some of these questions are evidence in these cases, a different set of accountability challenges has been raised. In the case of the US Treasury or the UK treasury, the questions of control and responsibility have not been raised. The most important questions revolve around the basic purpose of the program and which metrics should be used to assess the effectiveness of the program.

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## ABOUT THE AUTHOR

**Dr. Eric Scorsone** specializes in the area of public finance and management including performance measurement, intergovernmental cooperation and government management strategies. He is a faculty member and Co-Chair of the State & Local Government Program at Michigan State University. He is on the editorial board of the International Journal of Public Sector Performance Management and is a board member of the Public Performance Management Section of the American Society of Public Administration. He has recently taught at the University of Bologna, Italy and University of Valencia, Spain in public performance management. Prior to

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coming to Michigan, Dr. Scorsone worked on public finance and economic development issues as an Assistant Professor in the Department of Agricultural Economics at the University of Kentucky. He has experience in the public sector and served as an Economist for the Colorado Governor's Office of State Planning and Budget and as a Senior Economist for the City of Aurora, Colorado. He received his Ph.D. in State and Local Public Finance from Colorado State University. He received his Master's degree from Michigan State University and a B.B.A. from Loyola University of Chicago. He has also worked on international development projects in Thailand, Macedonia and Indonesia.

*Contact information:* Eric A. Scorsone, PhD; Co-Chair, State and Local Government Program; Department of Agricultural, Resource and Food Economics; Michigan State University; scorsone@msu.edu; phone: 517-353-9460



# How Will Emerging Technologies Transform Governance: Emergent Forms of Public Deliberation and Collaboration

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New communication technologies enable more robust public engagement with government over public policy and management issues, as well as new means of internal organizational teamwork. Web technologies, in particular, allow for coordination, collaboration, and process integration, as well as citizen services and opportunities for public deliberation (Dawes, 2008). The two chapters in this section explore the use of web-based tools for citizen and agency deliberation, and co-production on public policy issues and debates.

Bovaird's chapter brings together theoretical perspectives and empirical evidence on co-production. An evaluation of the diverse theoretical perspectives suggests that co-production can produce two benefits at two levels – individualized and collective. Although co-production is synonymous with "collective effort," extant empirical studies indicate that there is stronger evidence for individualized benefits. The author explores explanations and implications of the weak evidence for collective benefit. Technological solutions, especially the internet, as facilitators of collective co-production are addressed. The internet and its technological offerings are still evolving and with every new tool there are promises, limitations and risks. The next chapter explores one such internet-based technological tool.

Mahler and Regan investigate whether the "blogosphere" enables deliberation on public issues. The authors examine blog sites for five federal agencies. The blog-sites for each agency in the sample include those created by federal agencies and those created by external interested publics. The authors report some unexpected findings, such as the extent of differing and controversial opinions on agency-maintained blogs. The authors expected agency-maintained blogs to be more strictly moderated and less open to controversy. This is an interesting study on the use of new technological tools for citizen participation and open deliberation. Hope-

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fully, this will lead to follow-up studies that will go beyond examining information on the blogs and explore the optimal use of the deliberations for public policy planning and implementation.

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## WORKSHOP CO-CHAIRS:

**Priscilla Regan**, Department of Public and International Affairs,  
George Mason University, Fairfax, Virginia, U.S.A., *pregan@gmu.edu*

**Albert Meijer**, Utrecht School of Governance, Utrecht University, The Netherlands, *a.j.meijer@uu.nl*

# User and Community Co-production of Public Services and Public Policies through Collective Decision-making: the Role of Emerging Technologies

Tony Bovaird, University of Birmingham, UK

Elke Loeffler, Governance International, UK

## ABSTRACT

Co-production is rapidly becoming one of the most talked-about issues in partnership working in public services and public policy in Europe and North America. Nevertheless, there has as yet been no coherent approach at government level or in the academic community to bring together the evidence on the potential – and the limitations – of user and community coproduction of public services and public policies. This chapter explores the differing theoretical strands which contribute to current thinking on user and community co-production. It shows that some of these strands predict very different roles – and outcomes – from co-production. In particular, most theories of co-production predict that it can quickly polarise into individualised approaches to the design and operation of public services and into self-help community approaches to public policy. The paper explores problems with these theorisations and confronts their predictions with empirical evidence from a survey of co-production in five European countries which suggests that the practice of co-production by committed public sector professionals and engaged citizens can enrich and reinforce collective decision-making processes and collaborative working in public services – but that collective co-production is relatively less practiced by most citizens. The chapter explores how the technological solutions required for ‘collective co-production’ are distinctly different from those involved in ‘individualised co-production. Specifically, it suggests that collective co-production is likely to be particularly fostered by ICT innovations, particularly the connectivity offered by the internet. The paper illustrates how internet-enabled collective co-production can produce outcomes for more people than those who directly took part in the co-production process. The paper concludes that a more systematic and co-ordinated approach to collective co-production is needed if outcomes are to rise above the levels which will result from purely ‘self-organising’ activities – and this may now be forthcoming through the use of Web2.0 and social media technologies.

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## INTRODUCTION

Co-production is rapidly becoming one of the most talked-about themes in partnership working in public services and public policy in Europe, North America and Australia (Bovaird, 2007; Pollitt et al, 2007; Dunstan et al, 2008; Bradwell and Marr, 2008; New Economics Foundation, 2008; OECD, 2009; Loeffler, 2009)). While there are various strands to the discussion, there has as yet been no coherent approach at government level or in the academic community to bring together the evidence on the potential – and the limitations – of user and community coproduction of public services and public policies.

This paper is developmental. It sets out to explore the differing theoretical strands which contribute to current thinking on user and community co-production. It shows that some of these strands predict very different roles – and outcomes – from co-production. In particular, theories of co-production predict that it can deliver either individualised benefits from the design and operation of public services or more collective benefits which result from the external effects created by each co-producing user for other actual and potential users. However, the empirical evidence presented in the paper suggests that the practice of co-production is dominated by individualised co-production.

We then go on to explore the implications of this relatively weak performance of ‘collectivised’ co-production and discuss how its potential benefits might be captured by public service organisations. We suggest that the technological solutions required for ‘collective co-production’ are distinctly different from those involved in ‘individualised co-production’ – specifically, this collective type of co-production is likely to be particularly fostered by ICT innovations, particularly the connectivity offered by the internet. The paper illustrates how internet-enabled collective co-production can produce outcomes for more people than those who directly took part in the co-production process.

The paper concludes that a more systematic and co-ordinated approach to collective co-production is needed if outcomes are to rise above the levels which will result from purely ‘self-organising’ activities – and this may now be forthcoming through the use of internet and Web2.0 technologies.

## THEORETICAL STRANDS CONTRIBUTING TO THINKING ON USER AND COMMUNITY CO-PRODUCTION

The conceptualisations of co-production in the literature come from a variety of disciplines. Key contributions have come from:

**Economics:** theories of jointness in production (most commonly framed in terms of joint inputs and joint processes shared by producing firms, but conceptually also able to be framed as joint producer-consumer inputs).

**Services management:** most clearly explicated in the theory of ‘enabling logics’ v. ‘relieving logics’ (Normann, 1984), where Normann argues that service efficiencies and effectiveness depends critically on identifying and mobilising those inputs and processes which users are uniquely able to provide in the process of enabling service outcomes.

**Consumer psychology:** embedding users’ preferences through giving them a role in service design or op-

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eration brings both better ‘fit’ to users’ perceptions of their own needs and more commitment to the way the service tries to meet those needs.

A common characteristic of these theorisations is that the co-producing user is conceptualised as an individual interacting with a professional or with a carer or other individual who is seen as important in the ‘delivery chain’ of services. Similarly, the citizen co-producing in the community is conceptualised as an individual, interacting with the user or other agent, e.g. as a volunteer. This means that such theories predict the level and impacts of co-production on the basis of how individual actions will scale up. The outcomes of a set of user and community co-producers can be calculated on the basis of the sum of the users’ outcomes.

However, this approach neglects two key elements of service co-production – first, the user is not the sole beneficiary from the way the service is co-produced and, secondly, much co-production is engaged in because of desire to help others, rather than simply to produce benefits for oneself.

In practice, improved user’s outcomes produce a series of different types of benefits for others - in the economics literature, this is dealt with as ‘externalities in consumption’ but it has not been given much attention. These external benefits include:

- Those close to the user (carers, friends, volunteers, etc., whom we shall call ‘significant others’ in the rest of this paper, who experience two kinds of benefit when the user’s outcomes improve:
  - o A reduction in the level of effort they need to make to maintain the service user’s quality of life
  - o Pleasure in the user’s improved quality of life
- Other users who can learn how to make better use of the service by the example set by the service co-producer (e.g. the ‘expert patient’ who has learnt to cope with the chronic diabetes or self-administered dialysis)
- Other citizens who anticipate that they may need to use the service at some time in the future and receive benefits from seeing that the service can be more cost-effective than they had previously suspected.

Co-production which is engaged in as a philanthropic, rather than selfish, act is not easy to rationalise under the normal analysis of welfare economics or public choice (unless one hypothesises the existence of some direct return to the active giver by way of ‘feelgood factor’, which unfortunately is not measurable and is almost tautological - we only suspect it is there because the giver’s behaviour suggests it is there). However, much volunteering is of this type and produces collective benefits which can be of major significance.

These additional sources of benefits or ‘enabled outcomes’ have a number of important consequences. For this paper, the most important consequence is that user and community co-production might give rise to major positive synergies, i.e. non-linear net benefits, which are not captured in the ‘individualised’ co-production theorised above.

In order to explore the extent to which ‘individualised’ and ‘collective’ co-production are important in practice, the next section of this paper reports empirical evidence from citizens in five European countries which suggests that the practice of co-production is dominated by individualised co-production.

We then go on to explore the implications of this relatively weak performance of ‘collectivised’ co-product-

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tion and discuss how its potential benefits might be captured by public service organisations. We will suggest that the technological solutions required for ‘collective co-production’ are distinctly different from those involved in ‘individualised co-production’.

## **METHODOLOGY**

The empirical investigation reported here compares the current state of user and community co-production in the Czech Republic, Denmark, France, Germany, and the UK, exploring the different meanings given to co-production by different stakeholder groups inside and outside the public sector, and analyses survey results for different types of co-production in the five countries.

The paper is based on a survey of users in five countries, a series of focus groups, and some in-depth interviews conducted by the authors in 2008 with a range of officers of public service organisations (in public, private and third sector organisations) and with representatives of users and community groups.

## **INDIVIDUAL AND COLLECTIVE CO-PRODUCTION: SOME EMPIRICAL EVIDENCE**

In order to gain an understanding of how co-production works, the interaction between public service professionals and citizens was explored in detail through a representative citizen survey in five different countries, which reflect quite different administrative cultures. The full study is reported in Loeffler et al (2008).

The countries included in this study are Czech Republic, Denmark, France, Germany and the United Kingdom. The survey was conducted by telephone in April and May 2008, among a representative random sample of 4,951 adults (18 years of age or older), with about 1,000 interviews in each of these five countries. The results presented here are weighted according to each country’s representation in the European Union. In all the cases where we compare results across sectors or countries, the differences highlighted are statistically significant.

The study focused on three different sectors which reflect distinctly different types of government functions:

- *Community safety*, as an example of coercive action on the part of the state
- *Local environment*, as an example of the regulatory function of the state
- *Public health*, as an example of the welfare improvement function of the state.

Co-production by citizens in community safety, local environment and public health may involve a whole range of activities, from helping to identify the problems, helping to prevent the problems, right through to solving the problems and dealing with the damage done by the problems. In the survey, given the limited resources available and the short time afforded by telephone interviews, we decided to survey all citizens, rather than survey service users only (since it is much harder to achieve representative samples of the latter). The survey focused particularly on preventative activities of citizens, asking them what they currently do – and what they would be prepared to do in the future - to help public agencies to prevent problems from arising. However, in the community safety questions, citizens were also asked about how they personally dealt with some problems, specifically how they react when they come across crime and anti-social behaviour – do they try to help the police to deal with the problem (or even take some form of direct action themselves)?

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**“It is difficult to find volunteers who wish to get engaged in community safety issues, even though many Danes are members of other types of association, such as sports clubs.”**

*A participant at a Danish focus group on safety issues*

**“When people recycle they think they have done their bit.”**

*A participant of a UK focus group on environmental issues*

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## **HOW IMPORTANT IS THE ROLE OF CITIZENS IN PUBLIC SERVICE DELIVERY?**

When we asked this question of the focus groups in the five countries, the overall reaction of professional service providers was “we don’t know ... but probably very little”. A few participants even complained about the relevance of this question. In particular, in the three Danish focus groups sessions, representatives of public agencies initially had great difficulty in understanding the topic to be discussed. The same applied to the focus groups focussing on health issues in most countries, where participants had to be challenged again and again by the facilitators to come up with examples of citizen involvement in service delivery. Only the German and UK focus groups on health issues shared the view that prevention has become a more important area in health care and that citizen involvement plays an important role in this area.

In a second step, we asked citizens about their level of involvement in prevention activities related to community safety, local environment and health. In addition to this, we also asked citizens how they co-operate with the police when being confronted with crime or anti-social behaviour. In fact, contrary to the assumptions of focus group participants, the results of the citizen survey showed a significant level of co-production by citizens in the five countries studied in all three sectors.

Let us first of all look at the levels of co-production in the different sectors (as measured by a 0-100 co-production index which we created for each sector, representing the sum of five specific questions in each sector about co-production behaviour).<sup>1</sup> As Graph 1 shows, citizens are particularly active in taking steps to look after the local environment (index score 61), to a somewhat lesser degree in health improvement initiatives (index score 52) and considerably less active in prevention of crime (index score 45). When it comes to reporting crime to the police, including making personal interventions to stop someone behaving in an anti-social way, the co-production index goes down to 33. (A separate index of reporting crime was created, in the same manner as the other indexes, because additional questions were asked about crime reporting).

## **WHERE CO-PRODUCTION WORKS WELL... AND LESS WELL**

If we look at what kind of contributions citizens make on a regular basis in each of these sectors, an interesting pattern emerges (see Graph 2). In general, we can see that European citizens in these five countries show particularly high levels of engagement when they can undertake activities which do not need much effort by themselves and do not require getting in touch with third parties. This applies, for example, to locking doors and

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**“The general reluctance of people to get involved in community safety issues only changes when citizens are directly affected by some crime.”**

*A shared view of focus groups on community safety issues in all 5 countries*

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windows in their home before going out, recycling household rubbish and saving water and electricity, which about 80 percent of citizens indicate as doing often. All these activities do not require interactions with other citizens or public sector organisations.

When it comes to makes changes to the personal lifestyle, there is a sharp drop – e.g. in the number of citizens who walk, cycle or use public transport, change to a more healthy diet or try to exercise. Just about 50% of citizens reported undertaking these often.

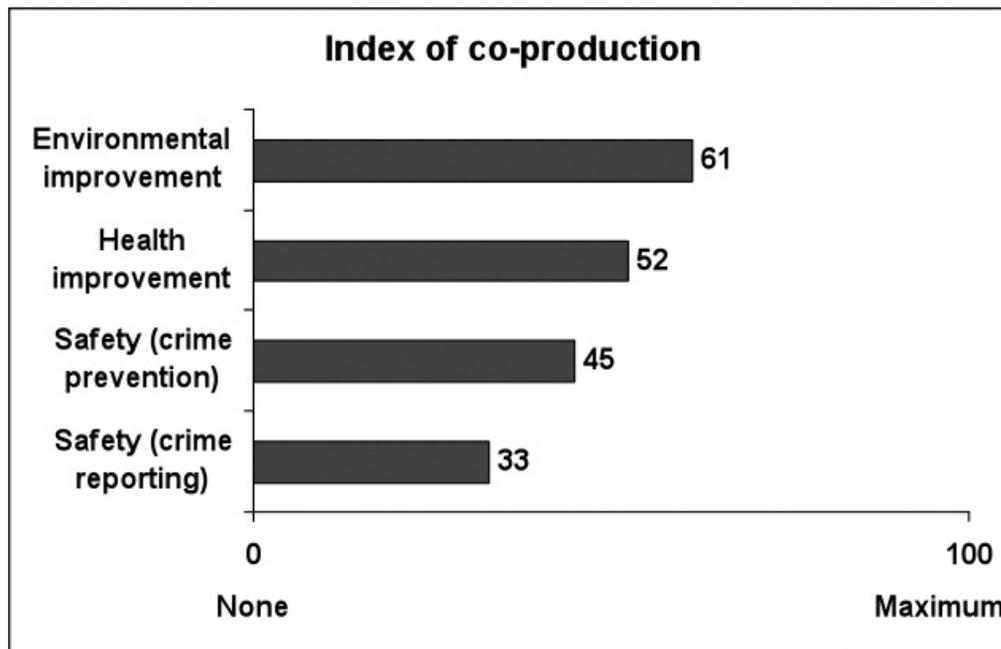
Clearly, there are also activities that citizens are less inclined to undertake, at least on a regular basis. Interestingly, all the activities at the bottom of the ranking list imply getting involved with others – be it a neighbour, a doctor, the police or strangers.

At the very bottom of the responses on prevention activities is ‘seeking advice from the police on safety issues’. Only 5 percent of European citizens often ask the police for advice on how to best protect their property, while 14 percent sometimes do so. As Graph 3 reveals, UK citizens are most inclined to make use of this free service provided by the police, whereas Danish and Czech citizens are the most reluctant. In particular, the Czech case is interesting. As the citizen survey shows, Czech citizens feel relatively unsafe in their neighbourhood and we know from national crime statistics that property-related crimes made up 70 percent of all crimes in 2004. Even though the number of police staff dealing with crime prevention has increased in recent years, crime levels have stayed persistently high. In this difficult situation, the Czech Ministry of Interior launched the ‘Safe Locality’ Programme in 2007 which encourages citizens to take action to protect their property. According to a Czech survey on safety perceptions of the population, 40% of citizens know about this programme (see interview with the Czech Ministry of Interior at [www.govint.org](http://www.govint.org)). However, as representatives of the local and national police and other participants suggested in Prague during a discussion on the role of citizens in public safety issues, levels of trust in the police are still low, which may be why only 1.3 percent of Czech citizens in the survey often contact the police for crime prevention advice.

This discussion has sought to throw light on one ‘low involvement’ activity, namely citizens seeking advice from the police. However, as Graph 2 shows, there are quite a few other activities with similarly low rates of response. In particular, there were very low numbers of respondents who participate regularly in groups, whether the topic is community safety, local environment or health. This clearly demonstrates that seeking to tackle these issues simply through organised associations has major limitations – and these limitations are likely to persist. This indicates the importance, to which we will return later, of getting people involved on an individual basis, and not simply through third sector organisations.

It is not surprising that only a very few citizens wish to get engaged in some organised form on a regular

**Graph 1: Total Level of Co-production in Community Safety, Local Environment and Health Issues**



basis. This is where the so-called ‘usual suspects’ come in, even though some countries seem to have more than others (see Graph 4).

Clearly, the level of regular participation of European citizens in groups and organisations is highest in health (9.7%), followed by environment (7.9%) and then safety (5.9%). This is an interesting finding since the index of overall co-production activities of European citizens is highest in local environment and not in health (see Graph 1). The fact that more citizens ‘co-produce’ in health by getting organised may indicate a lack of availability of individual forms of co-production which may partly be due to the attitudes of professionals working in health care as participants in several focus groups on health issues suggested.

The number of ‘organised activists’ in community safety and environmental issues is lowest in Denmark (2.4% in safety-related organisations and 3.5 % in environmental organisations), whereas the UK has the highest proportion of citizens who often take part in organisations to improve safety in their neighbourhood (12.2%). This finding is not surprising, given that there are more than 10 million members in UK neighbourhood watch groups (although admittedly not all are active members).

The UK also has the highest number of citizens who often get involved in environmental groups and organisations (9%) but also a high proportion of Czech citizens often participate in groups or organisations to improve the local environment (8.4%).

As far as the participation of citizens in groups and organisations dealing with health issues is concerned 13.5 % of Czech citizens indicate that they participate often in such groups whereas in France only 6.5 % of citizens do so, with citizens in other countries falling between these figures.

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*The Czech focus group suggested that the most important barrier to more active involvement of citizens in community safety is the historical heritage – not only from socialism, but also from pre-1918 regimes.*

**“Most people still feel that the police are not a friend and are not serving the citizen, but rather are a repressive power.”**

*A participant in a focus group on community safety issues in Prague*

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Looking at the figures in Graph 2 again, it is interesting to see how many people are prepared often to take steps to encourage others to behave more appropriately, e.g. telling them not to drop rubbish (26%) and intervening to stop anti-social behaviour (17%). Given that these are high effort actions, and not to be undertaken lightly, this indicates that there is a significant group of the population who see themselves as real ‘activists’, at least in those areas about which they genuinely care. It also suggests that the deterrent to involvement in group activities is not inherently the effort involved.

In summary, the survey has shown that:

- there is already a lot more citizen involvement in public service delivery than the professionals taking part in our focus groups wanted to acknowledge. This is particularly evident in local environmental and health issues but also, though to a lesser degree, in community safety issues.
- there is likely to be more citizen involvement in service delivery in future due to demographic changes taking place in most European countries. The involvement of citizens in delivering public services clearly increases with age, so that the ‘ageing society’ is good news in terms of increasing levels of ‘co-production’.
- Citizens are most willing to make a contribution towards improving public services when it involves them in relatively little effort and when they do not have to work closely with other citizens or staff or professionals in the government.

What does this imply for public service delivery and the attempts which have been made to improve service quality? So far, the quality improvement approaches in most public services have tended to focus on how professionals can improve service quality and outcomes. Indeed, the most commonly used quality assurance systems tend to view service users and society from the perspective of what results are achieved for them, rather than viewing them as a resource. Once they are seen as a resource, working with them has a very different set of implications for the management and governance of public services. However, this perspective is still far from universal - as our focus group participants suggested, not all professionals working in public services are prepared yet to give service users a more active role.

## **RELATIVE PUBLIC VALUE OF ‘INDIVIDUAL’ AND ‘COLLECTIVE’ CO-PRODUCTION**

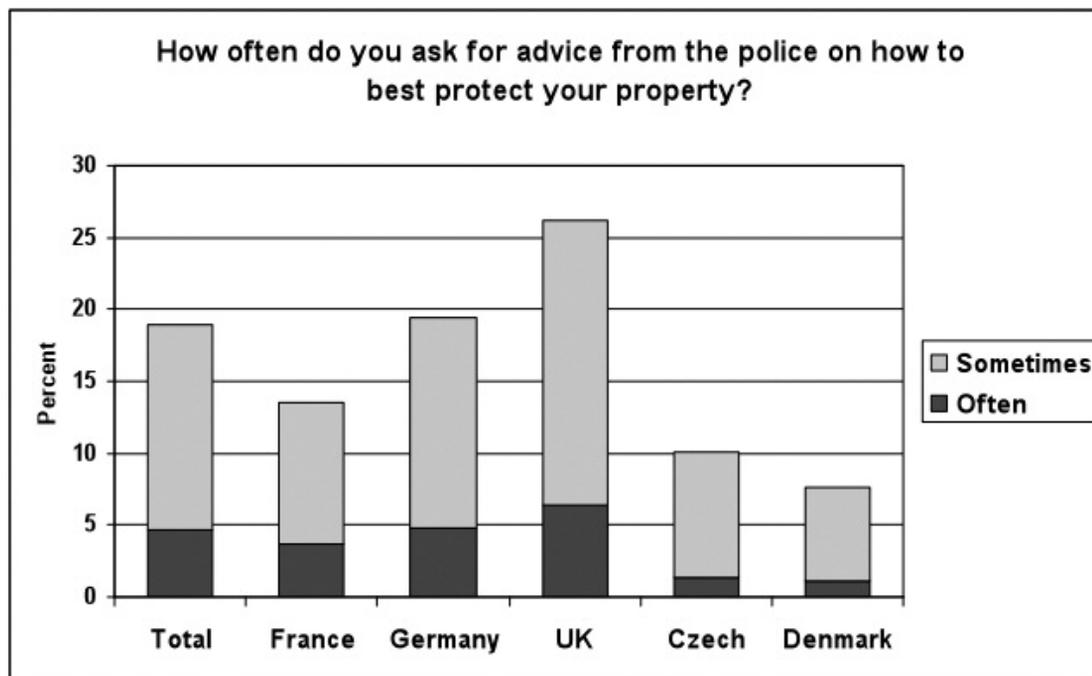
While the results above indicate that citizens are less inclined to spend their co-production efforts in group activities, this does not mean that such collectivised co-production is unimportant. As examples of how important it is to the creation of public value, in the UK there are about 350,000 school governors, who not only

Graph 2: A Ranking List of Co-production: What Citizens Like Doing Best and Least



serve on committees to help run schools but also a legal liability for the affairs of the school; about 5.6m people help to run sports clubs; 750,000 people volunteer to assist teachers in schools; 170,000 volunteer in the NHS, befriending and counselling patients, driving people to hospital, fund raising, running shops and cafes, etc. In 2008, there were over 109 active time banks across the UK, in which 600,000 hours of time have been mutually exchanged (Ryan-Collins, Stephens and Coote, 2008). The Quirk Review (2007) estimated that there were well over 14,500 community buildings in the UK in community ownership and management and that, in addition, development trusts owned and managed at least £300m worth of social assets (although an unknown proportion of these community buildings and social assets are devoted essentially to self-organising activities, rather than co-production of public services with the public sector). In addition, about 90% of the care of people in need of 'social care' in the UK is estimated to be given by unpaid carers – family, friends, neighbours, organised volunteers, etc. These make an enormous contribution to the economy and to society – it has

**Graph 3: Co-production with the Police in Crime Prevention**



been estimated that the value of unpaid social care is around £89bn p.a., compared to the £19bn p.a. of social care public expenditure (Buckner and Yeandle, 2007).

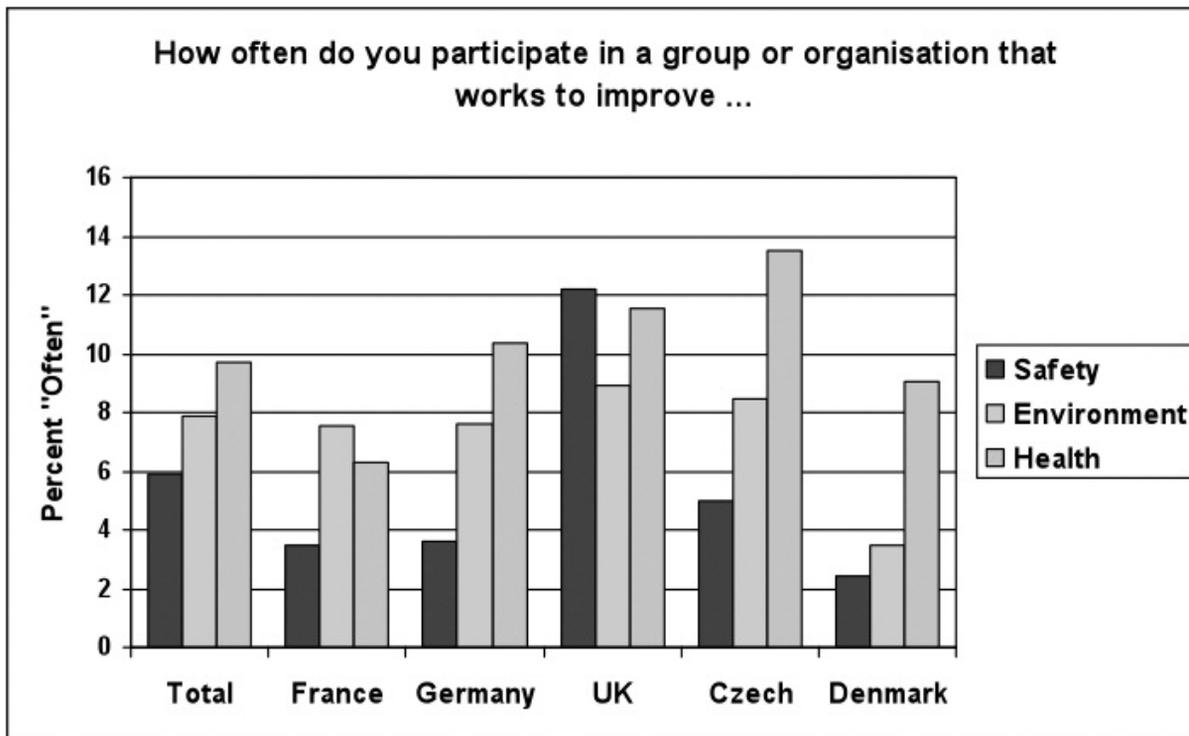
Admittedly, these numbers are small (with the exception of the sports club volunteers), compared to the 1.8m regular blood donors, the 8m people signed up as potential organ donors, and the 10m people within Neighborhood Watch schemes, all of which are more ‘lonely’ activities, which do not need to be programmed to the same extent within a person’s daily timetable.

Nevertheless, the value of the contribution made by co-producers cannot be estimated simply by a head count. The potential ‘external’ benefits listed earlier in this chapter suggest that collective co-production may be sufficiently attractive to make its increase an appropriate target for public intervention, if the costs were kept commensurate. And, indeed, governments have already spotted this potential – the UK government suggests that its Putting People First programme for the transformation of adult social care “seeks to be the first public service reform programme which is co-produced, co-developed, co-evaluated and recognises that real change will only be achieved through the participation of users and carers at every stage” (HM Government, 2007: 2). In the next sections, we consider how transformation such as this might be achieved.

## **THEORISING THE DRIVERS OF COLLECTIVE CO-PRODUCTION**

Needham (2009) observes that the original co-production literature came from American urban scholars in the late 1970s and early 1980s, responding to fiscal cutbacks in the United States at a time of rising public expectations of services but Löffler (2009) points out that current preoccupation with co-production, although taking

**Graph 4: Levels of Regular Participation in Community Safety, Local Environmental and Health Organisations/Groups Across Countries**



place during another recession, is characterised by a number of other drivers, too, such as

We have demonstrated that empirically ‘collective co-production’ has different characteristics from ‘individual co-production’. In this section, we explore how this different source of user and community co-production might be triggered, i.e. what might be done in order to find ways of mobilising its potential, given the problems suggested from the European survey.

There are three theoretical formulations which can help us to explain what lies behind these marked differences in citizen responses in respect of individual and collective co-production:

**Social network theory:** interactions between network agents lead to system behaviour which is non-predictable from individual expectations because of the character of the links between actors in the network.

**Social movement theory:** mobilisation of mass action is achieved through individual word of mouth and commitments to small-scale joint action, in connected chains of actors, leading to major collective actions, which reinforce the commitment of the actors to their localised choices.

**Complexity theory:** small changes in initial conditions can lead to very different system behaviours where actors are connected as complex adaptive systems, e.g. where confidence in medical advice is undermined in relation to one immunisation (like MMR), which is therefore shunned by most citizens, although other vaccinations continue to be popular and unproblematic.

What each of these theoretical approaches has in common is that it is based on a non-linearity between the

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The UK has developed a quite powerful network of associations which encourage citizen participation in community safety - these are the local Neighbourhood Watch groups. According to the latest British crime survey, there are about 160,000 Neighbourhood Watch groups in the UK, although “coverage is patchy” as a representative of Neighbourhood Watch.Net, the national website, pointed out at the focus group session. Membership figures suggest that about 10m individuals from about 6m households are involved in these groups but, of course, some neighbourhood watchgroups are more active and others are less so - the national website estimates that probably only about one-sixth of the groups are really active.

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initial inputs to the system and the eventual outcomes. While the mechanisms by means of which this non-linearity takes effect differ between the theories and the models derived from them, they each result in the characteristics of collective behaviour being very different from those of the individual behaviours which triggered it.

The implications are important for public service organisations – for maximum returns from the potential of co-production, these collective behaviours may need to be activated, through some form of system meta-interventions.

Of course, this only applies in this form in the case of positive synergies – there may also be negative synergies, which threaten to drive systems towards stasis or even destruction, and here, by the same logic, there is a need for system meta-interventions which make these effects less likely or less powerful.

A taxonomy of strategies for activating the positive synergies which could make user and community co-production more cost-effective would include:

- Increasing the incentives for collective behaviour
- Decreasing the disincentives for collective behaviour
- Increasing the connectivity of those giving rise to positive synergies in collective behaviour
- Decreasing the connectivity of those giving rise to negative synergies in collective behaviour

In this paper, we focus on the latter two strategies around connectivity. Its importance derives from the fact that connectivity determines the level (and direction) of non-linearities in the system through three different characteristics:

- strength of the connectivity
- degree of non-linearity (‘curvature’) in the connectivity relationship
- likelihood of changes of direction in system behaviour over time (determined by the ‘recursiveness’ of the system, broadly the number of ‘turning points’ in the underlying relationship, or ‘equation’, describing system behaviour)

In ordinary personal relationships, these characteristics can be seen respectively in terms of how the relationship is viewed by an individual:

- a strong relationship will lead more often to positive reciprocal behaviours (such as the giving of meaningful presents) than a weak relationship, while a weak relationship will lead more

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often to negative reciprocal behaviours (such as trading insults in public)

- a highly non-linear relationship will mean that quite small changes in behaviours by one or other person will produce marked responses from the other person (e.g. a hint of overworking by one person will lead to an offer of sharing of some tasks from several colleagues)
- a highly recursive relationship will mean that a stimulus by one person will, over time, result in unexpected switches in behaviour by the other person (e.g. allowing a colleague to miss a deadline at work because of family circumstances means that a similar excuse is often wheeled out in the future, without any forewarning being given)

These characteristics can be embedded in the relationship in one of two ways – they can either be a result of the ‘personalities’ of the two actors in the relationship (i.e. their predisposition to act in particular ways, given a specific stimulus) or they can be a result of the mechanisms through which they interact (i.e. the ‘technology’ of the relationship).

In this paper, our interest is in how the latter of these two mechanisms, the technology of the relationship between actors, might influence the balance of ‘individual’ versus ‘collective’ co-production.

We start by using an example of how a simple technology – the telephone – has probably altered the balance between ‘individual’ and ‘collective’ co-production. We then argue that the internet has greatly increased the non-linearities which are evident even in the simpler technology.

## **NON-LINEARITIES THROUGH TELEPHONE-ENABLED CONNECTIVITY**

In a personal relationship, the key way in which the strength of the relationship is reinforced is through mutual contact. From its advent, the telephone greatly increased the possibility of frequent contact between people in any kind of relationship (at least, for those who had the means to use it). However, increased frequency is not enough to help a relationship to flourish – the content of the interaction is also important. We can hypothesise, then, that the telephone may have polarised relationships – where the content of calls was regarded as positive, the increased frequency was likely to produce stronger bonds, while weaker bonds (and even outright antipathy) may have been produced in those cases of increased contact where the content was regarded as unattractive.

As regards the effect of the telephone on the ‘curvature’ of relationships, we need to ask if the intensity of relationships was in any way enhanced by the advent of the telephone.

The evidence base is not detailed or scientific but nevertheless very compelling – people found that it was very much more personal and intimate to talk to each other on the telephone than to write. It seems likely that this new form of connectivity had a more than proportionate effect on the ability of people to sustain their relationships while apart.

Finally, the effect on a relationship of using the telephone to keep in constant contact is not necessarily monotonic – satiation can mean that a turning point occurs, beyond which diseconomies are experienced. For example, someone who rings too often can become perceived as a nuisance, rather than a close friend or can evince a reaction which is either one of delight or irritation, depending on the circumstances (and irrespective of the content of the call).

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As participants of the French focus group on health issues acknowledged, there are associations of people suffering from severe diseases such as kidney failure or heart transplants but they have very small memberships, compared to the number of people suffering from such conditions. Furthermore, doctors and other professionals do not work with them much.

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It seems likely that the replacement of landlines by mobile phones has not fundamentally altered the nature of the effect of the telephone on connectivity within relationships, although it has strengthened each of the three elements of connectivity.

## NON-LINEARITIES THROUGH INTERNET-ENABLED CONNECTIVITY

When we switch to consider the potential of the internet, we find similarities but also some differences in relation to its effect on the three dimensions of connectivity.

First, it is likely to lead to substantially stronger connectivity because of the ease and low cost of use (at least for those people who are ‘wired’).

Secondly, there is likely to be very strong ‘curvature’ in relationships which are web-enabled, partly because of the multiple formats of web-enabled communication – email, webcam, Skype, Twitter, Facebook, YouTube, Flickr, LinkedIn, etc. Moreover, the potential for each partner to introduce other actors into any given conversation is greatly expanded – e.g. the power of the ‘Reply to all’ button, something which is still very restricted on the telephone, where conference calls are possible but not easy (and not cheap). This is seen particularly clearly on a platforms such as Twitter, where most communications are automatically copied to all ‘followers’ of the person sending the message.

Finally, the recursiveness of web-enabled relationships is more difficult to estimate *a priori*. On the one hand, it is just as possible to get too many emails from some contacts as it is on the telephone. However, emails have the useful characteristic that there is no expectation that the person to whom one writes will be online and able to reply immediately. Therefore, emails retain a ‘batch processing’ expectation, which means that they can be dealt with when one wishes to, without necessarily hurting the feelings of the person who is waiting. (Of course, not replying to reminder emails has more or the less the same effect on a relationship as not replying to a reminder telephone call). It may be that this latter phenomenon reduces the recursiveness of internet-enabled connectivity. (Interestingly, modern telephones, particularly mobiles, now have a similar facility, in that one can now tell who is calling, and decide whether or not to answer immediately, as opposed to allowing the caller to leave a message on ‘voicemail’, a name which has a clear echo of ‘email’).

Taking these characteristics of internet-enabled connectivity into account, we might expect that not only would the internet increase the potential for collective co-production, it might also broaden its reach to a wider range of potential co-producers. However, it is important to unpack this aggregate view of the impact of internet-enabled connectivity, in order to understand the mechanisms by which it might operate in practice.

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To explore this further, we need to look at the role which ICT can play in supporting – perhaps even triggering – changed behaviour in a group or organisation (Bovaird, 2005):

- *improved use of databases in the group or organization* – here, the stocks of knowledge in the group or organization, at least in so far as they are embedded in the its databases, are more accessible and can be cross-referenced more easily. It is expected that this should help both in enhancing the decisions which group members make and in implementing their decisions more consistently;
- *better communications in a group or organization* – partly through the use of the its databases, but also because it opens up much faster, more personalized communications channels to individuals and to groups;
- *more effective decision-making by the members of a group or organization* – here, information flows are made faster, more reliable and more relevant than they were before, so that individual decisions are likely to be improved and the communications between decision makers are improved, so that decisions are more coordinated.

These three mechanisms have very different implications for collective co-production, as compared to individualised co-production. While types of co-production are likely to be enhanced by better communications, the roles of ICT both in improving use of data bases and co-ordinating decision-making are likely to be especially beneficial to collective co-production, as here there is more need for group interaction. Moreover, the quality of interactions is likely to be significantly higher if groups are intensively involved – e.g. databases are more likely to be updated if network members use them and are convinced of their value, while decision-making may be more imaginative if it can call on the expertise of wider stakeholders in the network than the ‘core group’ within lead organisations. This is amplified if we accept that co-production is especially likely to be important in relational (as opposed to ‘transactional’ services), where the quality of interaction is critical (Horne and Shirley, 2009; this is disputed, however, by authors like Alford, 2009, who believe that co-production can be important in both types of services).

Therefore the greater connectivity of the internet becomes especially powerful in situations where collective co-production is possible – it enables not simply *one-to-one*, *one-to-many* and *many-to-one* communication, which are the hallmark of traditional telephone conversations, presentations and chair dominated ‘committee meetings’, respectively, but also *many-to-many* communication. Many-to-many communication has two major benefits – first, each person in the network is now more widely informed (even if they then proceed to make decisions on their own, as in personal co-production) but, secondly and often much more importantly, it which allows the kind of niche groups to form (within complex adaptive systems) which are likely to find common cause in certain aspects of co-production. Clearly Web 2.0 applications (e.g. interactive blogs used for ‘crowdsourcing’) may turn out to be especially powerful in driving this kind of behaviour but the standard internet facilities of discussion groups, listserver communities, chatrooms, etc. have already proved valuable connectors for activists.

This argument suggests that collective co-production is likely now to be more practical to mobilise than in previous periods. It remains to be seen whether these improvements in connectivity will be enough to overcome

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the individualist preference-based obstacles to collective-based co-production, which we outlined from our European survey. However, the final issue that we wish to consider here is what the implications are for public agencies, knowing that the technological opportunities for collective co-production are now greater than before.

## **PUBLIC INTERVENTIONS TO PROMOTE INTERNET-ENABLED COLLECTIVE CO-PRODUCTION**

Our European study revealed that policy makers and practitioners are still very ambivalent about the contribution which co-production does and could make to public service improvement. While they recognise that co-production exists, they are reluctant to admit to the volume of co-production activity and the contribution which it makes to public value.

However, a series of internet-enabled interventions are emerging which have the effect of enhancing collective co-production. We focus here mainly on examples which are occurring in the UK, using a framework for different types of co-production developed in Bovaird (2007), but similar developments are to be found in the other five countries in our European study.

**Co-planning:** South Bristol Digital Neighbourhoods has been working with Bristol City Council to provide local residents with ICT training, encouraging them to use the internet and showing them how they can use the council's consultation site [www.askbristol.com](http://www.askbristol.com), which is part of an EU e-participation project called Citizenscape, and allows residents' comments to influence council decisions. The current consultation project focuses on traffic noise pollution, and the website uses video, sound bites, images and discussion forums to encourage debate. Residents can nominate their favourite quiet areas of the city and plot them on a map – and this map is hosted on the interactive information touchscreen at local shopping centres for those who don't have internet access at home. All the information gathered from the various sources will feed in to how Bristol implements the city's noise action plan.

**Co-design:** Web technologies, such as forums and blogs, have made it easier for individuals to make their voices heard and have a say in service design decisions, without detailed technical knowledge. The Birmingham's 'Open City' project was developed by Digital Birmingham to create new digital resources which will enable citizens better to contribute to local decision-making. It develops an online community that allows people to influence the planning and delivery of services, through an interactive approach which generates discussion and debate between web users. In 2009 one specific initiative Help Me Investigate ([www.helpmeininvestigate.com](http://www.helpmeininvestigate.com)) took off rapidly, providing a platform for people to organise and pursue questions of public interest, by enrolling the knowledge and resources of local citizens.

**Co-commissioning:** experiments in internet-based participatory budgeting are becoming more common, especially in Germany, where Berlin-Lichtenberg has run its PB process through the internet, by post and through local meetings and, more recently, Hamburg (Luehrs, 2009) and Köln (Klages et al, 2007) have run largely internet-based PB exercises, which is currently being evaluated. In the UK, Alston Moor, a small rural community in Cumbria, trialled e-PB as part of an EU e-participation programme. While the Berlin-Lichten-

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berg approach, embedding e-PB within a range of other methods, has generally been seen as successful, it has to be noted that the other pilots have so far attracted disappointingly small numbers of participants.

**Co-managing:** a 'Smart Community' is a neighbourhood where the residents are better connected to each other and to the businesses and agencies that serve them, including local TV channels and local information and online services, with specialist provision for those who need it. It is intended to make residents feel more a part of their local neighbourhood and to make the area as a whole more desirable as a place to live. It is achieved through a local high bandwidth network connecting all homes, businesses and other service providers, which also enables cost-effective management of the digital services delivered to individual homes. Experiments in 'Smart Communities' complement 'Smart Houses' initiatives, using assistive technology – here the users help to manage their own conditions and their safety through the use of computerized surveillance equipment, which residents monitor and which are also connected to a remote monitoring site with built-in alarm mechanisms if a resident appears not to be conforming to normal behavior patterns. Originating in San Diego in the US, this approach has not been developed and piloted in Scotland (<http://www.smartcommunity-fife.org.uk>).

**Co-delivering:** Cheltenham Borough Council initially discovered the power of Web 2.0 in July 2007, as a result of massive local flooding - the Council found that its old web site could not respond to the flow of news and information, so it set up a 'flood blog' to provide a responsive and fast service to residents. Subsequently, this has triggered widespread adoption of Web 2.0 by Council staff and the public. The Cheltenham website now focuses on delivering actual content generated by members of the community who really have something to say or something to show. Residents can publish images to the Cheltenham Flickr feed and movies through the Cheltenham YouTube channel - directly to the Council's site, all controlled via the Content Management System. This approach means the council already has a lot of content already on Flickr and on YouTube, so that people may never visit the council's website site but nevertheless know about its content.

**Co-monitoring:** websites such as FixMyStreet.com allow residents to report problems in streetscene, e.g. rubbish tipping, potholes in the road, incorrect street signs, etc., including posting photos of the problem on the website, so that fast action can be taken. (While excellent in conception, and much used, King and Brown (2007) report that the reaction of the public sector has not always pleased those who have posted problems on the site. However, Savage et al. (2009) report that Lovelewisham.org, which encourages residents to report graffiti and fly tipping for quick removal has resulted in an 8% fall in graffiti and 30% fewer complaints about graffiti).

**Co-evaluating:** websites such as patientopinion.org.uk, a citizen-initiated site, allow NHS patients to post their experiences of healthcare on the internet for other users to read and benefit from and they can rate NHS services on criteria such as standard of medical care. Again, caution is needed here – research suggests, albeit after a relatively short period of operation, that such sites have not yet made it significantly easier to find performance information about health online (Escher and Margetts, 2007).

In each of these cases, while individuals have been helped by the internet to co-produce public services

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with professionals from public agencies, the co-production process has had a collective character and had outcomes for more people than those who directly took part in the co-production process. It is this collective aspect of co-production which is likely to be particularly important to the public sector in its search for ways of adding value in the future. And, as we have argued in this section, this collective type of co-production is particularly likely to be fostered by ICT innovations, particularly the connectivity offered by the internet.

## CONCLUSIONS

This paper has distinguished between individual co-production, where the benefits go essentially to the co-producer, and collective co-production, where the benefits go to a wider group than those who actually participate in the co-production. It suggests that collective co-production is likely to have particular significance for the public sector, where it can be encouraged, but the behaviour of citizens is more likely to give rise to individual co-production, unless encouragement is given to mechanisms which lead to more collective co-production. The paper suggests that internet-enabled technologies fulfil the requirements which make collective co-production easier and more likely.

The implications of this analysis are important for public sector agencies which wish to make use of the potential of user and community co-production. It highlights the limitations of ‘self-interested’ co-production and suggests that a more systematic and co-ordinated approach to collective co-production is needed if outcomes are to rise above the levels which will result from purely ‘self-organising’ activities.

Given the lack of such systematic arrangements in the public sector throughout Europe, the current levels of collective co-production should be regarded as a very poor indicator of their potential – this deserves to be the subject of further research.

## ACKNOWLEDGEMENTS

A earlier (and much shorter) version of this paper appeared as “User and community co-production of public services and public policies: the role of emerging technologies” in John Gøtze and C.B. Pedersen (eds) *State of the eUnion: Government 2.0 and Onwards*. Bloomington, IL: Authorhouse. (2009, with Elke Loeffler and James Downe).

### **Our Thanks go to the Following who Contributed to the Research:**

Prof. Salvador Parrado, Governance International

Prof. Tony Bovaird, Governance International

Prof. Gregg Van Ryzin, Governance International

Julie Gaillot, Tns-Sofres

Marc-André Allard, Tns-Sofres

Bernard Blanc, Ministry of Finance, Paris

Dr. David Capes, University of Bordeaux

---

Kim Griffin, ENA, Strasbourg  
Emmanuelle Grimault, Ministry of Finance , Paris  
Mogens Hegnsvad, Municipality of Gribskov, Denmark  
Tine Vedel Kruse, Ministry of Finance, Copenhagen  
Dorthe Sørensen, SCKK, Copenhagen  
Dr. Petr Fanta, Institute for Structural Policy, Prague  
Martina Javolecka, Ministry of Interior, Prague  
Jiri Marek, Ministry of Interior, Prague  
Prof. Juraj Nemec, University of Banska Bystrica, Slovakia  
Prof. Gerhard Banner, Governance International  
Prof. Dr. Helmut Klages, Civil Service College Speyer  
Prof. Dr. Sabine Kuhlmann, Humboldt University, Berlin  
Markus Priesterath, Ministry of Interior, Berlin  
Jonathan Landsberg, Neighbourhoodwatch.net, London  
John Tatam, independent consultant, London  
Tina Benfield, the Chartered Institution of Wastes Management, London

## ENDNOTES

<sup>1</sup> The index is a min-max (0-100) scale, with 0 representing minimum co-production (answering "never" to all the co-production questions) and 100 representing maximum (answering "often" to all the co-production questions).

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## ABOUT THE AUTHORS

**Tony Bovaird** worked in the UK Civil Service and several universities before moving to back to INLOGOV in 2006. He was a member of the OECD e-Governance Task Force. He chaired the Evaluation Partnership, set up by the UK government to co-ordinate evaluation of the Local Government Modernisation Agenda from 2002 – 2007 and is a member of the CLG Expert Panel on Local Governance. He undertook evaluation case studies of

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the Civil Service Reform Programme, commissioned by the Cabinet Office and recently led the UK contribution to an EU project on user and community co-production of public services in five European countries. He helps to organise the European Public Sector Award and is on the Strategy Board of the Local Authorities Research Council Initiative. Author of *Public Management and Governance* (2nd ed., London: Routledge, 2009).

*Contact information:* Tony Bovaird; Professor of Public Management and Policy; INLOGOV and Centre for Public Service Partnerships; University of Birmingham; Edgbaston; BIRMINGHAM B15 2TT; t.bovaird@bham.ac.uk; phone: 0121 414 5006

**Elke Loeffler** is Chief Executive of Governance International, a non-profit organization dedicated to helping agencies to achieve outcomes for citizens through excellence in public governance. Her expertise is in service improvement, quality and performance management, citizen involvement in the commissioning, design, delivery and evaluation of public services, personalisation of public services, outcome assessment, partnership working and local governance. She is co-editor of *Public Management and Governance* (2nd ed, 2009, Routledge).



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# Agency-Based and Agency-Related Blogs as Public Forums<sup>1</sup>

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Julianne G. Mahler, George Mason University

Priscilla M. Regan, George Mason University

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## ABSTRACT

We examine five blog sites created by top federal agency officials and topically similar blogs by interested publics, particularly agency employees and others concerned with the actions and policies of these agencies, to determine whether they have become sites for the robust deliberation of public issues and whether they constitute an online public sphere. Contrary to expectations, we found that agency-based blogs were more likely to focus on policy issues than public relations topics and were surprisingly open to controversy. Although we did not find concrete evidence that the agency-based and agency-related blogs in each of our five policy realms function as well-linked communities, we did find some evidence of mutual interests in overlapping topics and cross references to public issues. The findings of other blog researchers on the uses of blogs to convey and filter insider news and arcane policy information were also confirmed here.

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## INTRODUCTION

Ordinary citizens, reporters, media pundits, political candidates, interest group advocates, academics, sports fans and a host of others have become active participants in the rich environment of the “blogosphere.” With Web 2.0 technologies, almost anyone with an Internet connection can establish their own blog, express their views, comment on the views of others, and build a new online community. Here we explore the uses of these new tools for creating sites for robust deliberations about federal agency policies and administration. We examine blog sites created by top federal agency officials and blogs by interested publics, particularly agency employees and others concerned with the actions and policies of these agencies.

We selected five agencies with active agency-based blogs, three at cabinet level departments, including the Department of State, the Department of Health and Human Services (DHHS) and the Department of Homeland Security (DHS), and two blogs from sub-cabinet level agencies, the Federal Aviation Administration (FAA) and the Environmental Protection Agency (EPA). For each agency we also selected two agency-related blogs we judged to be particularly interested in the agency policy. For example, for the FAA we selected FAA Follies, a blog largely representing current and past employee views, and Jet Whine, an aviation news blog.

The ways these blogs are used, the differences in uses between the agency-based blogs and the agency-related blogs, and the links and interactions among them, may offer clues to how the blog realm is emerging to link citizens and governmental officials. In particular, we are interested in determining the degree to which agency-based blogs and agency-related blogs constitute a form of public sphere for creating “considered public opinions” (Habermas 2006, 416) about policy and management issues surrounding the work of federal agencies.

## POLITICAL AND POLICY BLOG RESEARCH

Two avenues of blog research inform our inquiry. The first involves understanding how political and policy blogs are being used. Many have suggested that political blogs have the potential to change, and indeed are altering, the structure of political communication (Woodly, 2008). In an analytical and empirical examination, Kevin Wallsten (2007) posits four ways that political bloggers might use their blogs: first, as “transmission belts” or “link filters” that simply provide links to Web sites or sources with no commentary; second, as “soapboxes” to articulate opinions, record a political diary or to confess; third, as “mobilizers” to encourage readers to take political action; and finally as “conversation starters” to elicit feedback, encourage dialogue, and ask questions. Using a longitudinal content analysis of political blogs, he found that political bloggers use their blogs primarily as soapboxes and, to a lesser extent, as transmission belts with 95.7% of posts used to make opinion statements or pass on information without comment (32-3). McKenna and Pole (2008) suggest four somewhat similar activities of political bloggers: informing readers, checking the media, engaging in political advocacy, and gathering money for charitable causes. Based on a random sample of 500 political bloggers, they found that informing readers, especially of specialized information, is the “core business of bloggers” (102), but they also found that most political bloggers had only a “handful of readers” (105). The first empirical study of policy blogs was conducted by McKenna (2007). She found that “policy bloggers” use their blogs

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to filter information, to provide expertise, to form networks, to attract attention, to frame arguments, and to exploit windows of opportunity. She also found that policy bloggers seek to become a hub for information on their issue and that they link to other bloggers and to the media.

A second avenue of blog research that is relevant to our inquiry is research that examines how blogs are interconnected, largely through links and comments. Daniel Drezner and Henry Farrell (2004 and 2008) found that blog links provide a means of filtering blog posts and a way for readers to coordinate their reactions to posts. Others, however, are skeptical that blog links are indicative of actual exchanges. Herring, et al (2005, 1) note that “the claim that linking to other blogs constitutes a form of conversational interaction is not self-evident, and merits critical scrutiny. We do not generally think of web sites that contain links to other web sites as engaging in ‘conversation’.” Sunstein is similarly unconvinced by the evidence that blogs link to similarly situated blogs, and concludes that blogs function as “information cocoons and echo chambers”(2008, 95). A sophisticated empirical study of blog linkages by Hargaittai, Gallo and Kane found that the evidence is somewhat mixed with clearly more blogs linking to those with similar ideological views but some linking to opposing viewpoints (2008, 85).

In addition to links, the comments in response to blog postings offer evidence of whether or not blogs are resulting in two-way conversations or merely one-way flows of information. To begin to understand the deliberative activities on blogs, Walker (2007) conducted a pilot study of blog commentators because “it is in their postings that a dialogue emerges among the posters or between the posters and blog author.” The pilot looked specifically at four areas: opinion diversity, opinion quality, integrative discussion, and political participation. Using data from a sample of four popular political blogs and two mainstream media “blog-like” columns, Walker’s preliminary results confirmed the expected finding that on political blogs those with similar viewpoints and ideologies converse, and that moderates tend to be absent on these blogs. Walker also found that on each blog something of an information community emerges, with commentators referring to each other, quoting from each other, and asking questions of each other.

What are the implications of these findings for studying the uses of agency-based and agency-related blogging? Are these blogs being used similarly? These questions are important because bloggers in general, and perhaps especially those who are directly engaged in policy conversations with public officials, constitute what may be the latest incarnation of the public sphere, “which mediates between society and the state” (Habermas 1964, 50) and within which public opinion is formed. Habermas laments the decline of autonomous public voice, now subsumed by newspaper editorial policies, organized groups, and political parties into public relations or today, “spin.” But it may be that the blogosphere studied here offers a new public space for individuals to form and articulate their own views and speak directly to the agents of government policy. Sunstein (2008), noted earlier, was skeptical of this interpretation of blogs generally, citing research that found that group members tend to become more extreme in their views after discussions with others, and findings that bloggers tend to join groups of like minded participants. Thus he dismisses the idea that blogs serve an epistemic function in democracies. Habermas, however, argues that everyday conversation among citizens and “wild flows” of political messages (2006, 415) from many directions do lead to learning and to “considered political opinions”

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(416), and he amasses evidence from the political communication literature to argue that citizens build knowledgeable opinions from casually accumulated common information. The key for Habermas is the plurality of these flows of information and their independence from political and commercial sources of media control.

Our data on the traffic on agency-based blogs and the agency-related blogs allow us to examine some of the implications of Habermas' argument. Do the agency-based blogs operate differently from the agency-related ones? Are the agency-based blogs less likely to operate independently and pluralistically than the agency-related blogs? Additionally, are there conversations across agency-based and agency-related blogs, raising the possibility that the federal presence opens new avenues for the formation of informed policy opinion for citizens and agency officials?

We can compare the content of agency-based and agency-related blogs to answer some of these questions. First, we can determine whether agency-based blog postings are focused on policy issues, or are more likely than the agency-related blogs to post on public relations topics, avoiding controversy and controlling the message. Blogs by government agents, loathe to relinquish policy leadership, may act to try to influence the course of discussion. Baumgartner and Jones (1993), for example, note the efforts of dominant members of policy communities to divert attention away from controversy. Based on the same logic, comments on the agency-based blog sites might be more highly controlled and moderated than on the agency-related sites, and might exhibit lower levels of disagreement with posts. We might also expect that the number and diversity of bloggers will be greater in the agency-related blogs than in the agency-based blogs, reflecting more open and autonomous conversations and a plurality of information sources. Finally, we can examine the degree of linkage between the agency-based and agency-related blogs. Will we see conversations across blogs, between governmental and non-governmental blogs, or will the blogs act as cocoons, with conversations among like minded participants? These questions do not address all the issues raised about blogs as forums in the public sphere. We are not studying changes in public opinion, for example, but we are able to answer some questions about the pluralism and independence of this new foray by federal agencies into the blog realm.

## RESEARCH QUESTIONS AND HYPOTHESES

Following on these lines of questions, we offer several hypotheses about how federal agency officials are using blogs, what activities and topics are characteristic of these blogs, how they differ from agency-related blogs, and to what degree the topics and links of these agency-based and agency-related blogs intersect.

**H1:** Reflecting the idea that agency-based blogs will be less likely than agency-related blogs to be part of the public sphere, we might expect the agency-based blogs to exhibit less pluralism in postings and permit less independence in comments. Thus we expect agency-based blogs will be more likely than agency-related blogs to have strict and controlling moderation policies, to avoid controversy in their postings, and to use the blogs for public relations purposes. We would also expect in consequence that the level of disagreement between posts and comments, the number and length of posts and comments, and the diversity of posters and commentors will be lower on agency-based blogs than on agency-related blogs.

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**H2:** In contrast, based on the idea that the agency-based and agency-related blogs might together constitute a part of the public sphere, we might expect that agency-based blogs will offer an opportunity for public discourse between citizens and the state, and that the agency-based and agency-related blogs will be related with overlapping content and participants, and with shared live links to each other's blogs, to specific posts and to similar external sites and sources .

## METHODOLOGY AND RESEARCH DESIGN

Evidence for testing these hypotheses is based on comparing the content and links offered on agency-based blogs and on agency-related blogs. To identify agency-based blogs we searched the Office of Citizen Services web portal at the General Services Administration (USA.gov), which identifies active and archived federal government agency blogs. We also searched agency websites. We selected five agencies that had at that time active agency-based blogs<sup>2</sup>, three for cabinet level departments, including the Department of State, the Department of Health and Human Services (DHHS) and the Department of Homeland Security (DHS), and two blogs from a sub-cabinet level agency, the Federal Aviation Administration (FAA) and the Environmental Protection Agency (EPA). Of these, postings on DHHS and EPA blogs were by the Secretary and Deputy Administrator respectively while postings on the DHS blog were by the Secretary along with other top officials, and postings on the State Department blog were by the public affairs office and selected other officials. Postings on the FAA blog were by employees including managers. The number of agency-based blogs constrains our ability to develop a fully balanced sample. There was no attempt here to generate a random sample of blogs but rather to maximize the chances of finding active deliberation.

In order to identify two agency-related blogs for each agency, we utilized an online snowball technique, using the blogroll on the official sites, from the "Beltway Blogroll" site formerly hosted by the National Journal, Google Blog Search (blogsearch.google), and links from websites identified from the first three searches. We examined these results to determine whether the agency-related blog focused on the activities of one of our agencies, and tried to determine whether or not there was any evidence linking the blog to the agency, including overt affiliation with the agency, direct (and repeated) references to the agency itself, (repeated) references to people/events/policy within or related to the agency, and (consistent) substantive discussion related to the agency's specialties. After determining that the blog was appropriate as an agency-related blog, we then looked at content and authorship in more detail, and considered the frequency of posts and the frequency of comments, if permitted. (See Appendix 1 for the blogs in our sample.) As indicated in Table 1, the blogs we examine are not "A-list" political blogs but blogs that rank much lower in readership and authority.

We collected data for the agency-based blog and for postings on two agency-related blogs associated for two month-long periods, October 2007 and March 2008. The two periods allowed us to capture some degree of change or continuity over time and to see if the sites were becoming more or less popular. We collected data on participants, frequency of exchanges, topics covered, and interconnectedness of the blogs. In particular, we examined each blog to determine the number of postings and comments to those postings, and the number of dis-

**Table 1: Blog Rankings**

Weblog	Technorati Rank <sup>3</sup>	Technocrati Authority	Technocrati Blog Reactions
<b>FAA</b>			
Focus FAA/Two Cents	3,324,847	1	41
FAA Follies	319,360	23	88
JetWhine	184,037	40	163
<b>DHHS</b>			
Secretary Mike Leavitt's Blog	N/A	N/A	935
CDC Chatter	N/A	N/A	25
Effect Measure	16,773	273	1,524
<b>DHA</b>			
Leadership Journal	97,786	71	328
Homeland Security Watch	142,039	51	31,676
Northeast Intelligence Network	29,174	257	1,185
State Dept.			
Dipnote	40,423	143	980
Whirled View	57,719	109	811
Informed Comment: GA	27,210	192	1,654
<b>EPA</b>			
Flow of the River	4,978,471	N/A	71
Sierra Club	374,053	16	61
Climate Progress	3,658	640	6,968

crete participants and, if possible, their affiliation. Data collection also entailed reviewing and coding the content of all the postings and comments in the two time periods. We coded each comment for agreement or disagreement with the post, and we coded the length of the posts and comments.

The discussion of findings, which parallels our hypotheses, is organized into five sections: blogging topics; the role of moderators; number and diversity of posters and commentors; level of disagreement and length of blogs; and blog linkages.

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## TOPICAL FOCUS OF BLOGS

We first examine each of the sites to identify the kinds of topics taken up. We expect less controversial topics and more emphasis on public relations on the agency-based blogs, indicating less independence from existing agency policy. Overall, this expectation was not supported. Most of the agency-based blogs did raise controversial policy issues for discussion, though typically defending agency positions. At the same time, however, they were also more likely to offer public relations postings than the agency-related blogs.

### Department of Health and Human Services

Though all three of the blogs associated with DHHS are concerned with public health, the topics taken up in these blogs differ markedly from each other. The most common topics in the Secretary's Blog concerned SCHIP (State Children's Health Insurance Program) Legislation, reports on pandemic flu preparations, and MRSA (methicillin-resistant *Staphylococcus aureus*) infections, but public relations, especially Secretary Leavitt's own travel reports and meetings with foreign leaders abroad, also figured prominently. The CDC Chatter on the other hand was occupied principally with CDC management issues. Forty-four percent of the postings over the two months were concerned with personnel, mainly but not exclusively criticisms of personnel policies. Complaints of political interference in CDC findings constituted 22% of the postings. Public health policy issues, particularly criticisms of pandemic flu preparations, environmental health, and food safety were the main topics in Effect Measure, which characterizes itself as "a forum for progressive public health discussion and argument." But criticisms of administration positions on the economy, the Iraq war, and civil liberties were also prominent.

### Federal Aviation Administration

In contrast to the pattern in the DHHS blogs, prominent themes across all of the blogs associated with the FAA were human resources, management, hiring practices and employee morale. At the agency-based site, Focus FAA, the "my two cents" postings offered both complaints about working conditions, pay and benefits, but also defenses of unpopular decisions, suggestions for alleviating workplace tensions, and postings celebrating FAA accomplishments. The FAA Follies, an agency-related site for FAA employees established to shed "light on the idiocies that are found throughout the FAA," also emphasized management issues, but was much more often critical than the agency-based site. Follies postings charged serious deficiencies in management supervision, working conditions and staffing levels for controllers. At JetWhine, a blog for flying aficionados by a former FAA employee, pilot, writer and aviation industry consultant, the majority of posts were devoted to flight training and new aircraft. However several posts also targeted the FAA and the airlines for policies or actions that created employment problems for pilots.

### Department of State

Dipnote, jargon for "diplomatic note," is published by the State Department's Bureau of Public Affairs to offer the public an alternative foreign policy information source. Whirled View, an agency-related blog was created by a

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team including two former Foreign Service officers. Informed Comment: Global Affairs is the product of nine academics. Iraq, Iran and Afghanistan were topics on all three of these blogs for both months. Of the three, Whirled View represents the greatest range of topics and Informed Comment the smallest range, with 38% of its posts being about Iran and 25% about Afghanistan for the two months under study. On all three blogs, policy issues dominate the posts. Only two management issues, issuance of passports and contracting, received any attention during the period under study. The audiences for the agency-related blogs, and the commentors, were not the general public but in the case of Whirled View were often other bloggers and in the case of Informed Comment were other academics. In both cases, the number of unique commentors tended to be narrower on the agency-related blogs.

### **Department of Homeland Security**

At Leadership Journal, the blog from the Department of Homeland Security, Secretary Michael Chertoff noted that he wanted to “open a dialogue with the American people about our nation’s security,” and was open to ideas and constructive criticism. The Northeast Intelligence Network (NEIN) blog was the creation Sean Osborne, who describes himself as a “Christian, American Patriot, Ronald Reagan, pro-Israel, Conservative,” who is “dedicated to supporting and defending the U.S. Constitution against all enemies, foreign or domestic.” Christian Beckner started Homeland Security Watch because there were, in his view, so few good blogs on homeland security issues. For all these blogs, there was variation among the topics discussed although border security, immigration, REAL ID, and contracting are issues that were discussed on more than one blog. Of the three, the NEIN blog has the greatest range and number of topics, with 24 specific topics discussed in the two months while 17 were discussed on the Leadership Journal and 19 on Homeland Security Watch. On all three blogs, policy issues dominate the posts. Even the DHS agency-based blog only has 2 posts on management issues during the study period and 5 posts of a public relations nature while 14 posts were policy related.

### **Environmental Protection Agency**

The Environmental Protection Agency’s Deputy Administrator Marcus Peacock created Flow of the River to “discuss what EPA is doing to improve its operations and make what EPA does more open to the public.” Postings included an Earth Day photo contest, but also rebuttals of public criticisms of EPA’s regulation of air quality and fertilizers, and the “midnight” changes in regulations. Its last posting was on Earth Day, 2008, when the blog was taken over by Greenversations, another agency-based EPA blog. Taking the Initiative, the Sierra Club blog, is solely authored by the Club’s Executive Director, Carl Pope, a long-time environmental activist and author. Topics included criticisms of coal fired power plants, Senator Dominici’s lack of support for solar energy, but less controversially, Al Gore’s Nobel prize and California’s wild fires. Climate Progress describes itself as “dedicated to providing the progressive perspective on climate science, climate solutions, and climate politics.” Joseph Romm, the principal author on the blog, was former “acting assistant secretary of energy for energy efficiency and renewable energy during the Clinton Administration.” Postings supported reports by NASA’s James Hansen on global warming, discussed Senator Dingell’s carbon tax plan, and links between en-

**Table 2: Blog Posts by Category**

	Months Combined					
	Policy	Mgt	PR	Other	NC	Blog total
<b>DHHS Blogs</b>						
Secty's Blog	6 43%	0	8 57%	0	0	14 100%
CDC Chatter	3 9%	21 66%	0	8 25%	0	32 100%
Effect Measure	68 59%	5 4%	1 1%	39 34%	1 1%	115 100%
<b>FAA Blogs</b>						
Focus FAA	27 77%	4 11%	4 11%	0	0	35 100%
FAA Follies	26 62%	8 19%	1 2%	7 17%	0	42 100%
Jet Whine	6 22%	2 7%	5 12%	14 52%	0	27 100%
<b>State Blogs:</b>						
Dipnote	17 46%	4 11%	13 35%	3 8%	0	37 100%
Whirled View	33 50%	9 14%	0	24 67%	0	66 100%
Informed Comment	37 93%	0	0	3 8%	0	40 100%
<b>DHS Blogs:</b>						
Leadership Jnl	14 67%	2 10%	5 24%	0	0	21 100%
NEIN	27 82%	0	2 6%	3 9%	1 3%	33 100%
Homeland Security Watch	22 79%	4 14%	0	2 7%	0	28 100%
<b>EPA Blogs</b>						
Flow of River	8 32%	11 44%	5 20%	1 4%	0	25 100%
Sierra Club	14 78%	2 11%	0	2 11%	0	18 100%
Climate Progress	169 83%	3 1%	7 3%	33 16%	0	203 100%

ergy and the environment. In general, the agency-related blogs were more focused on climate issues, and Flow of the River was more likely to post about agency management issues. It was also more likely to offer public relations postings, however, than either of the agency-related blogs.

For each agency-based and agency-related blog, we also coded each posting by topic area: policy statements (including statements defending policy), agency management, public relations (self-promoting or self-congratulatory postings about the blogger or the agency), or “other” (religion, the economy and the Bush presidency). A comparison of the fifteen blogs in Table Two illustrates the differences in emphasis. Because the patterns of responses are virtually the same each month, we have combined the months. The first thing to note is that all of the blogs are engaged in policy issues. These sites are not, as many blogs are, places for mainly personal observations or political rants, though to be sure there is some of this on each blog. We also note that two of the agency-related blogs, FAA Follies and CDC Chatter, focused heavily on management issues such as personnel, contracting, budgets, or leadership. As noted above, these blogs were established as sites for employees and it is interesting that management rather than policy issues are their most common focus. Other agency-related sites do focus on policy discussion. However, we also see that the agency-based sites are more likely than the others to offer public relations postings.

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What our data on the blog topics reveal is that Hypothesis 1, that agency-based blogs would avoid controversial topics, is not supported. We do, however, see that the agency-based blogs are appreciably more likely than agency-related ones to use the blogs for public relations. Their public relations efforts tended to promote the visibility of agency top leadership and the reputation of the agency rather than defend their policies.

## **ROLE OF MODERATORS**

We also hypothesized that the role of moderators will be more pronounced on agency-based blogs, but this expectation was also not supported. For the DHHS-related blogs, we found no evidence that the role of the moderator was more pronounced for the agency-based blog than the agency-related ones. All three blogs are moderated, and the moderators certainly allowed critical, though not abusive, comments. The moderator at the CDC site noted sarcasm and humor were encouraged. The FAA-related blogs were also moderated and edited. The standard cautions against personal attacks were in place. The agency-based Focus FAA blog did offer responses to queries or charges based on official policy, but numerous comments and postings critical of the agency and its leadership were published.

Dipnote is a moderated blog, but the role of the moderator did not appear to be heavy-handed as a number of comments critical of State Department policy, and the administration generally, were included. There is no evidence that the Informed Comment blog has an active moderator and for both months reviewed spam comments and vulgar phrases appeared. Whirled View also does not have a moderator, although the poster was more likely to respond to comments than on the other State Department related blogs and there were few comments that were not responsive to the post itself.

The DHS Leadership Journal is also a moderated blog with a comment policy similar to the other federal agency blogs. There is no indication that the Homeland Security Watch blog is moderated or edited, although there are very few comments or commentors. The NEIN blog does occasionally delete comments, once about a post on terrorist training in the US and another time about a post on the coming Middle East War. Our sense is that comments to the NEIN blog that are overly critical of the post or the general orientation of the blog are deleted and may not have been posted.

Comment policy at EPA's Flow of the River was also relatively simple, asking that respondents stay on topic and not make offensive or commercial comments. The Sierra Club blog had similar prohibitions. Climate Progress had the most highly elaborated comment policy of those we examined, requiring those who wish to comment to accept their "terms of use" statement that grants the blog rights to use and distribute comments, including any personally identifiable information in them, as it wishes.

Thus, again our expectations that the agency-based blogs would have the most restrictive edited and monitoring policies were not confirmed. In fact, the agency-related blogs had the more restrictive policies overall. Perhaps the much higher level of comment on some of the agency-related blogs have prompted their more elaborate policies in some cases, but the assumption that agency-based blogs would adopt more restrictive and controlling comment policies, as anticipated, is not justified. This relative lack of editing and monitoring could be interpreted as establishing a space in which unencumbered public discussion could occur.

**Table 3: Number of Postings and Comments**

	October 2007		March 2008	
	Postings (unique posters)	Comments (unique commentors/anon comments) <sup>4</sup>	Postings (unique posters)	Comments (unique commentors)
<b>DHHS</b>				
Secretary's Blog	10 (1) 19 (2/anon) <sup>5</sup>	100 (77/0) 280 (3/277) <sup>7</sup>	4 (1) 13 (anon)	27 (24/0) 0 (na) <sup>8</sup>
CDC Chatter Effect Measure	58 (1) <sup>6</sup>	578 (199/25)	57 (1)	768 (207/1)
<b>FAA</b>				
Focus FAA	13 (13)	16 (16/0)	22 (22)	13 (13/0)
FAA Follies	23 (5)	460 (219/0)	19 (4)	322 (142/0)
Jet Whine	11 (1)	22 (16/0)	16 (3)	97 (51/3)
<b>State Blogs</b>				
Dipnote	21 (17)	350 (253/1)	16 (11)	167 (58/8)
Whirled View	39 (4)	49 (21/0)	27 (5)	45 (22/1)
Informed Comment	27 (6)	122 (42/24)	13 (5)	91 (21/54)
<b>DHS Blogs</b>				
Leadership Jnl	12 (4)	108 (23/81)	9 (4)	325 (41/264)
NEIN	23 (1)	135 (18/10)	10 (1)	91 (11/14)
Homeland Security Watch	13 (1)	19 (7/0)	15 (1)	21 (5/0)
<b>EPA Blogs</b>				
Flow of River	14 (4)	6 (6/0)	11 (4)	57 (32/4)
Sierra Club	9 (1)	55 (17/30)	9 (1)	18 (12/0)
Climate Progress	118 (5)	595 (151/7)	85 (7)	1169 (253/1)

## NUMBER AND DIVERSITY OF POSTINGS AND COMMENTS

We also expected to discover that agency-related blogs would show a larger number of posts and comments, would offer a more diverse set of posters, and would attract a larger and more diverse set of respondents. We based this expectation on the idea that the views expressed in posts and comments would be less pluralistic on the agency-based blogs than on the agency-related blogs. Table 3 summarizes our findings. It was generally (though not always) true that the number of postings and comments was greater for the agency-related blogs, suggesting more active and open exchanges. However, in only three of the ten months for which we have agency-based data did the agency-based blogs have the fewest postings and comments. The difficulty of drawing a sample of agency-related blogs makes generalization impossible, but it appears that the agency-based bloggers were generally active, and that their posts typically generated a reasonable number of comments. We also found that the number of postings or comments on agency-based blogs did not decline in any more marked way than on the agency-related blogs.

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The number of unique individuals initiating the postings also varied by blog, but not in the anticipated direction. Though we might have expected the agency-based blogs to have fewer posters, corresponding with a less open, more controlled message, there was most often a larger number of agency-based bloggers than agency-related blog posters within any policy group. The number of unique commentors also differed by blog, but again the agency-based blogs rarely exhibited the fewest number of comments or unique commentors.

The diversity of the participants proved to be impossible to gauge. We had expected to be able to distinguish between agency members, legislators or their staff, lobbyists or interest group members, academics, or bloggers, but most commentors and even some of the posters could not be identified with regard to their backgrounds or professions. We were often able to determine that respondents were bloggers because their name would link to their own blog sites, but beyond that, and the occasional admission of agency or academic affiliation, we could only designate the respondent as part of the interested public. Most commentors use pseudonyms or blog anonymously.

## **LEVEL OF DISAGREEMENT BETWEEN POSTS AND COMMENTS**

The level of disagreement and controversy was not in proportion to the level of traffic on the sites, however. We coded each comment for agreement or disagreement with the posting to which it was a response to establish an overall percentage of disagreement between the post and the comments that followed (see Table 4). We expected that the levels of disagreement would be lower on the agency-based blogs, in line with the argument that governmental blogs would be less controversial and raise fewer challenges to public perceptions. However, we found that the levels of disagreement were actually higher for the agency-based postings than the agency-related postings for three of the five agencies, and the levels were always substantial. This is clearly the case for DHHS related blogs. The level of controversy was also significantly higher on the Dipnote blog than on the two agency-related blogs. Both State Department related blogs generated few comments and seemed targeted to audiences which agreed with the blog's orientation. The official Homeland Security blog, Leadership Journal too generated much higher levels of negative comment than the NEIN blog, and there was absolutely no controversy on the Homeland Security Watch blog. In contrast, the FAA-related blogs created more disagreement than the agency-based blog, and there were higher levels of controversy in the agency-related EPA blogs than in the agency-based blog, but still significant levels overall.

What this finding suggests is that the agency-based blogs are engaging in real dialogs, and that the learning process may at least potentially be proceeding in both directions. That is, disagreement levels indicate that like-minded individuals are not just trading comforting comments, as appears to be the case in some of the agency-related blogs with very low disagreement levels and is often reported to be the case for political blogs. Instead participants on agency-based blogs are challenging each other. When one of the parties to these exchanges is a governmental actor, this opens the possibilities for officials to learn about public opinion first hand. And again, it suggests that the new governmental blogs are operating as part of the public sphere, and may be contributing to informed opinion in several quarters.

**Table 4: Level of Disagreement between Post and Comments**

	<b>October 2007</b>	<b>March 2008</b>
<b>DHHS</b>		
Secretary's Blog	41%	26%
CDC Chatter	36	(na)
Effect Measure	18	20
<b>FAA</b>		
Focus FAA	13%	15%
FAA Follies	53	26
Jet Whine	16	18
<b>State Blogs:</b>		
Dipnote	26%	21%
Whirled View	3%	0%
Informed Comment	1%	7%
<b>DHS Blogs:</b>		
Leadership Journal	28%	58%
NEIN	3%	12%
Homeland Security Watch	0%	0%
<b>EPA Blogs</b>		
Flow of River	33%	17.1%
Sierra Club	44.4%	28.6%
Climate Progress	26.2%	28.8%

We also expected that the agency-related blogs would have lengthier discussions, measured by word count, since we assumed they would exhibit more controversial exchanges. While we were incorrect about the levels of disagreement, we were correct about the length of postings, though apparently for the wrong reasons. The postings on the agency-related blogs were, on average, longer. A t-test analysis of the lengths of the agency-based and agency-related blog postings found statistically significant differences.<sup>9</sup> However, the differences between the length of comments on the agency-based and agency-related blogs were not significant.<sup>10</sup>

## LINKAGES AMONG BLOGS

Finally, the findings suggest that the blogs associated with each agency were not closely linked to each other, reflecting the findings of much of the blogging research on the isolation of blogs. While all of the blogs offered a site for substantive exchanges in their realm, they specialized to some extent in their topics and we saw less overlap in the content, linked sources and individuals than we expected (Hypothesis 2). We examine each of these three features of our blogs below.

The content of the blogs overlapped less than we predicted. In the DHHS related blogs, the CDC Chatter posted on a number of personnel issues and charges of political interference. The agency-based DHHS blog did not take note of these issues, but Effect Measure, an agency-related blog, did. The blogs associated with the FAA appeared to be more closely linked with regard to content. The agency-based blog and FAA Follies several times commented on the same media story or official FAA statement, or in one case, a controversial post-

**Table 5: Number of Links and References to Other Blogs in October 2007 and March 2008 (Combined)**

	Links or references to other Agency blogs in:		Links or references to any other blogs in:	
	Posts	Comments	Posts	Comments
<b>DHHS</b>				
Secretary's Blog	0	0	0	13
CDC Chatter	0	0	3	0
Effect Measure	0	0	44	36
<b>FAA</b>				
Focus FAA	0	0	0	0
FAA Follies	1	15	4	13
Jet White	0	0	7	3
<b>State Blogs:</b>				
Dipnote	0	0	1	19
Whirled View	2	0	46	12
Informed Comment	0	0	12	9
<b>DHS Blogs:</b>				
Leadership Journal	0	0	0	1
NEIN	0	0	4	8
Homeland Security Watch	1	6	0	0
<b>EPA Blogs</b>				
Flow of River	0	0	4	2
Sierra Club	0	0	1	1
Climate Progress	0	0	92	115

ing by a prominent FAA official who was praised on the official site, but excoriated at FAA Follies. Although topics on the three State Department blogs were quite similar, the approach to the topic varied by blog. The agency-based blog was more general and less polemical, while the agency-related blogs addressed a specific topic in some detail and often argued a particular position. Each of these blogs has a unique character serving their specific purposes and speaking to an apparently different audience. We concluded that these State Department blogs do not represent a defined issue network or policy community but are simply talking about similar foreign policy concerns in very different ways. The DHS blogs cover a broad range of topics with less overlap than seen in FAA or State. Even when the topics are similar, the approach to the topic varies by blog. Each DHS blog was also distinctive and had a different attentive audience judging by the topics and views published. There is more overlap in topics among the EPA blogs. Though the agency-based blog seldom ran posts reporting stories or featuring topics in the agency-related blogs, Climate Progress ran at least three postings about the EPA, its policies, regulations and leadership each month. The Sierra Club, with relatively few posts overall, ran three pollution stories in the fall and two explicitly criticizing EPA leadership in the spring. The agency-related blogs were concerned with the same issues, while Flow of the River, as the account of the top agency administration, was less focused on the controversial questions of the day.

Overall we found very few live links to each other among the blogs associated with one agency. Consider-

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ing the live links and references to each others' blogs among the agency-based and agency-related blogs over both months, neither type of blog demonstrates a strong pattern of inter-blog linkage. However, when considering links or references to other blogs outside the study sites, we see a different and more linked pattern especially but not exclusively for the agency-related blogs (see Table 5). In some cases, for the agency-based DHHS and State blogs, the commentors show more linkages than the original posts. This latter finding may indicate that despite our efforts we did not identify the most likely agency-related blogs, but in any case it does show that the blogs represent different policy communities with different reference groups. The Technorati Authority rating for each of our blogs, the number of other blogs linking to the blog in question in the last six months, replicates these findings. Effect Measure, NEIN, and Climate Progress all score more than 250 links.

Spotting commentors and posters who operate in multiple blogs was only possible because of their use of consistent, unusual screen names. Some clearly do maintain the same name across blogs. At least four of the bloggers on the DHHS Secretary's blog are also regulars at Effect Measure, where they were treated as respected sources of information about bird flu. Others may have appeared but were not recognized. Among the FAA blogs, eight bloggers appear on more than one of the blogs. For the Department of State blogs we found little evidence that same individuals were speaking across the blogs. There is only one instance where we can positively recognize the same individual, Zenpundit, a blogger from Illinois, who commented on both Dipnote and Whirled View. On the DHS blogs we found only one instance of an individual, William Cummings, the most regular commentor on Homeland Security Watch, also commenting on the Leadership Journal. Only one possible instance of a cross blog commentor, Alex, appeared on the official EPA blog and the Sierra Club blog.

## CONCLUSIONS

We encountered a number of surprises in these findings. We did not expect that the agency-based blogs, most of which are relatively new, would be as open to controversy and would elicit as much disagreement as we discovered here. We were not surprised at the extent to which the agency-based blogs focused on large policy issues, but we did not expect that they would do so in such controversial ways. Rather than containing conflict, intentionally or unintentionally, they are inviting it. And while we found that agency-based blogs were used for public relations, this was seldom the most common use of postings. We also found little if any differences in policies regarding comments. In fact, the most restrictive policies were more often found at agency-related sites, though this may reflect the higher levels of traffic on some of these sites. We were correct in predicting that the agency-related sites would have more posts and comments, and longer posts, than the agency-based ones. But we found that the agency-based blogs often had a larger number of different individuals posting to the site. Although we did not find concrete evidence that the blogs in each of our five policy realms function as well-linked policy communities, we do find some evidence of mutual interests in overlapping topics and cross references to public issues. Overall, this is not a picture of a restrictive approach to blogging on the agency-based sites.

We posed questions earlier about whether blogging in general, and particularly the rise of agency-based blogs, could be contributing to the development of opinion in the public sphere. We asked whether these agency-

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based blogs and other agency-related blogs offered the kind of ongoing, independent and pluralistic information exchanges that Habermas and others advocates of deliberative democracy suggest offer the best chances for generating informed public opinion. Based on these questions we have sought to determine if the agency-based blogs were in fact as pluralistic and independent as the agency-related blogs concerned with similar government and policy issues. While their mission statements suggest they see themselves in this light, research from political blogging suggested caution in crediting this view. In fact, however, we did find that the agency-based blogs exhibit some of the characteristics we would associate with independent and pluralistic sources.

It is too simple, and premature, to suggest that agency-based blogs are merely public relations organs. Nor is it reasonable to suggest that they offer insider views and criticisms of the most conflict-ridden public policy issues. But at least some of them are opening genuine exchange about important policy issues. Whether these exchanges have led to informed opinion and learning on the part of officials about the real public concerns and the formation of informed opinion among the public participants are further questions to be explored.

## ENDNOTES

<sup>1</sup> The authors wish to thank Caitlin Hutchinson and Jinglin Wang for their valuable research assistance in coding agency and unofficial blogs. An earlier and abbreviated version of this paper was published in the August 2009 issue of The Brookings Institution's *Issues in Governance Studies* under the title, "Blogs as Public Forums for Agency Policymaking" (pp.1-14).

<sup>2</sup> When we began this research there were few official blogs. As of January 20 2009, however, the GSA website [http://www.usa.gov/Topics/Reference\\_Shelf/News/blog.shtml](http://www.usa.gov/Topics/Reference_Shelf/News/blog.shtml) listed 39 federal government blogs, including 30 for departments and independent agencies.

<sup>3</sup> Source: Technorati Advanced Search by URL, retrieved July 23, 2008. Technorati Authority is the number of other blogs linking to the blog in question in the last six months. The higher the number, the more Technorati Authority the blog has. Technorati Rank is calculated based on how far the blog is from the top rated blogs based on Authority rankings; the smaller the Technorati Rank, the closer the blog is to the top. Blog reactions are the number of links to the blog in question appearing in other blogs. This is one of the elements comprising Authority. Source: <http://support.technorati.com/faq/topic/71?replies=1>

<sup>4</sup> The number of comments reflects multiple comments by unique, identifiable commentors and by unidentifiable anonymous commentors.

<sup>5</sup> Two unique posters could be identified, all others were anonymous.

<sup>6</sup> The posts in Effect Measure are by "Revere," who is actually a team of several public health scientists and practitioners.

<sup>7</sup> CDC Chatter's commentors were, with only a handful of exceptions, anonymous, so the number of individuals could not be determined. Other sites used screennames that could be observed across sites. Many anonymous commentors make an accurate count impossible

<sup>8</sup> Inexplicably, in March, 2008 CDC Chatter postings generated no comments at all. This pattern was seen in December though March, but comments resumed in April.

<sup>9</sup>  $p=.025$ . Even without an apparent outlier, for Informed Comment, the results remain significant.

<sup>10</sup>  $p=.27$

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## ABOUT THE AUTHORS

**Julianne Mahler** is a Professor of Government and Politics in the Department of Public and International Affairs at George Mason University. Her research centers on organization theory, especially organization culture and learning, and on the evolution of science and technology organizations. She has also conducted research on the organizational uses of new information and communications technologies and has authored a number articles and chapters on the political and administrative effects of e-government. Recently she published *Organizational Learning at NASA: The Challenger and the Columbia Accidents* with Maureen Casamayou at Georgetown University Press. She earlier coauthored *Organization Theory: A Public Perspective* with Harold Gortner and Jeanne Nicholson. She has served as Director of the MPA program and the Graduate Program in Political Science at George Mason University. She earned her Ph.D. in Political Science at the State University of New York at Buffalo and her B.A. from Macalester College.

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**Priscilla Regan** is a Professor of Government and Politics in the Department of Public and International Affairs at George Mason University. Prior to joining that faculty in 1989, she was a Senior Analyst in the Congressional Office of Technology Assessment and an Assistant Professor of Politics and Government at the University of Puget Sound. From 2005 to 2007, she served as a Program Officer for the Science, Technology and Society Program at the National Science Foundation. Her research interests focus on both the analysis of the social, policy, and legal implications of new information and communications technologies, and also on the emergence and implementation of electronic government initiatives by federal agencies. Dr. Regan has published over thirty articles or book chapters, as well as *Legislating Privacy: Technology, Social Values, and Public Policy* (University of North Carolina Press, 1995). She received her PhD in Government from Cornell University and her BA from Mount Holyoke College.

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## Appendix 1: Agency-Based/Agency-Related Blogs

### FAA

#### Agency Sponsored

**Your Two Cents:** <http://employees.faa.gov/news/focusfaa/opinion>

*Mission Statement:* “Employees provide insight, opinions, and questions regarding agency issues,” “Employees weigh in with their thoughts on FAA issues, Focus FAA stories, and past letters to the editor,” etc.

*Able to Comment on Posts?* No; (Content comes from emails.)

*Are Posts or Comments Edited?* Yes; (“Focus FAA tries to post as many emails as possible in ‘Your Two Cents.’ However, it reserves the right to post emails based on substance and space considerations. It also reserves the right to edit emails for style and space considerations. Only emails identifying the name and work location of the employee will be posted.”)

#### Non-Agency Sponsored

**FAA Follies:** <http://www.faafoolies.com>

*Mission Statement:* “This blog is established as a site for shedding light on the idiocies that are found throughout the FAA.”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* No

**JetWhine:** <http://www.jetwhine.com>

*Mission Statement:* “Aviation buzz and bold opinion.”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes; (“No personal attacks or foul language will be tolerated.”)

### DHS

#### Agency Sponsored

**Leadership Journal – Department of Homeland Security:** <http://www.dhs.gov/journal/leadership>

*Mission Statement:* “This journal is sponsored by the U.S. Department of Homeland Security to provide a forum to talk about our work protecting the American people, building an effective emergency preparedness and response capability, enforcing immigration laws, and promoting economic prosperity.”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes (“Comments submitted to the Department of Homeland Security Journal will be reviewed before posting. This is a moderated Journal, and the Department retains the discretion to determine which comments it will post and which it will not. We expect all contributors to be respectful. We will not post comments that contain personal attacks of any kind; refer to Federal Civil Service employees by name; contain offensive terms that target specific ethnic or racial groups, or vulgar language. We will not post comments that are spam, are clearly off topic or that promote services or products.”)

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## Non-Agency Sponsored

**Northeast Intelligence Network: <http://www.HomelandSecurityUS.com>**

*Mission Statement:* “The NEIN Blog will present additional news on a variety of subjects. From daily Open Source Intelligence (OSINT) reports to near-real-time advisories. I'll invariably post some items which may, in all likelihood, never see print in the so-called Main Stream Media (MSM). Some subject matter and/or commentary will include items directly related to Biblical prophecy (eschatology), as well as a plethora of other "Signs of the Times' topics.”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes

**Homeland Security Watch: <http://www.hlswatch.com>**

*Mission Statement:* “Homeland Security Watch is a blog that features breaking news, rigorous analysis, and informed commentary on the critical issues in homeland security today. It takes a cross-disciplinary approach to the subject of homeland security, spanning issues such as transportation security, preparedness and response, infrastructure protection, and border security. Its content is intended both for an expert-level policy audience as well as the broader general audience of people interested in homeland security. The blog is non-partisan and non-commercial.”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* No

## STATE

### Agency Sponsored

**Dipnote US Department of State: <http://blogs.state.gov>**

*Mission Statement:* “Through its websites and other online resources, the Department offers broad public access to a wide range of information. Blogs.state.gov offers the public an alternative source to mainstream media for U.S. foreign policy information. This blog offers the opportunity for participants to discuss important foreign policy issues with senior Department officials.”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes; (See “Blog Comment Policy,” <http://blogs.state.gov/index.php/info/legal/>)

### Non-Agency Sponsored

**Informed Comment – Global Affairs: <http://www.icga.blogspot.com>**

*Mission Statement:* “ICGA is a group blog by academics covering international politics and foreign affairs. It is especially concerned with Afghanistan, Iran, Lebanon, Pakistan, Israel/Palestine and other countries where local political movements or governments pose special foreign policy challenges to Washington.”

(<http://www.cic.nyu.edu/afghanistan/informedcomment.html>)

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* No

**Whirled View: <http://www.whirledview.typepad.com>**

(the only non-agency blog to be linked from State’s official blog)

*Mission Statement:* “We'd like to provoke and participate in discussion that goes beyond the media formulas and

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sound bites. We'd like that discussion to uncover stuff we haven't thought about, or weren't aware of, and perhaps provide some of the same to you. Our primary interest is international policy. Internal policies of the United States also impinge on international policy, so we may venture into these areas as well. We'll try a range of forms and try to be entertaining”

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* No

## **DHHS**

### **Agency Sponsored**

**Secretary Mike Leavitt's Blog:** <http://secretaryblog.hhs.gov>

*Mission Statement:* “HHS Secretary Mike Leavitt is taking time in August to blog as a way to foster public discussion. The blog is the result of the Secretary's continuing desire to engage Americans in the exchange of ideas on health care and the provision of human services. It provides an opportunity for the Secretary to share his observations as well as a means for him to have an open conversation about health and the related challenges that face the nation. The blog is intended to be a dynamic online conversation and the Secretary welcomes your ideas for overcoming those challenges.”

*Most Recent Post:* October 31, 2007

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes; (See “Comment Policy,” [http://hhsblog.typepad.com/my\\_weblog/comment-policy.html](http://hhsblog.typepad.com/my_weblog/comment-policy.html))

### **Non-Agency Sponsored**

**CDC Chatter:** <http://www.cdcchatter.net>

*Mission Statement:* “The purpose of this bulletin board is to serve as an unofficial forum for CDC employees, external partners and others to post information, express opinions, make comments and otherwise communicate about decisions, changes, events and other issues that are occurring at CDC. This blog is intended to provide a forum for people to express their views. It is not intended as a forum for disclosing classified, confidential or restricted information nor is it intended in any way to compromise the mission and efficacy of CDC.”

*Most Recent Post:* November 4, 2007

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes (“No racism, sexism, or personal attacks... Do not submit any classified, confidential, or investigative information... No profanity... It is beyond the scope of the forum to publish articles or comments that are primarily political opinion...”)

**Effect Measure:** <http://scienceblogs.com/effectmeasure>

(the only other blog linked from CDC Chatter)

*Mission Statement:* “Effect Measure is a forum for progressive public health discussion and argument as well as a source of public health information from around the web that interests the Editor(s).”

*Most Recent Post:* November 4, 2007

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* No

## EPA

### Agency Sponsored

**Flow of the River by Deputy Secretary Marcus Peacock:** <http://www.epa.gov/flowoftheriver>

(archived)

*Mission Statement:* As the Deputy Administrator of the US Environmental Protection Agency, I am EPA's Chief Operating Officer. I started this blog to describe what EPA is doing to improve its operations and make what EPA does more open to the public

*Most Recent Post:* Blog concluded on Earth Day (April 24) 2008

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes; "All comments will be reviewed before posting." "The views expressed on the site by non-federal commentators do not necessarily reflect the views of the U.S. Environmental Protection Agency or the federal government."

### Non-agency Sponsored

**Taking the Initiative by Carl Pope, Sierra Club Director:** <http://sierraclub.typepad.com/carlpope>

*Mission:* (no statement) Personal Reports on the political and economic issues affecting the environment including assessments of the work of the EPA

*Most Recent Post:* March 1, 2009

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* Yes; User comments or postings reflect the opinions of the responsible contributor only, and do not reflect the viewpoint of the Sierra Club. The Sierra Club does not endorse or guarantee the accuracy of any posting. The Sierra Club accepts no obligation to review every posting, but reserves the right (but not the obligation) to delete postings that may be considered offensive, illegal or inappropriate. <http://sierraclub.typepad.com/carlpope/>.

**Climate Progress – An Insiders view of climate science, politics and solutions:** <http://climateprogress.org>

*Mission Statement:* Climate Progress is dedicated to providing the progressive perspective on climate science, climate solutions, and climate politics. It is a project of the Center for American Progress Action Fund, a nonprofit, nonpartisan organization.

*Most Recent Post:* March 2, 2009

*Able to Comment on Posts?* Yes

*Are Posts or Comments Edited?* No published comment policy



# Transparency and Accountability in Governance: Evolving Concepts of Accountability for Governmental and Non-Governmental Actors

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Interorganisational collaboration and joined-up government have introduced greater variety and flexibility in public governance and management, but have also opened up new challenges for academic research and policy design. This section addresses these challenges by examining the following questions: How adequate is our theorization of collaboration, hybrid governance and networking? What are the main questions for theory to answer and in what creative ways could theory be developed?

Koliba, Meek, and Zia address the concern that theorizations of emerging forms of governance – collaborative, hybrid and network – are inadequate. The authors note that despite the academic interest and research on the emergent forms, there is still a need for a cohesive, parsimonious theoretical framework that can be used to describe and evaluate governance networks. The chapter, therefore, offers a comprehensive review aimed at identifying research gaps. These research gaps or "critical questions" revolve around diverse themes such as differentiation of forms, multiple accounting requirements, multi-sector relationships, and multiple policy functions. The authors go beyond identifying the research gaps and offer propositions for addressing the critical questions. This chapter makes a timely contribution to the understanding of governance networks in Public Administration research.

Koppenjan, Mandell, Keast, and Brown discuss the shift in organizational architecture from traditional setups such as hierarchies to institutional arrangements such as public-private partnerships and contractual relationships. The authors note that the verdict on the success of the hybrid forms is mixed. Some hybrids have been implemented and adopted successfully, whereas others have experienced implementation issues. To answer why some hybrid forms have been successful and others have not, this chapter examines the cultural and institutional context of the hybrids as explanatory factors. In particular, the authors examine inter-organiza-

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tional arrangements in three different national contexts – Australia, the Netherlands, and the US. The case analyses suggest that a complex mix of factors determine the challenges involved in steering a hybrid organizational arrangement towards success. The overarching message is that the design and implementation of hybrid organizational forms requires adequate attention to the context of the organizations involved and the hybrid arrangement itself.

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## WORKSHOP CO-CHAIRS:

**Alan Abramson**, Department of Public and International Affairs,  
George Mason University, Fairfax, Virginia, U.S.A., [aabramso@gmu.edu](mailto:aabramso@gmu.edu)

**Chris Skelcher**, Institute of Local Government Studies,  
Birmingham University, United Kingdom, [C.K.Skelcher@bham.ac.uk](mailto:C.K.Skelcher@bham.ac.uk)

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# Gordian Knot or Integrated Theory? Critical Conceptual Considerations for Governance Network Analysis<sup>1</sup>

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Christopher J. Koliba, University of Vermont

Jack W. Meek, University of La Verne

Asim Zia, University of Vermont

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## ABSTRACT

In recent decades, theorists and researchers have begun to shift emphasis away from the analysis and descriptions of government roles and responsibilities to processes of governance unfolding amidst complex networks of individuals, organizations and institutions. Observing this trend, George Frederickson observes that the current status of theory development of network governance is “neither theoretically tidy nor parsimonious,” and “at this point there isn’t a single theory that puts its arms around third party governance” (Frederickson, 2007, p. 11). Despite efforts to define critical characteristics of “policy subsystems,” “policy networks,” “public management networks,” and “governance networks,” we are left to conclude that the development of a theoretical framework through which to describe, evaluate and analyze governance networks is a particularly ambitious undertaking, possessing several kinds of “Gordian knot” dilemmas. In this chapter, the authors frame these challenges in terms of questions concerning the differentiation of macro-level forms (markets, hierarchies and networks), accounting for the possibilities of mixed administrative authorities (combinations of vertical and horizontal relations), multi-sector relationships, and multiple policy functions, and challenges associated with mixed social scales. The current ambiguities around these questions are explored and related propositions for addressing each is offered.

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'Turn him to any cause of policy, The Gordian Knot of it he will unloose,  
Familiar as his garter' ....

*Shakespeare, Henry V, Act 1 Scene 1. Lines 45-47*

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## INTRODUCTION

The expansion of information technologies, the increasing complexity and “wickedness” of public problems, the moves to contract out, privatize, and partner have fueled interest in the application of network frameworks to the study of public administration, public policy, and governance structures (Rhodes, 1997; Kickert et al., 1997; Koppenjan and Klijn, 2004; Goldsmith and Eggers, 2004; Klijn and Skelcher, 2007; Sorensen and Torfing, 2008). These trends have led to innovations in governing. There is growing evidence to suggest that these trends have and will continue to shape inter-jurisdictional landscapes, and represent new kinds of reform with regard to how government interacts with for profit and not for profit organizations in the design and delivery of public policy.

We proposed that the network turn in public administration and policy that we discuss here poses a metaphorical “Gordian knot” for the field. The mythical Gordian knot has no perceivable beginning or end, with no obvious ways of entering or existing it. Its circularity defies rational linear explication and logic. We discuss how the development of an integrated theory of governance networks appears, at this juncture, to pose a Gordian knot dilemma because of some seemingly incommensurate paradigms of what constitutes a network, insufficient development of network administration frameworks, and a variety of multi-scale asymmetries that constrain the easy comparison of governance networks of similar structure and function. What follows is a review of the literature that interprets the emergence of governance structures and the identification of “gaps” or critical questions that needs attention in the development of a more comprehensive understanding of governance networks. We then provide propositions to address these questions that can assist the development of governance network theory. Sections of this chapter have been excerpted from several chapters of the authors’ book, *Governance Networks in Public Administration and Public Policy*.<sup>2</sup>

## INTERPRETING THE EMERGENCE OF GOVERNANCE STRUCTURES

There have been many explicit efforts to employ network concepts to the study of complex social structures that arise when public policies are made, implemented and monitored. Hugh Hecló (1978) is credited with first applying the term “network” to the study of public policy and administration with his introduction of “issue networks” (Rhodes, 1997). Hecló presented the issue network concept in reaction to what he found was the more restrictive (and less pervasive) “iron triangles” – the relatively closed networks of government agencies, legislative committees, and interest groups.

Inter-organizational networks have been implicated in descriptions of policy or government “subsystems” (Baumgartner and Jones, 1993). The Advocacy Coalition Framework (ACP) (Sabatier and Jenkins-Smith

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1993), policy coalition (March and Olsen, 1995), and policy network (Rhodes, 1997; Kikert et al., 1997; Koppenjan and Klijn, 2004) literatures in particular have employed elements of systems dynamics and exchange theory to the study of inter-organizational network configurations. We also find inter-organizational networks described across much of the policy implementation (Gage and Mandell, 1990; O'Toole, 1997; Hill and Hupe, 2002), intergovernmental relations (Wright, 2000), collective action (Ostrom, 1990), and policy tools literatures (Salamon, 2002). Inter-organizational networks have also been described as third party government (Salamon, 2002; Frederickson and Frederickson, 2006), public sector networks (Agranoff, 2005), governance networks (Sorensen and Torfing, 2005, 2008; Bogason and Musson, 2006; Klijn and Skelcher, 2007), cross-sector collaborations (Bryson, Crosby and Stone, 2006), public management networks (Milward and Provan, 2006; Frederickson and Frederickson, 2006; Agranoff, 2007), and certain kinds of strategic alliances (Wohlstetter et al., 2005).

Inter-organizational networks have also been described in terms of the functions that they perform, whether it be service contracts, supply chains, ad hoc, channel partnerships, information dissemination, civic switchboards (Goldsmith and Eggers, 2004), problem-solving, information sharing, capacity building and service delivery (Milward and Provan, 2006), learning and knowledge transfer (McNabb, 2007), or civic engagement (Yang and Bergrud, 2008). Descriptions of inter-organizational networks have also been described as existing across many policy domains including social service delivery (Provan and Milward, 1995; Milward and Provan, 1998), land use planning (Koontz et al., 2004), watershed management (Leach and Pelkey, 2001; Leach, Pelkey and Sabatier, 2002; Imperial, 2005), health care (Frederickson and Frederickson, 2007; Roldreguez, et al., 2007), transportation (Albert et al., 2006), emergency management (Comfort 2002; Kapucu, 2006), community economic development (Agranoff and McGuire, 2003), and food systems (Sporleder and Moss, 2002; Smith, 2007; Jarosz, 2004). In addition to these uses of network metaphors and tools of analysis, particular types of network configurations have been described in the literature, including interest-group coalitions (Hula, 1999;), regulatory subsystems (Krause, 1997), grants and contract agreements (Kelman, 2002; Cooper, 2003; Goldsmith and Eggers, 2004), and public-private partnerships (O'Toole, 1997; Linder and Rousenau, 2000; Bovaird, 2005).

Having performed an extensive analysis of the literature relating to inter-organizational networks, Provan, Fish and Sydow conclude that, "... no single grand theory of networks exist..." (2007). The inter-organizational networks described in the public administration and policy studies literatures are often of such complexity that it is difficult for one single theory to account for all possible variables and combinations of variables. George Frederickson observes that the current phase of theory development is "neither theoretically tidy nor parsimonious," and "at this point there isn't a single theory that puts its arms around third party governance" (Frederickson, 2007, p. 11). There have been several noteworthy efforts offering typologies that define the critical characteristics of network governance (including Rhodes, 1997; Kickert, et al., 1997; Agranoff and McGuire, 2003; Mandell and Steelman, 2003; Koppenjan and Klijn, 2004; Sorensen and Torfing, 2005; Milward and Provan, 2006; Frederickson and Frederickson, 2006; Agranoff, 2007; Provan and Kenis, 2007;

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Sorensen and Torfing, 2008). Across this literature we may draw several conclusions:

- Networks facilitate the **coordination of actions** and/or **exchange of resources** between actors within the network;
- Network membership can be drawn from some combination of **public, private and non-profit sector actors**<sup>3</sup>;
- Networks may carry out one or more **policy function**;
- Networks exist across virtually all **policy domains**;
- Although networks are mostly defined at the inter-organizational level, they are also described in the context of the **individuals, groups and organizations** that comprise them;
- Networks form as the result of the selection of particular **policy tools**;
- Network structures allow for **government agencies to serve in roles other than lead organizations**<sup>4</sup>.

Drawing from a synthesis of this literature, we define the governance network as a unit of analysis that possesses a relatively stable pattern of coordinated action and resource exchanges occurring between two or more organizations; involving policy actors crossing different social scales, drawn from the public, private or non-profit sectors and across geographic levels; who interact through a variety of competitive, command and control, cooperative, and negotiated arrangements; for purposes anchored in one or more facets of the policy stream (Koliba, Meek and Zia, 2010). We find these configurations documented across virtually every policy domain (Baumgartner and Jones, 2003).

If the inter-organizational governance network is to be advanced as the unit of analysis –and ultimately evolve into a comparative, transdisciplinary effort to advance theory, research and practice –several methodological and conceptual dilemmas need to be addressed. We frame these conceptual challenges below as critical questions to guide governance network analysis and we offer six propositions that will guide future research and theory development pertaining to mixed form governance networks:

1. **Macro-level Forms:** Are hierarchies and markets forms of networks, or should networks be considered as distinct from them?
2. **Administrative Authority:** How do we account for mixed (vertical & horizontal) administrative ties in networks?
3. **Sectoral Composition:** How do we account for multi-sector arrangements in networks?
4. **Policy Functions:** How do we account for networks taking on functions related to multiple policy streams?
5. **Social Scale:** How do we account for actors of mixed social scale operating within a network?

Why should we be concerned about developing a conceptual framework to describe and analyze governance networks? Why should we seek to unravel this Gordian knot? Ultimately, the systemic examination of the governance network as an empirical construct will lead to certain utilities for practitioners, citizen groups, and educators. That governance networks proliferate virtually “everywhere” (Sorensen and Torfing, 2005), should be cause enough to warrant the mounting of such a research enterprise. By advancing governance net-

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works as a unit of analysis, generalizations regarding the interplay of network variables may be rendered. Ultimately, these generalizations should yield insights into the design, administration and monitoring of governance network activity. Issues of democracy, accountability and fairness in network governance may also be proposed as important meta-criteria for developing theoretical frameworks.

## PROPOSITIONS TO GUIDE INTEGRATED-THEORY DEVELOPMENT

Any attempt to synthesize the growing literature pertaining to governance networks into an integrated theory of governance networks requires that attention be paid to the conceptual gaps that may persist across the range of network literature found in the public administration and policy studies fields. We attempt to address these apparent gaps by rendering a series of propositions that can be used to develop an integrated theory of governance networks. We frame these challenges in terms of questions concerning the differentiation of macro-level forms (markets, hierarchies and networks), accounting for the possibilities of mixed administrative authorities (combinations of vertical and horizontal relations), multi-sector relationships, and multiple policy functions, and challenges associated with mixed social scales. The current ambiguities around these questions are explored.

### 1. Differentiation of Macro-Level Forms

**Proposition 1.1:** *Governance networks may be comprised of hierarchical, market and collaborative structures.*

**Proposition 1.2:** *Governance networks are shaped, in part, by the organizational structures that individual actors bring to the network.*

At the cross-institutional level, inter-organizational arrangements are often referred to as “networks” and have been discussed as a third kind of organizational form in comparison to two existing forms: “hierarchies” and “markets.” Two schools of thought exist regarding the comparisons among these organizational forms. The first is adhered to by those who have introduced network analysis to public administration (O’Toole, 1997; Goldsmith and Eggers, 2004; Provan, Fish and Sydow, 2007; Provan and Kenis, 2007; Sorensen and Torfing, 2008), and posits that hierarchies, markets and networks are distinct organizational forms from one another. Because much of traditional social network analysis has emphasized the role of horizontal ties, the network gets introduced as its own form of macro-level social structure along side of hierarchies and markets. In this view, networks are akin to collaborative arrangements or partnerships. Proponents of the hierarchy, market, and network model often view macro-level networks as relatively recent governance phenomena built around the establishment of cooperative ties.

A second view posits that markets and hierarchies are variations of network form. In this view, “Markets and hierarchies are simply two pure types of organization that can be represented with the basic network analytic constructs of nodes and ties (Laumann, 1991)” (Podolny and Page, 1998, p.58). “From a purely structural perspective,” this view considers that, “the trichotomy among market, hierarchy, and network forms of organization is a false one” (Podolny and Page, 1998, p.58). In both natural and social networks “clustering” of nodes tends to take

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**Table 2: Macro-Level Network Forms**

	<b>Market</b>	<b>Hierarchy</b>	<b>Collaborative</b>
<b>Relational Tie</b>	Competitive	Command and Control	Collaborative and Cooperative
<b>Public Administration Paradigm</b>	New Public Management	Classical Public Administration	Collaborative Public Management
<b>Institutional Frame</b>	Businesses/ Corporations	Public Bureaucracy	Partnerships; Coalitions

*Source: modified from Powell, 1990 and Grimshaw et al., 2005*

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place. Ravasz and Barabasi have noted how these clusters may be described in terms of hierarchical structures, suggesting that hierarchy is an inherent phenomenon of network structures (2003). In addition, the notion of the “network organization” (Borgatti and Foster, 2003) has been advanced, suggesting that network dynamics exist within any form of social organization. Writing about the relationship between hierarchies and networks, Frederickson and Frederickson observe, “It is not so much that networks have replaced hierarchies but more that standard hierarchical arrays, or parts of them, have often been enmeshed in lattices of complex networks arrangements (O’Toole, 2000; Agranoff and McGuire, 2001)” (Frederickson and Frederickson, 2006, p.12).

Markets have been widely recognized as networks of buyers and sellers, arranged in their own lattice work of marketing, sales, manufacturing, and service functions. The basic buyer-seller dyad is based on laws governing economic activity and norms associated with buyer preference and taste. Classical economic theory is built on assumptions about the relationship between buyers and sellers, as well as between competitors. As maximizers of their personal utility, market sellers compete for their market share. Buyers and sellers need to cooperate with one another in order to engage in an exchange of goods and services. In an attempt to get the best value or maximize profit, each actor in the network may engage in negotiation and bargaining.

In order to represent markets and hierarchies as variations of network forms, and still account for the existence of cooperative ties, we may distinguish between markets, hierarchies and “collaboratives,” with the latter being inter-organizational network structures that rely on norms of trust and reciprocity. For a summary of the characteristics of the three forms of macro structures discussed, see Table 2. Collaborative structures emerging within the policy stream have been described as public-private partnerships (Linder and Rosenau, 2000; Bovaird, 2005), strategic alliances (Wohlstetter, Smith, and Malloy, 2005), cross-sector collaborations (Bryson, Crosby and Stone, 2006), and interest-group coalitions (Hula, 1999) in the literature.

We argue, however, that most inter-organizational network structures take on characteristics of all three macro level forms, suggesting that these hybridized or “mixed-form” network structures are shaped in part by the organizational structures that individual actors bring to the network. If for-profit firms participate in an inter-organizational network, they bring facets of the market structures to which they belong to the network. Their engagement in public-private partnerships, regulatory subsystems, or grants and contract agreements is

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carried out with one proverbial eye over their shoulder, judging their participation, in part, on the impacts that their involvements have on fostering their own competitive advantage. The potential impact that network-wide actions have on the participating firm's economic standing is often an important consideration guiding network-wide actions.

If public sector organizations such as government agencies formally participate in inter-organizational network, they bring with them elements of their bureaucratic, hierarchical structure. Official public agency participation is often predicated on the will and desires of the agencies' principals, be they elected chief executive officers, their political appointees, or supervisors imbued with the authority to dictate the agencies' scope and type of involvement. Those who distinguish governance networks from markets and hierarchies fail to take into account the influence that the market and hierarchical structures of the participating organizations and institutions play in the structures and functions of the network itself. At the meso and micro levels, these mixed ties surface as distinctions between vertical, horizontal and competitive ties.

Although many governance networks get shaped, in part, by the organizational structures of the actors that comprise them, we suggest that all governance networks possess, to one degree or another, certain collaborative characteristics. The collaborative as a third form of network is introduced here as a value-neutral construct. As network accountabilities and performance get considered, the question: "collaboration to what end?" may be asked. Cautioning against viewing collaboration as a panacea for solving complex public problems, Bardach suggests that we should, "not want to oversell the benefits of interagency collaboration. The political struggle to develop collaborative capacity can be time consuming and divisive. But even if no such struggle were to ensue, the benefits of collaboration are necessarily limited (Bardach, 1998, p.311). We must be able to take into account that collaborations and partnerships may be an ineffective means for delivering public policy outcomes. Collaboratives can be undertaken in closed networks, leading in their worst cases to collusion. The social capital derived through horizontal ties may support "dark networks" (Raab and Milward, 2003) that exist to do social harms. We also need to be able to take into account collaborations that are carried out without sufficient democratic anchorage (Sorensen and Torfing, 2005), and develop the means to ascertain the degree of democratic anchorage that exists within any given governance network.

We conclude that by allowing for the possibility that network forms take on characteristics of some combination of market, hierarchical and collaborative arrangements, we can begin to recognize the trade-offs and opportunities that occur when one form of administrative authority is compared to, contrasted against, and combined with one another.

## 2. Mixed Administrative Authorities

*Proposition 2.0: There will be asymmetrical allocations of material and immaterial resources and power among the network actors. Such allocations influence the structure of administrative authority of the network.*

Governance networks have been described as taking on certain configurations of administrative authority that shape the flow of power between them. Robert Agranoff and Michael McGuire's studies of community de-

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velopment networks highlight the role that vertical and horizontal relationships play within them (2003). They observe that, “A public manager may be involved in managing across governmental boundaries within the context of one program or project, while simultaneously managing across organizational and sector boundaries within the context of another program or project” (p.21).

Conceptual frameworks designed to analyze social power dynamics are abundant, and can be found across the literatures of virtually every social science. Of particular interest to us here are the kinds of conceptual frameworks that describe the flow of administrative power and authority within or across organizations. Drawing on theories of social exchange (Rhodes, 1997) and the definitions of administrative power as discussed across classical public administration, management and organizational development studies, power is viewed as being predicated on the coordination of the flow of resources that get exchanged across network partners (nodes). This is particularly true when one node controls the flow of resources (be it funding, information, etc.) to other actors within the network. Examples of vertical resource control date back to Weber’s first introduction of bureaucratic theory, where we find considerations of power being explored as a matter of supervisor-subordinate relations. Classical organization development theory, found in the works of Gulick and Urwick (1937), and later the works of Simon (1946) and others, establishes the basis for describing the “command and control” structures of bureaucracies. More recently, principal-agent theory has emerged from economics and studies of contractual arrangements to provide a picture of vertical relations as they exist in social networks (Milward and Provan, 1998).

In regard to shared power or horizontal resource control and relations, there is growing body of literature that explores the nature of power in terms of the voluntary bonds forged through shared values and norms. Social psychologists, sociologists and more recently behavioral economists have studied how cooperative behaviors come about. Social capital and game theories are particularly useful here. Beginning with Axelrod’s now classic “iterated prisoner’s dilemma” experiments conducted in the early 1980s, game theorists have studied the nature of cooperative and collaborative behaviors that manifest between two social actors construed as equals or peers (1980). The application of game theory to the study of collaborative dynamics has deepened our capacity to appreciate how power flows across horizontal relations (Koppenjan and Klijn, 2004; Hanaki, et al., 2007).

In addition to the vertical and horizontal vectors of relational power outlined above, it is useful to recognize the possibility that the structure of power relations between two or more actors in a governance network may be comprised of a mixture of both vertical and horizontal relations. We find diagonal ties manifesting as the “principal-agent problem” resulting from information asymmetries between agents “on the ground” and closest to the work, and their principal overseers. With greater access to information, agents possess a measure of power over their principals, positioning the agent as more of a negotiating and bargaining partner. Although principals may possess formal vertical authority, informally, they must rely on the development of horizontal ties, oftentimes through extensive negotiation and bargaining. Diagonal ties bring with them the burdens of certain kinds of transaction costs that come with extensive concession and compromise (Milward and Provan, 1998).

Because network relations can take many forms, power has been described as flowing in social networks

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through authority welded against, over, shared and negotiated between two or more nodes in a social network. Taking into account the complexity of relational ties that are possible in governance networks, Sorensen and Torfing argue that the policy actors may not, “be equal in terms of authority and resources” (Mayntz, 1993, p.10). There might be asymmetrical allocations of material and immaterial resources among the network actors...” (Sorensen and Torfing, 2008, p.9). These asymmetries trigger the development of more vertically oriented administrative authorities.

Social network and social capital theories assist our understanding of how cooperation and collaboration exist as essential features of network management. Although much has been written about the increasing reliance on negotiation and bargaining in public administration, much of this literature focuses on negotiation and bargaining in terms of formalized protocols designed to mediate conflicts and derive collective agreements. Although it has been touched on in articles (Agranoff and McGuire, 2004), negotiation and bargaining as a form of administrative authority has yet to be fully articulated.

In public administration, Donald Kettl observes that, “The basic administrative problem of indirect government... is developing effective management mechanisms to replace command and control” (2002, p.491). According to Kettl, networked public managers, “have to learn the points of leverage, change their behavior to manage those points of leverage, develop processes needed to make that work, and change the organizational culture from a traditional control perspective to one that accommodates indirect methods” (2002, p.493). Although classical paradigms in public administration have tried to distinguish administration from politics, in the networked environs of the “disarticulated state” (Frederickson, 1999), politics is understood as an integral feature of administrative action. “Politics can be seen as aggregating individual preferences into collective actions by some procedures of rational bargaining, negotiation, coalition formation, and exchange...” (March and Olsen, 1995, p.7). A conceptual framework is needed to account for the fragmented and dynamic confluence of multiple forms of administrative authority that emerge in networked environs. The table below describes the relationship between the public administration paradigm, the dominant administrative structure of the paradigm, and corresponding central administrative dynamic.

The conclusion to be drawn here is that governance network administrators will need to rely on a variety of types of administrative authority. The blurring of sector boundaries within governance networks has led to the proliferation of mixed administrative authority structures, leading to serious reconsiderations of managerial roles and functions, which, in turn, has led to reconsiderations of accountability (Mashaw, 2006; Koliba Mills, and Zia, accepted for publication) and performance (Radin, 2006; Frederickson and Frederickson, 2006). The development of the governance network as an observable and ultimately, an analyzable, phenomena has been suggested as a means through which to establish management and administrative practices that can contribute to a richer understanding of cross-jurisdictional relations that are characterized by both vertical and horizontal relations. Because of the combination of mixed-form authority structures that persist in governance networks, the classical public administration considerations of public bureaucracies and command and control forms of management are still very relevant. In mixed-form governance networks, public bureaucracies still play a very

**Table 3: The Convergence of Three PA Paradigms in Governance Network Administration**

<b>Public Administration Paradigm</b>	<b>Dominant Administrative Structure</b>	<b>Central Administrative Dynamics</b>
Classical Public Administration	Public bureaucracies	Command & control
New Public Management	Public bureaucracies <i>or</i> private firms	Competition; Concession & compromise
Collaborative Public Management	Partnerships with private firms, non-profits and citizens	Collaboration & cooperation; Concession & compromise
Network Administration	Mixed-form governance networks	Command & control; Competition; Concession & compromise; Collaboration & cooperation

pivotal role, even within the most highly decentralized governance networks. Their cultures and command and control hierarchical structures help shape the public bureaucracies' participation in governance networks. Because governance networks often engage actors from multiple social sectors, including those private firms guided by markets and market forces, new public management (NPM) considerations of public-private partnerships, contracting out, and reliance on market forces are useful in the study of governance networks. The central premise behind NPM is to bring market efficiencies to the delivery of public goods and services.

Governance networks are also likely to involve some collaborative alignments. "Collaborative management is a concept that describes the process of facilitating and operating in multiorganizational arrangements to solve problems that cannot be solved, or solved easily, by single organizations. Collaboration is a purposive relationship designed to solve a problem by creating or discovering a solution within a given set of constraints..." (Agranoff and McGuire, 2003, p.4). The emerging body of literature pertaining to "collaborative public management" (Agranoff and McGuire, 2003; Bingham and O'Leary, 2008) and "collaborative governance" (Ansell and Gash, 2008) needs to be woven into a differentiated theory of network management. The ongoing studies of collaborative management and collaborative governance will deepen our understanding of the kind of skills, attitudes and dispositions needed to foster effective horizontal administrative relationships.

All of the skills necessary to successfully manage hierarchies, harness market forces, and foster collaborations combine to form the basis of a governance network administration paradigm. Kickert, Klijn and Koppenjan, (1997) define "network management" as the combination of, "governance and public management in situations of interdependencies. It is aimed at coordinating strategies of actors with different goals and preferences with regard to a certain problem or policy measure within an existing network of inter-organizational relations" (Kickert, et al., 1997, p.10). We argue that effective network management requires the use of all forms of administrative dynamics, including command and control, competition, concession and compromise, and

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collaboration and cooperation. We conclude that the classical PA, the NPM, and the collaborative management paradigms are useful to the study of governance network administration and combine to form the basis of a network framework. A dilemma only surfaces when we constrain our assumptions to one paradigm.

### 3. Inter-Sector Arrangements and Performance

**Proposition 3.0:** *Our capacities to evaluate multi-sector arrangements will need to evolve, with particular attention paid to the role that sector characteristics (governance structures, measures of performance and accountability regimes) play within governance networks.*

Governance networks have been described as being comprised of individual organizations that are situated in either the public, private or non-profit sectors. The organizational actors implicated in governance networks may be characterized in terms of the social sector to which it belongs. The three social sector model presented in table 4, is a widely adapted model that draws distinctions between the public, private and civil society distinctions arising between these sectors (Janoski, 1998; Brooks, 2002). The importance of cross-sector relationships has been described in terms of boundary blurring (Kettl, 2006), as instances of regulatory capture (Peltzman, 1976), and most recently, in the context of re-regulation and nationalization. The implications of sector-blurring have been framed as classical trade-offs between markets and democracy (Stone, 2002), between governments and businesses (Moe, 1987), and public funding and charitable giving (Horne, Van Slyke and Johnson, 2006). Sector blurring also raises important questions pertaining to public and democratic accountability, suggesting that the relationship between sectoral characteristics and the roles, resources, and influences they bring to governance networks needs to be understood.

At this juncture, very little is known about how the different governance and administrative structures of the public, private and non-profit sectors inform the governance of the entire governance network. A view of the difference in performance standards across the public, private and non-profit sectors connotes a continuum of clearly defined measures: nearly universal measures (such as profit); to the ambiguity-riddled challenges of measuring successful public policies (Stone, 2002); to the highly context specific and mostly localized performance standards ascribed to individual nonprofit organizations (Stone and Ostrower, 2007). Although there is some literature that has discussed the differences between social sectors, and how these differences impact contractual agreements and public-private partnerships (Gazley, 2008), a full accounting of inter-sector dynamics is largely missing from the literatures reviewed here. The challenges associated with principal-agent problems get compounded when private contractors are viewed as interest-groups capable of capturing contractual and regulatory authorities. These considerations lead us to conclude that we need to evolve our capacities to evaluate multi-sector arrangements.

### 4. Multiple Policy Functions

**Proposition 4.0:** *Governance networks play a critical role in coupling policy streams.*

In the realm of policy studies, several conceptual models have been used to describe the creation, imple-

**Table 4: Characteristics of Social Sectors**

<b>Social Sector</b>	<b>Organizational Actors</b>	<b>“To whom” accountabilities are rendered</b>	<b>Predominant performance standard(s)</b>
<b>Public</b>	Governments (national, state, regional, local)	Citizens & interest groups; Elected officials	Policy goals; meeting public needs; implementing policies
<b>Non-profit</b>	Non-profit Organizations (NGOs)	Citizens & interest groups; Board of directors; clients	Fulfillment of mission
<b>Private</b>	Corporations, firms, businesses (For profit organizations)	Owners/shareholders; customers; Board of directors	Profit

mentation and monitoring of public policies. Process models include the classic policy cycle (Patton and Sawicki, 1986) and more recently the policy stream (Kingdon, 1984). Kingdon proposed that three streams (problem, policies/solutions, and politics) operating distinctly and in conjunction with one another provides another conceptual model of the policy process. Unlike the classic policy cycle, Kingdon’s policy stream model does not assume linearity, nor rational behavior on the part of policy actors. The problems, policies and politics streams may couple, and in fact, need to couple for agendas to be set and policy windows to open. He recognizes that policy streams are created and directed through social networks and indirectly asserted that social networks form as a result of one stream, or some coupling of multiple streams (1984). Kingdon recognizes that a number of policy actors, including interest groups, academia, media, and political parties coordinate actions within and across the policy stream. Kingdon focuses on the role that the coupling of policy streams lead to agenda setting and policy windows. He grounds the policy stream model in the coordinated actions that arise during the pre-enactment phases of policy selection and design.

To account for the post-enactment of policy tools, Tony Bovaird builds on the policy stream model by combining some of the stages of the policy cycle with the characteristics of policy streams and differentiates between stages in the policy development and policy coordination process (2005). He also distinguishes between regulatory policy implementation and services policy implementation, and allows for policy evaluation and monitoring as a “stream.” The figure below outlines the ways in which a governance network is implicated in one of the policy streams.

Governance networks can be aligned with various layers of the policy stream simultaneously. These streams may be understood in terms of the pre-enactment of public policies and the post-enactment of public policies. Network configurations have been described in terms of the pre-enactment phases of the policy stream in the literature pertaining to iron triangles, issue networks (Hecklo, 1978), policy subsystems (Baumgartner and Jones, 1993), interest-group coalitions (Hula, 1999), and policy networks (Rhodes, 1997). Post-enactment network configurations have been described as third party government (Salamon, 2002), implementation networks (O’Toole, 1997), and public management networks (Milward and Provan, 2006;

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Frederickson and Frederickson, 2006; Agranoff, 2007). The selection and implementation of particular policy tools or suites of policy tools (Salamon, 2002) play a central role in the organization of governance networks and their alignment within and across policy streams.

It is apparent to us that networks carrying on particular policy functions or combinations of particular policy functions are more likely to rely on certain combinations of policy actors more than others. The extent to which it is important to compare network configurations that appear over multiple policy streams ranging across the pre-enactment and post-enactment phases of policy development and implementation has yet to be fully explored within the literature. Although we believe the policy stream model discussed here may be useful, we recognize that policy functions have also been defined in terms of a specific policy domain such as emergency management networks, health care delivery networks, regional transportation networks, or environmental management and planning networks. We believe that it would be useful to construct a trans-domain framework for describing and analyzing governance networks. This becomes particularly apparent as the lines between discrete policy domains overlap as social problems become more complex and wicked.

## 5. The Nested Complexity of Social Scale

**Proposition 5.0:** *If the unit of analysis is to be the inter-organizational governance network, variation in the scale of social actors needs to be taken into account.*

We classify the types of network structures and characteristics found across the literature in terms of a nested configuration of levels of analysis. Looking across the literature, we find some frameworks focusing exclusively on the whole network as the unit of analysis (O’Toole, 1990; Rhodes, 1997; Milward and Provan, 2006; Frederickson and Frederickson, 2006; Agranoff, 2007; Provan and Kenis, 2007; Provan, Fish and Sydow, 2007); while others combine individual member characteristics and whole networks (Agranoff and McGuire, 2003; Mandell and Steelman, 2003; Koppenjan and Klijn, 2004; Koontz et al., 2004) into their frameworks.

The scale of a particular network node is a critical determining feature in any piece of network analysis. In social networks, nodes may represent very different kinds of social scale ranging from individual people, small groups of people (individual teams, committees, departments, offices, etc...), to entire organizations. Although multi-scale network modeling is beginning to be devised, at this current time, we argue that most network analysis within the public administration and policy studies literatures has been rendered by observing the relationship between nodes of a comparable scale.

In dealing with complex networks found within social systems, the matter of social scale is a preeminent consideration (Dodder and Sussman, 2002). This is particularly true if the social system is comprised of more than individuals, extending into the small group and organizational levels. In order to understand how social networks encompass multiple levels of scale, it is useful to consider how “scale-free” networks grow. The basic premise behind scale-free networks is an assumption regarding the almost unlimited capacity to continue to add nodes to the network. Mathematically speaking, new nodes being added to the network tend to demon-

**Figure 3: A Governance Network’s Relation to the Policy Stream**

Problem Definition	• Networks are mobilized around aligned views of the scope, severity and causes of the problem
Policy Design and Planning	• Networks are mobilized to examine policy alternatives and/or plan for the implementation of policy tool or suite of tools
Policy Coordination	• Once policy tools or suite of tools is selected, networks may exist to coordinate the implementation of the policy
Policy Implementation (Regulatory)	• Networks are created on the basis of principal-regulator and agent-regulated relationships between actors
Policy Implementation (Service Delivery)	• Networks are mobilized around the delivery of some kind of public good or service
Policy Evaluation / Monitoring	• Networks are organized around the monitoring or evaluation of the implementation of policies
Political Alignment	• Networks are mobilized to advance a political agenda

*Adapted from Boviard, 2005*

strate a preferential attachment to nodes with greater number of existing links. Mathematician Albert-Laszlo Barabasi, who has done a great deal to popularize network analysis while serving as one of its preminent scholars, describes preferential attachment as follows:

We assume that each new node connects to the existing nodes with two links. The probability that it will choose a given node is proportional to the number of links the chosen node has. That is, given the choice between two nodes, one with twice as many links as the other, it is twice as likely that the new node will connect to the more connected nodes (2003, p.86).

The picture of a scale free network that gets painted here is a visual structure of individual nodes (be they individual websites, cells or human beings, or organizations), clumping together to form clusters. These clusters, in turn, cluster with other clusters, and so on. We have already noted how the clustering of clusters forms the basis of certain kinds of hierarchical arrangements (Ravasz and Barabasi, 2003). We may view the scale-free dimensions of social networks as being represented in the nested nature of individual people, coalescing into small groups, which, in turn, form organizations, which, in turn, form inter-organizational networks.

Systems theorists have recognized the “nested complexity” of social networks (Dodder and Sussman, 2002). Sociologically, the matter of social scale has been framed as a distinctions between macro, meso, and micro levels of analysis (Collins, 1988). Figure 4 provides a visual representation of the ways in which nodes of a smaller social scale (individual) may be understood as nesting within larger scales (organizational).

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The conclusion that we may draw from this observation is that governance networks, as social networks, are multi-scalable, with the nodes of a social network defined in terms of individual persons, groups of people, or organizations.

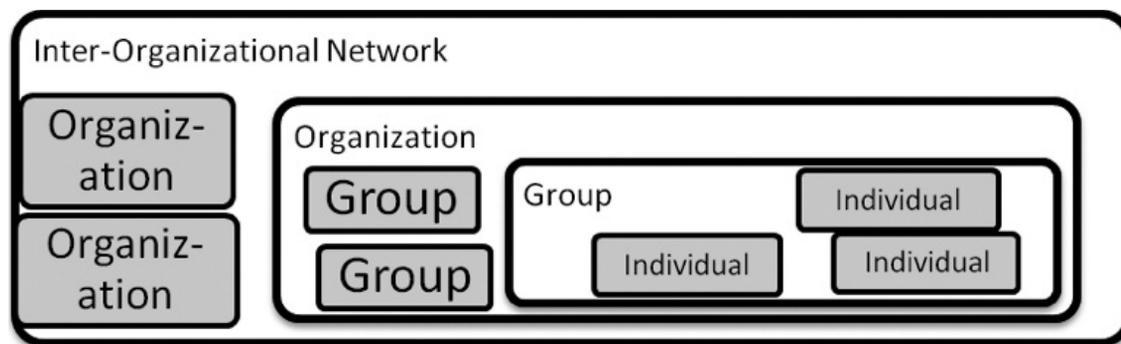
**Organizations and Institutions.** The extensive bodies of literature that focuses on the study, description and evaluation of organizations and institutions across the public, private and non-profit sectors is relevant to the development of any meta-level theory of governance networks. Theories relating to institutionalism, neo-institutionalism, and new institutionalism (Peters, 2005) as well as the organizational development literatures found across many social science disciplines are relevant resources to draw from when describing organizational characteristics and behaviors.

**Groups of Individuals.** Case studies of governance networks often highlight the roles that small groups of individuals play in the administration and governance of inter-organizational networks. These small group configurations have been described as taking the forms of committees, taskforces, advisory groups, and teams operating within governance networks. Small groups may take on formal roles and responsibilities within the network, operating as central coordinating mechanisms designed to steer the governance network. Rhode's social exchange theory Integrates group configurations as "dominant coalitions" operating within the broader network (1997). Sabatier's ATF framework refers to these small groups as "policy subsystems" (Sabatier and Jenkins-Smith, 1993). Historically, the locus of power found in iron triangles were often described as formal and informal conferences, panels, committee meetings. In some instances, as in cases in which committees, authorities, and taskforces are given resources to create, maintain, or govern broader inter-organizational networks, groups turn into formal network administrative organizations (NAOs) (Provan and Kenis, 2007), shaping how governance networks are lead and, ultimately, governed.

The importance of group structures and functions to the operation of the wider network has been recognized across many of the case studies of network configurations (Wenger, 1998; Koontz et al., 2004; Agranoff, 2005; 2007). Some have isolated these groups for study, drawing implications for network-wide performance in fields such as health care (Rodriguez et al., 2007), emergency management (Incident command centers: Moynihan, 2008), education (Gajda and Koliba, 2007), and transportation (Metropolitan planning organizations: Wolf and Farquhar, 2005). Oftentimes these groups, committees, task forces, commissions and authorities serve as the nerve center for network wide operations, providing the physical and virtual spaces for inter-personal coordinated actions and resource exchanges to occur. These groups have begun to be described as "communities of practice" (Wenger, 1998; Synder et al., 2003; Goldsmith and Eggers, 2004; Agranoff, 2005; Koliba and Gajda, 2009) capable of spanning organizational boundaries, facilitating the alignment of practices, and coordinating action pertaining to network-wide objectives.

**Individual People.** Distilled to their most rudimentary level, social networks must be composed of interlocking and clustering nodes of individual people. The importance of individuals to the governing, management and ultimate success and failure of governance networks may be recognized in the countless case studies written describing and evaluating inter-organizational network functions. The importance of individual leaders

**Figure 4. The Nested Complexity of Social Networks**



have been recognized in discussions of critical skills (Salamon, 2002; Agranoff and McGuire, 2003; Agranoff, 2007) and as differences between participants as individuals or as representatives of participating organizations and institutions (Koontz, et al., 2004).

Those responsible for managing within and across governance networks, be they construed as collaborative public managers or network managers, are particularly relevant to those looking to understand how governance networks operate and ultimately, we will argue, democratically governed. Individuals also play important roles in the accountability structures of governance networks.

Milward and Provan (2006) and Agranoff and McGuire (2003) among many others have recognized that as administrators of and within governance networks, public managers play a critical role in ensuring that democratic and administrative accountability exists within all forms of governance network. It has been recognized that managing within networks brings a degree of complexity to administrative and managerial tasks. Mathur and Skelcher (2007) argue that network governance through the nodes of public-private partnerships and government-nonprofit collaboratives are reshaping the role of the public administrator from a “neutrally-competent servants of political executive” to “responsively competent players in a polycentric system of governance” (p. 231).

Recognizing the relationship between the individual and institutional levels of network actors, Koontz et al. (2004) distinguish between governmental actors as the “flesh-and-blood employees, elected officials, and other people in government who take action within the context of [the institutions they represent]” and governmental institutions themselves (p.22). Individual “[g]overnmental actors and institutions, together or separately, constitute governmental roles in a particular collaborative effort” (Koontz et al., 2004, p.22). Drawing on a series of case studies of environmental collaboratives in which governments play any number of roles (leading, following, facilitating, etc.) they observe the ways in which individual “governmental actors critically affect collaboration; in others, institutions may dominate; in yet others, both could be crucial; and in some cases, neither may make a substantial impact” (2004, p.22). They also suggest that individuals and their institutions exist interdependently, with each providing constraints on the other. They conclude that, “governmental roles in a particular case may be quite complex, particularly if the [individual] actors are seeking to change institutions in ways that promote or constrain collaboration” (2004, pp.22-23). We may argue that the observa-

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tions that they make regarding governmental actors and roles may be extended to private and non-profit sector actors as well.

In examining the relationship between social scale and the roles of consensus and conflicts arising in policy networks, Joop Koppenjan explores the relationship between institutional levels actors, group level actors, and individual actors, and, following Koontz et al.'s observations (2004), suggests ways in which actors at various levels of social scale bring certain measures of interdependence and autonomy to their network participation (2008, p.151). Thus, we are left to conclude that network actors may or may not represent the interests of the actors from other levels of social scale, suggesting here that an individual may actively participate in a governance network without officially representing the groups or organizations to which they belong. We are left to conclude that the consideration of social scale as a critical characteristic in the operations of governance networks brings a measure of complexity to any study of social structures of this nature.

## CONCLUSIONS

In this chapter we have discussed some conceptual considerations that are useful in further theory development and research on governance networks. We argue for an operational definition of “mixed form” governance networks, suggesting that we view markets, hierarchies and collaboratives as types of network structures. We suggest that mixed-form governance networks be viewed as relatively stable patterns of coordinated action and resource exchanges; involving policy actors crossing different social and geographic scales, drawn from the public, private or non-profit sectors and across geographic levels; who interact through a variety of competitive, command and control, cooperative, and negotiated arrangements; for purposes anchored in one or more facets of the policy stream.

What remains to be seen is how the range of theoretical frameworks and methodological tools that exist, not only within the existing public administration and policies studies fields, but also across other social and natural science fields, may be corralled into an evolving integrated-theory for describing, comparing, analyzing and evaluating governance networks.

In this chapter we argue that the complexities that surface when the unit of analysis is the inter-organizational governance network are shaped by the multiple roles and functions that social actors take on. The individual people who populate the network are likely to be guided by multiple decision heuristics and multiple roles and allegiances. Group dynamics will likely evolve over time, transformed by external inputs and internal exchanges. Organizations and institutions will be subject to competing priorities and expectations. Simply put, the best we may ever be able to do is to approximate real world dynamics through the development of theories and models.

Complexity scientists John Miller and Scott Page observe that, “... the goal of theory is to make the world understandable by finding the right set of simplifications.” They go one to add that, “Modeling proceeds by deciding what simplifications to impose on the underlying entities and then, based on those abstractions, uncovering their implications” (2007, P.65). In this chapter we offer six propositions (listed in table 5) that may be

**Table 5: Summary of Propositions regarding Mixed Actor Governance Networks**

Consideration	Question	Proposition
1. Macro-Level Forms	Are hierarchies and markets forms of networks or should networks be considered as distinct from them?	1.1: Governance networks may be comprised of hierarchical, market and collaborative structures. 1.2: Governance networks are shaped, in part, by the organizational structures that individual actors bring to the network.
2. Administrative Authority	How to account for mixed (vertical & horizontal) administrative ties?	2.0: There will be asymmetrical allocations of material and immaterial resources and power among the network actors. Such allocations influence the structure of administrative authority of the network.
3. Sectoral Composition	How to account for multi-sector arrangements?	3.0: Our capacities to evaluate multi-sector arrangements will need to evolve, with particular attention paid to the role that sector characteristics (governance structures, measures of performance and accountability regimes) play within governance networks.
4. Policy Function	How to account for networks emerging across multiple policy streams?	4.0: Governance networks play a critical role in coupling policy streams.
5. Social Scale	How to account for actors of mixed social and scale?	5.0: If the unit of analysis is to be the inter-organizational governance network, variation in the scale of social actors needs to be taken into account.

used to simplify or inform the kind of modeling of governance networks that we believe possible.<sup>5</sup>

Complexity theorists looking to study and model governance networks may seek to reject some of the reductionist tendencies found in our list of considerations. They will likely want to begin with the governance network as a whole and develop models to predict emergent qualities. Emergent qualities are important to comprehend because they are central features of system resiliency. The resilience of complex governance networks becomes important for two reasons: when governance networks fail to be resilient (as in the recent cases of failed emergency management networks and financial regulation networks); and when governance networks become too resilient and fail to adapt to changing conditions.

A consideration of the range of conceptual dilemmas and theoretical constraints discussed in this chapter inevitably leads us to render this conclusion: we cannot ignore the emergent complexity inherent within inter-organizational governance networks. Clearly, new methods for describing, analyzing and evaluating these phenomena are needed. Most challenging is that while we believe that the fundamental features of mixed actor

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governance networks can eventually be identified, the central patterns of behavior that can be observed from mixed formed governance networks are emergent. The extent to which they evolve into more "predictable" yet indeterminate patterns poses a tremendous and exciting challenge. In the mean time, the emergent qualities of mixed actor governance networks are likely to frustrate our understanding and meaningful application of standard forms of accountability, legitimacy, responsibility and authority.

## ENDNOTES

<sup>1</sup> A longer version of this chapter was originally presented at the 5th Annual TransAtlantic Dialogue: Future of Governance, Washington, D.C. June 11-13, 2009. A fuller exhortation of the conceptual architecture discussed here is provided in the book written by the authors published by Taylor and Francis titled: *Governance Networks in Public Administration and Public Policy*.

<sup>2</sup> These sections are being reproduced by permission from Taylor & Francis. All tables and figures found in this chapter come from Koliba, Meek and Zia, 2010.

<sup>3</sup> With the obvious exception of inter-governmental networks, which may be described as networks of governments of different geographical scope.

<sup>4</sup> With the obvious exception of inter-governmental networks, which are relegated to networks of public sector organizations.

<sup>5</sup> We believe that the propositions laid out here can guide the future development of governance network theory. We recognize that many more considerations will need to be addressed if an integrated theory of governance networks is to evolve, including the need for further elaboration on the relationship between governance structures and the accountability and performance management considerations that must go with them. The role of policy tools, as developed by Lester Salamon and his colleagues (2002), may be added to this framework. We opted to leave out the consideration of geographic scale, recognizing that the extensive literature on inter-governmental relations underscores the importance that geo-spatial scale plays in the structures and functions of governance networks. The forces of globalization and internationalization are also pressing for deeper consideration of geographical scale.

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## ABOUT THE AUTHORS

**Christopher J. Koliba** is the Director of the Master of Public Administration Degree Program and an Associate Professor in the Community Development and Applied Economics Department at the University of Vermont. He possesses an Ph.D. and MPA from the Maxwell School of Citizenship and Public Affairs. His research focus includes the modeling of governance systems, knowledge management and organizational learning, action research methods, educational policy, and civic education. Koliba, Meek and Zia are the authors of a book published by Taylor & Francis titled, *Governance Networks in Public Administration and Public Policy*.

*Contact information:* Christopher Koliba; University of Vermont; 103 Morrill Hall; Burlington, VT, 05405; ckoliba@uvm.edu; phone: 802-656-3772

**Jack W. Meek** is Professor of Public Administration at the College of Business and Public Management at the University of La Verne where he serves as Coordinator of Graduate Programs & Research and Director of the Master of Public Administration Program. His research focuses on metropolitan governance including the emergence of administrative connections and relationships in local government, regional collaboration and partnerships, policy networks and citizen engagement.

**Asim Zia** is Assistant Professor in the Community Development and Applied Economics Department at the University of Vermont. He has a Ph.D. in Public Policy from Georgia Institute of Technology. In 2006 he won the best dissertation award from APPAM. His research is focused on policy analysis of complex systems, governance networks and decision analysis, particularly within the context of environmental governance and regional planning.

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# Contexts, Hybrids and Network Governance

## A Comparison of Three Case-studies in Infrastructure Governance

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Joop Koppenjan, Erasmus University Rotterdam

Myrna Mandell, California State University

Robyn Keast, Queensland University of Technology

Kerry Brown, Southern Cross University

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### ABSTRACT

While hybrid governance arrangements have been a major element of organisational architecture for some time, the contemporary operating environment has brought to the fore new conditions and expectations for the governance of entities that span conventional public sector departments, private firms and community organisations or groups. These conditions have resulted in a broader array of mixed governance configurations including Public Private Partnerships, alliances, and formal and informal collaborations. In some of such arrangements market based or ‘complete’ contractual relationships have been introduced to replace or supplement existing traditional ‘hierarchical’ and/or newer relational ‘network-oriented’ institutional associations. While there has been a greater reliance on collaborative or relational contracts as an underpinning institutional model, other modes of hierarchy and market may remain in operation. The success of these emergent hybrid forms has been mixed. There are examples of hybrids that have adopted successfully, achieving the desired goals of efficiency, effectiveness and financial accountability, while others have experienced implementation problems which have undermined their results. This contribution postulates that the cultural and institutional context within which hybrids operate may contribute to the implementation processes employed and the level of success attained. The contribution explores hybrid arrangements by analysing three cases of the use of inter-organisational arrangements in three different national contexts. Distilling the various elements of hybrids and the impact of institutional context will provide important insights for those charged with the responsibility for the formation and key infrastructure and public value development.

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## INTRODUCTION

The optimal arrangements for the provision of services to citizens remains a contested area as the design of delivery frameworks for those services is not simply a matter of choosing between the three pure-form modes of market contracts, relational networks or bureaucratic hierarchies but involves a hybrid mix of modes. The related governance arrangements then may be formed within a dynamic interplay of the different approaches combined with the influence of the context in which these modes co-exist. Keast, Brown and Mandell (2006:28) suggest that the state, market and networks are constantly being reconfigured and as such, could offer flexible options to derive valuable resources from each mode, for example the authority of state-sponsored action, the price signals of markets and the relational capital of trust and reciprocity embedded in networks. As outlined by Skelcher (2000, 2004) hybrids are argued to be based on emergent and distinctive patterns of engagement, resource sharing, combined governance and cultural blending between two or more organisations or sectors. Hybrid governance arrangements rely on shared roles, responsibilities and problem spaces between organisations and other actors in public, private and/or community spheres. This contribution takes at its core concern the development of hybridity through an analysis of network governance in which horizontal relational arrangements are based on cooperation between different self-regulating parties (Sorensen, 2002).

Despite the existence of sectoral, modal and regional contexts, a significant contextual element driving the shape of governance arrangements is argued to be that of national origin. The role of national context in determining particular responses to public management has been debated in terms of understanding the nation-specific effects of reform, the costs and benefits of change and the emergence and impact of new paradigms for designing new governance arrangements (see for example, Osborne and Brown, 2005, Pollitt and Bouckardt, 2004). This study seeks to assess whether national differences matter and accordingly, whether network governance models are better suited for some countries than others. Various typologies of national differences are available (De Jong, 1999). The amount of literature on national attributes and frameworks demonstrates the prevalence of research that focuses on differences: the difference between Anglo-Saxon and Rijnland economies (Albert, 1991), Hofstede's cultural dimensions (Hofstede 1997), historical traditions like neo-corporatism in Western Europe (Schmitter and Lehmbruch, 1979) or 'polder politics' in the Netherlands (Hendriks and Toonen, 2001), diverging policy styles (Richardson 1982), specific political system characteristics like unitary state versus federalism (Scharpf, 1978), etcetera. In this literature various contextual features are outlined as being supportive or hindering to network governance Table 1, for example, gives an overview of the most important characteristics mentioned in this literature.

Following this line of thinking, this research is aimed at identifying the extent to which network governance may be enhanced or hindered by contextual features as suggested above. At the same time we are aware of the fact that countries cannot simply be characterized according to these dichotomous elements. There is a need to elaborate a more specific contextual approach: that is, studying the differences between network governance in various contexts to investigate rather than assume differences. In this study we follow two lines of enquiry in examining the impact of the context on network governance. On the one hand we have national characteristics as

**Table 1: Context Characteristics Supporting or Hindering Network Governance**

<b>Unfavorable conditions</b>	<b>Favorable conditions</b>
Policy tradition of planning and control	Policy tradition of negotiation and bargaining
Two party system; winner takes all	Multiparty system resulting in coalition governments
Unitary state	Federalism; decentralization
Weak civil society	Strong civil society
Highly politicized culture; sharp interest conflicts	Consensus culture
Institutional and legal environment that enhances short term relationships, a focus on efficiency and contractual relationships	Institutional and legal environment that enhance long term relationships, a focus on quality and trust
Competitive, individualistic culture in which citizens solve their own problems, do not rely on government, and go to court to get their rights	Egalitarian culture in which citizens are relatively passive and loyal and dependent on government or representation by interest groups
Weak implementation culture, in which parties do not have much binding power towards their constituencies	Strong implementation culture, in which parties have binding power towards their constituencies

discussed above in mind as being a determinant; on the other hand we will use an inductive approach. Therefore we compare three cases of network governance and investigate the question whether the differences found can be explained by differences in the context, and to what extent those contextual differences can be considered national differences. In doing so we can also address alternative hypotheses, e.g. that sectoral differences rather than national differences are of importance. In addition, there may be some general trends that have emerged across the globe that may have influenced the structure and form of infrastructure governance. With regard to public infrastructures Graham and Marvin (2001) for example have stated that notwithstanding their critical importance to social and economic development, changes to infrastructure delivery and operation have brought new operating principles and practices. A global trend can be identified from functional, single agency (state) or highly focused, privatised business (market) approaches to infrastructure procurement, delivery and on-going management by multi-party, multiplex and interconnected entities and interests. These hybrid arrangements are a relatively common feature of the agenda for infrastructure development in at least parts of the infrastructure life cycle. However, there is little understanding about whether hybridity in infrastructure has been implemented as a

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comprehensive internationalised approach with various degrees of take-up or if it has emerged differentially in different locations with separate and distinct operationalizations, governance approaches and challenges. A case study approach is adopted as this research is exploratory; events are observed rather than controlled by investigators and ‘how’ and ‘why’ questions are proposed (Yin 2002). The cases focus on identifying common elements of the processes, actors and outcomes in order to understand the features and characteristics of each of the case studies and how and why the cases developed over time to adopt hybrid governance arrangements. Subsequently the case findings can be compared to determine the significant contextual elements relating to the resultant governance arrangements and their outcomes.

Case selection and the applied research methodology reflect this strategy. The research adopts a comparative cross-jurisdictional case study approach. It draws on three hybrid projects within three different national settings to give a broad scope for comparison on an international scale.

The cases are respectively:

1. The debate on the future of Amsterdam Airport Schiphol, The Netherlands
2. The debate on linking regional economic and Brisbane Airport development, Queensland, Australia
3. The regional planning of water supply in Sacramento, California, USA

However, as this is an exploratory study, the national contexts have been limited to Western, democratic, developed economies that exhibit differences in systems of government in the continuum from liberal to social democratic principles and adversarial to relational legal systems. The frameworks for communities and citizens are also placed on a continuum from inclusive and consensus-driven to top-down and ‘command and control’. The examples are chosen to understand decision-making and governance in similar domains. Although there are two types of industry sectors examined, these are both within the physical infrastructure arena, so we have reduced the variety as regard to sectors studied, as advised by Allen and Hunt (2002). At the same time the selection of aviation and water management cases within infrastructure based sectors allows us to pay attention to the relative importance of national differences vis à vis sectoral differences. The contribution examines three infrastructure cases covering the areas of airports and water infrastructure that rely on hybrid governance arrangements across three countries; the Netherlands, USA (California) and Australia (Queensland).

The next sections of the contribution present the case studies. These case descriptions subsequently discuss:

- the different phases of the development of the infrastructure and its governance structure over time
- the drivers of the shift towards a network governance
- the application of the network governance
- the assessment of the network governance practice
- the contextual factors influencing network governance, including the question to what extent national characteristics were of importance.

Next, the contribution presents a comparative section that provides an assessment of the different contextual layers that drive variation in network governance. It concludes that national context is a key contextual el-

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ement. However the historical trajectory of institutional pathways for the particular form of public/private ownership, the public values context and the extent to which citizens are affected by actions in their local space, may start to provide a more finely grained understanding of the phenomenon of hybrid governance and the drive to operate within a network governance framework

## **THE NETHERLANDS: AMSTERDAM AIRPORT SCHIPHOL**

Amsterdam Airport Schiphol (Schiphol) covers 2878 hectare in the municipality of the Haarlemmermeer. It consists of 5 runways and one terminal with a capacity of 60 to 65 million passengers per year. In 2006 the airport handled slightly more than 46 million passengers and 1.5 million tones cargo. 59 % of a total of 440.153 air transport movements were made by Air France-KLM. Schiphol is the fourth largest airport in Europe and the 9th largest worldwide. 40% of the passengers use Schiphol as transfer hub. Schiphol has a large regional, national and international economic importance. In 2003 57.000 people were directly employed by Schiphol Airport-related activities. Another 52.000 jobs in the region were attributed to indirect impacts of Schiphol (Beekman and Weening, 2004).

Schiphol is owned and operated by the limited liability company NV Luchthaven Schiphol (Schiphol Group). The Schiphol Group was founded in the 1950s and is owned by the Dutch State (ministry of finance) (75.8%) and the municipalities of Amsterdam (21.8%) and Rotterdam (2.4%). Until recently privatization of the airport was considered as a future pathway, but in 2004 it was decided that although government will reduce its ownership, 51% of the shares are to remain in public hands. Besides Schiphol the Schiphol Group owns regional airports like Rotterdam Airport and Lelystad Airport and 50% of Eindhoven Airport. Outside Europe the Schiphol group participates in the joint venture that operates the fourth terminal of John F. Kennedy Airport in New York. Schiphol also owns shares in Brisbane Airport Corporation, the operator of Brisbane airport, Australia.

Policy making about the development of Schiphol airport has been a delicate issue due to the fact that the airport is situated in a densely populated region near the economic heart of the country, Amsterdam. The development of Schiphol is a matter of national concern. The national government decides on the development strategy, in which diverging economic interests (airport infrastructure, housing, office spaces, industry locations, nature, and infrastructure) and environmental interests (noise, safety, stench, and emissions) have to be balanced.

During the 1950s and 1960s decisions on the operation and expansion of the airport were made in a relatively autonomous network, dominated by the aviation sector, and the Ministry of Transport's aviation regulation agency, the Rijksluchtvaartdienst (RLD) (Tan, 2001).

### **Why Network Governance?**

It was only during the 1960s and 1970s that the operation and development of Schiphol was perceived to be an environmental problem, especially regarding noise nuisance. In 1979 it was decided that the airport was only allowed to grow within strict noise contours/limits. During the 1980s the severe economic recession led to the emergence of a strong coalition that favored Schiphol expansion. Spatial policy was based on the logistic

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strength of the Netherlands, and facilitating the development of Schiphol Airport and the Port of Rotterdam as main ports thus had a high priority (Faludi & Van der Valk, 1994).

At the same time a new environmental consciousness was triggered. The ministry of VROM (Housing, spatial planning and the environment) published the first National Environmental Policy Perspective of the Netherlands (NMP, 1989). Besides, the Province of North Holland, in which the Schiphol territory is located, stressed that the airport was a source of noise pollution and of conflicts on plans for especially housing development.

As a result the policy making went into deadlock. Actors participating in the policy debate could not agree on the future of the airport, nor on the kind of policies that were needed to regulate environmental effects. In an attempt to break the deadlock the government formulated the so-called dual objective: the ambitious growth strategy of the airport would be combined with the simultaneous realization of environmental objectives. Government choose to use the so-called ROM-method a new participative policy approach designed to develop integral, tailor-made plans for specific areas that could count on wide public support.

## **Reconciling Growth and Environmental Concerns: Three Rounds of Network Governance**

### ***Round 1. The PKB (Spatial Planning Key Decision) process: 1988 – 1997***

This policy round revolved around the operationalization and implementation of the dual objective in a so-called Spatial Planning Key Decision (Planologische Kernbeslissing, PKB). The PKB procedure is an extensive decision making procedure that results in a legally binding national spatial planning decision.

In the process the decision making procedure was extended beyond the traditional participants (Schiphol and RLD) with local and regional governments. A steering group was established with the main stakeholders: the Province of North Holland, the Municipalities of Haarlemmermeer and Amsterdam and the Schiphol Airport authority. The department of Environment (DGM) of the Ministry of VROM was put in charge. Residents, environmental groups (most notably the *Stichting Natuur en Milieu*, *SNM*), the planning department of the municipality of Amsterdam and the RARO (the independent advisory council of the Ministry of VROM), which were not represented in the process, raised concerns about the feasibility of the dual objective and the rather economic foundation of the steering group's perspective.

Very soon it became clear that it was impossible to not increase noise pollution with the assumed traffic growth of 6% per year. The Steering Group ignited negotiations about the amount of houses within the 35Ke zone that was desirable. For the short term, the Steering Group agreed that 15.000 houses would be allowed within the 35Ke zone. For the long term, after 2003, parties agreed that when the new 5th runway would have come into operation, 10.000 houses are allowed to be within the 35Ke zone.

The Steering Group decided on the 6th April of 1993 that the growth scenario with the lowest level of traffic needed to sustain mainport operations (the 'critical mainport barrier') would be used as point of departure for the remainder of the PKB process. A new calculation model for noise made it possible to fit the desired mainport development within the noise limits. With regard to the five-runway system, it was argued that all the newly formulated environmental and safety criteria would have to be met (PKB part 4, 1995). The environmental parties, especially

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SNM, repeatedly questioned the noise norms used and the way the contours were calculated, but with no effect.

At the end of 1995 the PKB was politically ratified. The Lower House was not totally convinced about the rather low growth that was assumed in the PKB. In the end it was decided that capacity limits would be introduced: passenger numbers were not allowed to exceed 44 million in any year. The noise limits would become effective from 1997 onwards, to give the sector parties sufficient time to adapt their daily operations to these newly installed limits.

Schiphol immediately exceeded the noise limits in 1997 and 1998. It was concluded that the forecasts used in the PKB were far too low (Algemene Rekenkamer, 1998). The local residents and the environmental parties started the first of many juridical procedures that would heavily frustrate further decision-making. *Milieudefensie* (Environmental Defence) had bought a strategic piece of cropland in April 1994, exactly where the fifth runway was planned to be constructed. It started to plant trees to create the Bulderbos (Roar Forest). This nature development project had to prevent expropriation.

### ***Round 2. The new Schiphol Law: 1998 – 2006***

In order to ‘clear the air’ in September 1998 the Ministry of Transport initiated a new interactive policy approach: the Interim Debate on Schiphol (Tijdelijk Platform Overleg Schiphol, TOPS). TOPS was the first attempt to give environmental and nature conservation groups a formal place in the decision making process. The final TOPS had 15 members, but Schiphol, KLM, Milieudefensie and SNM did the actual negotiations (cf. Glasbergen, 2002)

TOPS first assignment was to give an advice on how to realise a yearly increase of 20.000 flights without increasing noise pollution. Schiphol took initiative and designed a new noise zone. A research report of a consultancy firm concluded that the environmental situation would deteriorate considerably. Subsequently the environmental parties rejected the new zone and the TOPS actors failed to reach an overall agreement.

TOPS would also advice on a new noise regulative system for the five-runway system (from 2003 onwards). As RLD and Schiphol negotiated the new regulative system, TOPS was sidelined.

At first, ignoring TOPS was not likely to be an efficient strategy, considering that Milieudefensie owned pieces of land where the new runway was to be constructed. However, the cabinet had created a new emergency law in January 1999. As such, Schiphol was legally empowered to acquire the missing pieces of land from Milieudefensie. Furthermore, the Cabinet chose to draft an entirely new Schiphol Law, instead of a new PKB decision. This allowed for a less comprehensive procedure than that of the PKB. The Cabinet presented a new regulative system, claiming it offered equal protection as the PKB system that it came to replace.

The Upper House ratified the new law in July 2002 (cf. EK 27603), but demanded the new system to be evaluated within 3 years (2006). Schiphol and KLM were satisfied with the new law, since it allowed them to put the new fifth runway (Polderbaan) into operation in February 2003.

### ***Round 3. Revising the Schiphol Law (2006 -2008)***

In 2006 the government installed the so-called Alders table, named after its chairman Hans Alders. Just as

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in 1999, the first assignment was to find short-term solutions for revising the existing noise system, of which noise limits had been exceeded in a few enforcement points in 2006 and 2007.

Actors that gathered around this negotiation table were the sector parties (Schiphol Group, KLM/AF, ATM), the regional and local authorities (North Holland, Amsterdam, Haarlemmermeer, but also the municipalities of Amstelveen, Uitgeest), a regional consultative body, platforms of local residents, and the ministries of Transport and VROM. The environmental parties did not take part in the negotiations.

Schiphol suggested a future development allowing for a further growth to 600.000 flights (Startnotitie MER, 2007). The local residents resisted to this growth perspective. In October 2008, the Alders-table presented its final report. Besides a new, more flexible and realistic system to regulate noise nuisance, it was suggested that Schiphol could grow to 510,000 aircraft movements by 2020. Non hub-related activities (approx. 70.000 flight movements) would be moved to the regional airports. Almost all actors were pleased with the agreement. Due to the economic recession the reduced growth rates were acceptable for Schiphol (Van Gils et al., forthcoming 2009).

### **Assessment of Network Governance**

In general the attempts at network governance in the case of Schiphol failed. It proved hard to realize the double objective. The dominant problem definition - reconciling growth and noise nuisance - persisted and arguments, studies and discussions seemed to be repeated over and over again. Environmental measures were systematically traded off against economic growth. Scenarios and calculation method underlying regulation systems were chosen in such a way that growth was not hindered. Environmental measures agreed upon in the interactive arenas were systematically not enforced. The actors traditionally dominating the decision making, notably Schiphol and the Ministry of Transport, outmanoeuvred or overruled the newcomers in the interactive arenas. As a result the interaction resulted in distrust, hostile relations and legal procedures. Remarkably this did not prevent new initiatives at network governance to be undertaken. It was not until the last policy making round that new solutions were suggested. However, the costs of the measures were shifted to the stakeholders in the environments of the regional airports that were not represented at the negotiation table. It might be argued that this outcome is part of the problem rather than a solution.

This failure of network governance might be explained by the unequal power positions of the pro-growth and ecological coalitions that faced each other. As a result of a knowledge asymmetry, resources and institutional positions, the economic coalition succeeded in systematically outmanoeuvring the representatives of the physical planning and ecological networks. In addition it might be stated that economic and ecologic interests in this case simply could not be reconciled. But then again it might be argued that because network governance was not taken seriously, actors did not succeed in going beyond the dominant problem definition and in finding a common ground.

### **How Did the Context Influence the Network Governance?**

Applying network governance in the Schiphol case might be expected and likely to be successful given the characteristics of the Dutch policy context. In response to the mixture of deep divisions and strong interdepen-

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dencies that characterized the old Dutch society, a culture of consensus building prevails building on;

- a tradition of solving societal conflict by depoliticization and deliberation, resulting in pragmatic solutions and complicated compromises
- a tradition of neo-corporatism, in which powerful interest groups are included in policy making processes
- complex and detailed legal procedures (like the PKB) structuring planning processes in such a way that various societal interests are taken into account and local governments, stakeholders and parliament have a say (Van Wijk, 2007).
- the decentralized nature of the Dutch planning system with constrains for central government to impose solutions upon local governments (Faludi & Valk, 1994).

Given this historical background, it is obvious that attempts at regulation of Schiphol do not result in a hierarchical approach, forbidding further growth or simply ignoring claims of local governments, residents and environmentalist. So, since network governance can be considered the normal Dutch way of approaching wicked problems, what needs to be explained is why this was not effective in the Schiphol case. Here, other contextual characteristics seem to have been important, for instance the fact that the aviation sector differs from other policy areas. Policies regarding Schiphol are traditionally made in a closed, interaction between Schiphol and RLD. The autonomy of this policy network is based on the economic importance of Schiphol and KLM, the specialist knowledge involved in aviation related activities, and the international nature of the aviation sector, international market developments influencing company strategies of Schiphol and KLM rather than national or local policies. As a result Schiphol has never been treated the same as other public infrastructures, but as a special case. Although Schiphol is publically owned, interdependencies would not allow the government to simply impose solutions on Schiphol. This is even truer, since government itself was divided on this issue. Against this background, introducing network governance can be seen as a confrontation between an environmental coalition trying to regulate Schiphol (ministry of VROM, planning departments of local governments, residents and environmentalists) and the 'old' Schiphol network supported by an economic coalition (ministry of economy, departments of local governments), dedicated to defending its autonomy. The decision to draft a separate Schiphol law to replace the PKB can be seen as an attempt to get rid of the intrusion by VROM dominated legal frameworks. Also the adaptation of procedures in order to expropriate the Bulderforest can be seen as an attempt to restore autonomy and make network governance superfluous.

On the other hand, the economic coalition did not succeed completely in overruling the network governance attempts at regulation. To begin with the attempt of privatizing Schiphol failed; a major blow for Schiphol Airport and the new public management oriented economic coalition. Furthermore, depoliticizing the conflict and returning to the old situation of splendid isolation did not succeed either. Attempts at depoliticizing the debate by establishing technical committees with experts failed. The domination of the policy debate by technical arguments and the existence of a complicated, untransparent regulation system were increasingly seen as part of a strategy to solve the conflict within the old sector and to exclude stakeholders.

Environmental issues kept reoccurring on the political and policy agenda, forcing the ministry of transport

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to take its regulatory responsibilities seriously. Operational activities of Schiphol were hindered by ongoing legal procedures and rules and regulations set by lower governments. Neither command and control (forbidding growth) strategies, nor public management-like strategies proved to be viable alternatives in this context. Network governance, despite major drawbacks, persists. Actually we can say that environmental interest and the parties that articulate these interests have become institutionalized in the policy network of Schiphol, reducing its autonomy and leading to new practices in which network governance will increasingly be important. Seen in this evolutionary perspective, the assessment of the effectiveness of network governance becomes more positive. Moreover, in comparative perspective we might consider Schiphol to be a typical product of consensus politics: one of the world busiest airports situated in a densely populated area, with 5 runways, wrestling with complicated operational procedures in order to do justice to various conflicting claims.

## **AUSTRALIA: BRISBANE AIRPORT**

Brisbane Airport serves as both a passenger and freight transport hub with international and domestic passenger terminals, a cargo terminal, and two runways. It is the third busiest airport in Australia, after Sydney and Melbourne. The Brisbane–Sydney route is the eleventh busiest passenger air route in the world, and the seventh busiest in the Asia-Pacific region. During 2007/8 Brisbane Airport recorded more than 18.5 million passengers including 4.1 million international travellers. Brisbane Airport's annual passenger numbers are expected to reach more than 25.6 million by 2015 and around 50 million by 2035.

Vast distances, sparse populations and a lengthy unprotected border meant that Australia was an early and enthusiastic aviation adopter. In facilitating this nation building and protection role the Commonwealth Government assumed responsibility for the ownership and control of most airports, including the Brisbane Airport. Under this essentially 'bureaucratic' arrangement the policy, planning, operation and monitoring of airports were shared across government departments and Government –Owned Corporations (GoCs). Responsibility for the overall control and management of Australia's major airports fell to the Federal Airports Corporation (FAC), a self-regulated government-owned business enterprise; the Department of Transport and Regional Services DOTARS) provided policy direction, while other Federal government entities including the Federal Aviation Authority (FAA - operation), Civil Aviation Safety Advisory (CASA - aviation safety ) and the Australian Competition and Consumer Commission, (ACCC - price monitoring) provided regulatory oversight of airports in each of their respective areas of responsibility.

During the 1980s, a combination of shrinking resources and capacity along with the adoption of New Public Management principles of exposing government activity to 'market forces and principles', public infrastructure was put into private hands. As a result a range of market based initiatives ranging from corporatisation to privatisation were introduced. Airports as major infrastructure entities were not immune from the drive for efficiency. Indeed, as Oum et al (2006) noted, this was a time of significant aviation policy shifts, with regard to airport ownership, around the world due to the deregulation of the industry in the 1980s.

Rather than outright privatisation or sale of its airport properties, the Australian government introduced an

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arrangement in which it leased its larger urban and regional airports to private corporations and syndicates for 50 years, with options for an additional 49 year uptake. Regulation under this semi-privatised model occurred through other regulatory processes such as general business regulation and accountability requirements for business transactions. Under the Airports Act 1996, the government retained policy and planning rights over the properties, while passing onto the incoming airport owners (leasees) operational rights to the airports as well as a range of development rights with no restrictions on land use (other than compliance with the Airports Act 1996). Leasees derived revenue through property development, car parking and other commercial initiatives. The new airport owners were, however, still subject to federal government safety and pricing regulations, albeit a more light handed regulation for business transaction processes (Forstyhe, 1993; 2007 and Schustler, 2008). The Airport Act 1996 required an Airport Master Plan with a twenty year indicative vision that is replaced every five years and informed by public comment.

In this way a mix of governance arrangements – state and market – were employed to more efficiently and ‘entrepreneurially’ operate and manage the major airports. This mixed governance approach – drawing on the state to provide policy direction and regulation and the market to self fund infrastructure developments – proved to be sufficient in the relatively stable operating environment and the ensured separation between airports and local development in the late 1990s- early 2000s. However, as airport regions have become increasingly encroached upon through local urban planning strategies and increasing levels of airport traffic and congestion have arisen, the ability of the state/market mix to provide for an integrated approach to airport precincts and their surroundings was challenged. Adding to the tensions within this environment were the growing demands by local and state governments, previously isolated from direct influence over airport planning, to become more central actors in the decision making and planning agenda.

## **The Need for Network Governance**

In the Brisbane case, the leasing rights for the airport were secured by the Brisbane Airport Corporation (BAC) a consortium in which the Queensland State Government, the Brisbane City Council and the NV Luchthaven Schiphol Group are shareholders. Following the lead of the Schiphol Group, the Brisbane Airport Corporation (BAC) adopted an ‘airport city’ development approach that has expanded the focus and orientation of the airport beyond a transport hub to include a wider array of developmental initiatives both aeronautical and non aeronautical. This transformation is already underway with approximately 320 businesses located within the precinct, the development of a shopping and office centre, resulting in a regular daily work force of approximately 16,000 people which is forecast to increase to 42,000 by 2023.

Initially located some distance from urban precincts and largely not subject to local or state government planning regimes, airport operation and development occurred separately from local communities and in a local planning vacuum (Baker and Freestone, 2008). Under the privatisation model, local and state government control of on-airport development was limited to consultative processes, with few mechanisms for airport operator input into regional development. Without overarching governance arrangements linking the two domains local

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and state governments may consider that airport commercial development is conflicting with, and restricting, their strategic intentions, while airport operators may be alarmed at incompatible land use (May and Hill, 2006). In effect, neither party was able to endorse, influence or veto land use planning decisions of the other. The growing demand for air passenger travel and freight transport, coupled with BAC's expansionist development to respond to these demands and the introduction of non aeronautical development, generated an increased use of both airport roads and the local road infrastructure in the areas adjacent to the airport. Adding to the complexity, the relative distance of the airport from the city precinct has been breached with housing developments and light industrial businesses established in the corridor, a rail link that provides increased commuter access not only to the airport, but to the city and a greater reliance on air transport as a commuter mode of travel for local residents working in different states. These new developments have meant that there is greater emphasis on 'interface' activities that bring the airport and its operation into greater connection with the urban metropolis.

### **Attempts at Network Governance**

To facilitate this 'interface' between the airport and other actors an array of mediating institutional arrangements – such as task forces, committees and other bodies - were introduced. These largely ad hoc arrangements sit alongside of and serve to supplement existing governance arrangements in place within the airport domain. However, although exhibiting some basic network governance properties such as a reliance on interpersonal relationships as the connective tissue, these cross-cutting arrangements also draw heavily on bureaucratic principles such as agenda setting and structured reporting processes to establish focus and direction. The end result is an airport governance regime predominantly characterised by the conventional state/market mix. Limited network governance aspects have been introduced to this mix to both facilitate greater community involvement in this previously 'controlled and isolated' planning and decision making space and provide alternative mechanisms with which to begin to link the expanded array of actors operating within this domain.

The inclusion of horizontal governance practices to the governance mix has afforded an increased level of cross-connection that has contributed to a more 'joined-up' or integrated planning and decision making processes. However, for many participants within this domain the linkages were argued to be insufficient and/or ad hoc and therefore not able to address the growing level of interconnection and interdependency argued to be necessary in the contemporary urban planning space.

Sectoral aspirations for an integrated approach to airport planning, coupled with a recognition of the growing influence of aviation on economic development and the lack of a driving policy to facilitate this, led in 2008 to the Commonwealth government seeking responses to an Aviation White Contribution (Paper). This document outlined key areas of federal concern (Commonwealth Government, 2008a) and recorded over 300 responses that confirmed aviation as a driver for future economic and social development. Together these responses highlighted a growing sense of dissatisfaction with the current status of the aviation industry and the way in which it was governed (Airport Metropolis Project, 2009). In particular there was a high level of concern directed at the perceived lack of integration between airport planning and the local and state government

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planning processes. The subsequent Green Contribution (Paper) (Commonwealth Government 2008b) acknowledged these concerns and expressed a desire for: “cooperative arrangements to be developed between the states, territories and local governments to better integrate airport planning and development and regulatory oversight of airports with local and state government planning and regulatory arrangements, whilst ensuring reasonable provision for the protection and development of the airports” (Commonwealth Government, 2008b: 32), a set of mechanisms to facilitate an integrated approach to development and planning that occurred at the interface of airports and urban areas. Implicit in the Green contribution was the understanding that a more horizontal approach would facilitate interaction in the shared space between airports and local regions. Key among these mechanisms was the proposal for the Australian Government Minister responsible for aviation to be given the power to establish Expert Airport Advisory Panels (AAPs) for each of the major airports to assess airport Master Plans and Major Development Plans.

### **Assessing Network Governance**

AAPs were presented as a way to bridge the largely independent airport and local/state government planning and development domains and secure a level of cooperation and therefore integration of the shared developments and resulting infrastructure overlaps. However, the structure of the proposed AAP and its institutional anchorage in the Federal government domain almost instantly precluded opportunities for collective problem identification and solving, and joint action. Indeed, for the airports and many other Green Contribution respondents it was seen as rescinding airport sovereignty over decision making and actively working against the formation of a collective body. Airports have not seen this as an integration opportunity – rather as an imposition of will through mandate.

Also enshrined in the Green Contribution was a stronger requirement for airport lessees to establish community consultation groups to foster effective community engagement in airport planning and operational issues (Commonwealth Government 2008b: 32). These community consultative groups signify a desire to extend and refine the current stakeholder engagement processes in place for the airports in terms of both the formalisation of the process and the level of incursion of external stakeholders in airport operations. Collectively the proposals articulated within the Green Contribution represent an intention to build a higher level of cohesion among bodies with responsibility for direct and indirect airport infrastructure planning and development.

### **How Did the Context Influence the Network Governance?**

Under the statist or bureaucratic model of airport governance the range of actors involved in decision making and planning was limited and attention was focused on the provision of air-side support to air transport. Under this mode, decision making and planning were essentially top down and airport-centric in that the airport and its infrastructure capital were considered to be ‘bound’ to the location rather than perceived as ‘boundary spanning’ and linked to the broader region. Concepts of public good and participation were controlled by specialist policy and regulatory ‘insiders’ and key industry expert input. Interaction between these core actors was predominantly rule bound and dominated by an authoritarian, hierarchical relationship. Concern with air safety,

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linking isolated and dispersed communities and the provision of reliable air services were major public good considerations. With airport planning and development under Commonwealth control and it was therefore not subject to the constraints of local or regional planning regimes. As Baker and Freestone (2008) point out under this statist mode, airport operation and planning was “conducted in a paternalistic black hole” (and) was an “isolated event’ outside of the surrounding urban environment. An alternative approach was required; one which presented a more flexible and entrepreneurial operation and management style, while still contributing to national and economic development. The market approach, with limited network governance – based on loose contractual and regulatory arrangements was implemented. It also had the effect of extending the array of actors from the ‘iron triangle’ of government departments and key interest groups to a broader business decision making and operational domain. The involvement of shareholders and stakeholders also contributed to an expansion of actors involved. The requirement for public consultation also contributed to an expansion of actors participating (albeit at different levels) in the airport decision making and planning space. This formalised inclusion of community in the governance mix was considered to widen the level of expertise, co-opt specialist knowledge (Jordan and Richardson, 1983; Edwards, 2001) and enhance implementation process.

Adopting a community-centric approach, albeit limited to consultation, relies on a network governance style based on inter-personal relationships, which is inherently different to the authority relation of the hierarchy and contractual relations of the market. Indeed, a loosely coupled network approach, underpinned by informal arrangements and ad hoc structures, was used to supplement the relations between the state and the private operators. The end result was a hybrid arrangement where hierarchy, market and network governance attributes co-existed in the airport domain creating what Keast, Brown and Mandell (2006: 28) have described as a ‘crowded policy domain’.

Contemporary contextual influences indicate that the government is looking to foster an agenda for a more joined up and integrated approach to airport planning and development. However, this new agenda can be described or categorised as an emerging aspiration for a more horizontal, less adversarial and collective approach to the problems of contested borders and congested infrastructure. We argue that the ability to fully leverage off a network governance approach is presently limited by lack of readiness for the actors to fully engage with and commit to a network approach. That is, the institutional environment continues to operate and function largely from an independent perspective which prevents the development of shared problem spaces and solutions. Indeed, it can be argued that in this regard the domain remains ‘pre-contemplative’ (Hibbert, Keast and Mohanak, 2006) in that they realise their interdependence in this space, but are unable, due to institutional constraints and skill capacity, to fully embrace and operationalize this mode. Second, the forms of integration proposed such as the AAP do not reflect the intention of network governance and therefore may work against the stated goals. The AAP is a case in point, while it does have a cross-cutting purpose there is also a strong element of control and centralisation inherent in the mechanism.

Further, drawing from the collective proposals and their related mechanisms it could be argued that the Green Contribution signalled an intention by the Federal government to recall some of the power ceded to the privatised airports. However, it is suggested that it was possible to build the foundations of a governance network approach

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from this model or that some of the existing informal networks would offer a mediating form of governance.

The practice of ‘light handed’ regulation in terms of conducting business that was applied to the Australian airport case has also been identified as a feature of other infrastructure industries including for example, electricity. This national approach to infrastructure provision led to private actors defining their charter as operating as businesses. The need to deal with multiple layers of government is a requirement that the airport shares with other industries and sectors. However, the growing complexity of the airport governance environment, coupled with the increasing overlap between airport activities and infrastructure and those of local residents and business points to a greater need for alternative forms of integrated operations.

## **CALIFORNIA, USA: THE SACRAMENTO WATER FORUM**

The City of Sacramento lies at the confluence of the Sacramento and American Rivers. The Water Forum focuses on the Lower American River. In 1884 the California Supreme Court determined that mining was “a nuisance that impeded the utilization of water for the state’s infant agricultural industry” (Somach, 1990:252) and stopped the practice. This was later adopted by the court as an early assertion of California’s public trust doctrine. This protects the rights of the public to use watercourses for various uses and has been used as a doctrine for ecological preservation (Wiesenfeld and Orton, 2004). In addition, there has been considerable development of infrastructure on the river in the last 50 years. The U.S. Bureau of Reclamation (USBR) plays a key role in the management and operation of these facilities.

In 1972 the USBR contracted to supply East Bay Municipal District (EBMUD), a major San Francisco Bay water agency, with 150,000 acre-feet per year of water from the American River (Wiesenfeld and Orton, 2004). That contract resulted in a lawsuit filed by the Environmental Defence Fund, Save the American River Association, and Sacramento County. The court decision (named the Hodge decision after the judge in the case) recognized the primacy of the public trust to accommodate competing interests and also that the EBMUD would have to divert its waters below the confluence of the American and Sacramento Rivers.

Sacramento County saw itself as a protector of the river and thus had fought the expansion of the City’s water treatment plant. As part of the above court case, the County and environmentalist groups challenged the City’s environmental statement on the expansion of their water treatment plant. The court decision also prevented the City from expanding its water treatment plant until it could show how they could meet the regional water supply needs.

Before the Water Forum, the City and County of Sacramento, as well as each municipality and water agency along the American River, operated independently from each other (Wiesenfeld and Orton, 2004). Over the years, the many purveyors in the region could never agree on a regional plan. As a result there were many different agencies pursuing their own agendas in terms of water supply with little or no coordination. In addition, there is a kaleidoscope of agencies and organizations that are involved in the management and operation of water resources in the area. These include: the State Water Resources Board Control Board, the Central Valley Regional Water Quality Control Board (Water Board), numerous water districts, the U.S. Fish and Wildlife Service and the U.S. Bureau of Reclamation.

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## Need for Network Governance

By 1990, the population had grown to a point that it threatened to outstrip the water supplies. The County therefore developed a new general plan in 1993. One of its provisions established a new urban services boundary beyond which new growth could not occur unless it was served by supplemental surface water. This meant that in order to meet the requirements of this plan developers and the County would have to find new surface water supplies (Connick, 2004). At about the same time, the City sought approval for new water treatment plants. Based on past experience, however, both realized that there would be significant opposition to both plans from the environmental community. As a result, both the City and County felt they had to do something in order for the region to be able to grow. They both felt that it was time to try to develop mutual understandings in order to be able to move forward with water-supply projects and for a regional understanding of water-supply needs.

The City and County decided to join forces on developing a new regional plan. As they progressed they recognized that a consensus process was a potential way to succeed where legislation and litigation had previously failed. They determined that a method called interest based negotiation should be used and they called in a consultant to help them set up the process. This process was referred to as the “Sacramento Area Water Forum Process” (Connick, 2004:15) and new stakeholders were identified and brought into the process at that time.

## The Process of Network Governance

### *Round 1: Establishment of the Water Forum: 1991-1993.*

The Water Forum (WF) was convened by the Sacramento City-County Office of Metropolitan Water Planning to negotiate an agreement on how to manage the water supply for the region and also to preserve the habitat. The initial meetings were held in 1993. They included the City and County of Sacramento, environmentalists, businesses, agricultural leaders and citizen groups. These individuals represented nearly 15 stakeholder groups. Prior to the establishment of the Water Forum, the City and County had separate planning departments. In 1991, the City and County decided to work together and formed the City-County Office of Metropolitan Water Planning (CCOMWP) (Connick, 2006:10). The idea was to develop a mutual understanding of the needs of the region and allow them to move forward on water-supply projects. The Executive Director reported to the City Manager and County Executive, which established a high level of recognition for the CCOMWP. The CCOMWP also involved other water districts in this planning process. The plan, which was approved by the City Council and County Board of Supervisors, set up a technical advisory committee (TAC) which included representatives of all the water purveyors in the County as well as a representative of the Sacramento Metropolitan Water Authority (SMWA). These other water purveyors were sceptical about entering into an agreement with the City and County but did so as they felt the need for a regional planning effort to take place. In addition to the CCOMWP another advisory group was established that consisted of environmentalists and representatives of the business sector. This became known as the Advisory Committee (Connick, 2006:14).

Over a 6 month period both groups (the Advisory Committee and the TAC) worked to develop a plan for a consensus process and new, potential stakeholders were identified to be included (Connick, 2006). Because of

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the large number of stakeholders a Working Group, composed of representatives of the groups involved was set up to serve as the core of the group, to get approval of the groups they represented and to formulate a Sacramento Area Water Plan.

The stakeholders were divided into 4 subgroups or caucuses: “water interests, development and business interests, environmental interests, and public interests – and that four representatives from the first three and two from the public interests could form the Working Group” (Connick, 2006:17). Each of the groups’ stakeholder boards approved the representatives for each of these groups. This resulted in commitment from the organizations represented in each group.

***Round 2: The establishment of the Water Forum: 1993-2000.***

In order to get the process started they brought on board a consultant who was knowledgeable in the interest-based negotiation process. Her aim was “to bring to the table ‘those who are directly affected by the issue, those who could make change happen, and those who could block change’” (Connick, 2006:18). The process called ‘interest based negotiation’ focuses on re-educating all participants in how to get at their interests rather than their positions. In addition, in the initial stages of the effort an extensive training program was conducted in the interest based negotiation process. Other consultants were also brought in during the process to act as experts and to work on technical issues. In addition a public relations firm was brought in to work with the boards of the organizations represented.

The process took six years, but in the end all of the agreements made were contained in a Memorandum of Understanding (MOU) for the Water Forum Agreement (Water Forum Agreement, 2000b). This MOU was signed in January 2001 by all of the stakeholder organizations. Other contracts, authorities and similar actions will supplement the MOU. The agreement commits the signatories to work together on the continuing and new water issues over the next 30 years. The agreement also set up the continuation of the effort through the Water Forum Successor Effort (Water Forum Annual Report, 2001). In addition to the agreement, the implementation of the Water Forum agreement depends on the cooperation of a number of partners who are not signatories of the agreement.

***Round 3: The Water Forum Successor Effort.***

The Water Forum Successor Effort was meant to ensure that when there was a changed condition, rather than immediately go to litigation they would first negotiate with each other and try to find a solution. There were two co-equal objectives in the agreement: to provide a reliable and safe water supply and preserve the fishery, wildlife, recreational and aesthetic value of the American River. These two objectives represented the interests of the many stakeholders involved in the initial process. The Water Forum Successor Effort has a core group that meets on a monthly basis. The full plenary meets six times a year. It does not have any authority to govern or regulate. They can only make recommendations. It is up to the signatories to implement these recommendations. Nonetheless, many of their recommendations have been accepted and resulted in a number of actions.

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## Assessing Network Governance

By all accounts, the Water Forum has been a success. This success has been attributed by and large to the network governance type process that occurred (Connick & Innes, 2001). Most water issues in California, prior to the Water Forum case were contentious issues and very often would wind up in court. Since the Water Forum this has not been the case in Northern California. Previous enemies are now working together to try to negotiate issues as they arise. Since the MOU was signed agencies have formed new associations and joint programs and have been working on water issues as a regional problem (Northern California Water Association, 2009; Dana, J, 1939 reprinted 2009; Sacramento Valley Water Quality Coalition, 2009).

Among the successes are the following projects: The USBR, the US Fish and Wildlife Service (USFWS) and other state and federal agencies are now working together to improve the current water flow standard; The USBR has entered into a memorandum of understanding with the Sacramento City-County Office of Water Planning (acting on behalf of the Water Forum Successor Effort) to conduct discussions with all stakeholders on a groundwater management plan; Sacramento County has joined with 3 cities (including the city of Sacramento) to form the Sacramento North Area Groundwater Management Authority (Groundwater Authority) to manage groundwater in the region.

Even more important, the building of social capital is of particular importance in the success of the WF. Stakeholders who previously would only talk to each other during a court case now find that they better understand each other's views and most importantly, include each other in their decision-making processes. The purveyors, who previously only looked at their own issues, have now joined together and focus on the region as a whole. Finally, there is now a state-wide recognition of the value of the American River.

There have also been problems with the Water Forum Effort. For instance, during the process of developing the MOU, many of the stakeholders could not reach agreement and they finally agreed to disagree and removed several issues from discussion (this occurred among the different representatives, but also among representatives within the same group). In addition, results have been slow in coming and many of the groups represented have become frustrated and started talking again about possible lawsuits (although this has not yet occurred). In spite of this, the relationships built up due to this effort and the support given to it by the state has meant that there is no other approach that is considered to be better.

## The Influence of the Context on Network Governance

The WF occurred when a number of different elements converged that led to a unique contextual setting. Part of this was the result of the social revolution that occurred in the U.S. in the 1960's and 1970's. As a result of this revolution, more recognition was given to special interest groups and strengthened their influence on public policy. This was not without much conflict and many groups used the courts as arbiter of last resort. This was the case for many years in California. Water issues were contested among many competing interests and the courts had been involved in a number of these issues.

More important for the WF case was the recognition by both the City and County of Sacramento of the

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need for a more consensual process to occur. This was coupled with the recognition that neither the City nor County could dominate any effort that could lead to a regional solution. Of particular importance was the recognition by the technical experts in the agencies involved that they would have to give up control. Hiring the consultant to lead the effort using interest-based negotiation was a deliberate move by the agencies involved to set up this effort in a completely different manner. Everyone involved in the WF effort has indicated that this is what really made the difference.

Although the context at the beginning of the effort was contentious it was the interest-based negotiation process that changed this. The process took almost 2 years to take hold, but in the end the context was changed from one of conflict to one of open discussion and attempts at mutual understanding. It was the relationship building process that took place that contributed to the success. This network governance process was influenced by the institutional context, but it also influenced the context.

## **COMPARING THE THREE CASES OF NETWORK GOVERNANCE**

In this section we compare the three case studies in order to identify the influence of the institutional context on network governance practices. Can differences between the cases be traced back to the influence of the context, or more to national differences?

### **Comparable Planning Problems and the Recognition of the Need for Network Governance**

The three cases share comparative planning problems. Due to growth within a context of scarcity and conflicting (spatial) claims, infrastructural systems increasingly create externalities and trespass former jurisdictional boundaries. As a result it becomes difficult to retain traditional autonomy. Operating and governing infrastructure networks almost unavoidable seem to require the involvement of other governments, private organizations, interest groups and citizens that are affected by their activities or that can affect these activities. Of course, these similarities are partly caused by the cases selected for this contribution. Nevertheless they may be an indication that the observed planning problems are not country or sector specific, but part of a general trend, often referred to as the rise of the network society (Klijn, 2009). Due to growing interdependencies public policy making and societal problem solving increasingly require more coordination and collaboration. Consequently the emergence of horizontal arrangements and of forms of network governance may be considered to be a generic phenomenon. If this is true, network governance should not be considered to be a niche practice, restricted to specific countries or sectors with supportive conditions. Rather it is a genuine governance mode alongside traditional ‘bureaucratic hierarchical’ governance and market dominated governance modes, gradually gaining salience (compare Osborn, to be published).

### **The Application and Success of Network Governance in the Three Cases**

The growing need for network governance does not imply that in practice it will be applied in identical ways, or that this application automatically will be successful. The three cases illustrate this. In all the three case ini-

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tatives at network governance were taken. In the Brisbane case parties tried to bridge the gap between decision making on the airport development with local and regional planning processes, by creating arrangements to involve local communities in airport development. This practice seems not to have become very important yet and has largely remained without noticeable results. In the Schiphol case engaging in network governance practices has gained more momentum, although results remain disappointing. Only in the regional collaboration in water supply in California network management has turned out to be a clear success, resulting in coordinated projects and outcomes, and the development of a new institutional practice in which parties share a common understanding of a need to approach water supply regionally.

### **The Role of the Context on Network Governance**

To what extent did the institutional context hinder or enhance network governance practices? In the Australian case the mixed context of federal public control and privatized operation resulted in a divide between decisions making regarding airport planning and local and regional development. As a result of this governance mode, actors had separate jurisdictions with incentives that discouraged interaction. On the one hand this created the need for a more integral approach, but simultaneously it hindered the emergence of network management. The recognition of the federal government for the need to bridge this gap did not result in a successful follow-up. The dominance of federal governance in attempting to realize a more integrated approach did not result in horizontal practices in which communities could participate on an equal footing.

The Schiphol case differs from Brisbane, given the public ownership of the airport and the tradition of consensual policy making that characterizes the wider political and societal environment. Nevertheless the differences might be smaller than recognized at first sight. The governance of Schiphol was put at arm's length of the government. A businesslike approach dominated. Furthermore central government traditionally governed the airport, while local governments and stakeholders were not involved. Brisbane and Schiphol are similar in the fact that policy making traditionally was characterized by a large autonomy. Attempts at involving local governments, stakeholders and residents by network governance strategies were taken in a setting in which simultaneously other governance types were used, reducing the effectiveness of network governance and leading to frustration and low levels of trust. In fact, network management was contested which led to a hybrid setting in which various governance modes were applied in an uncoordinated way. The success of the Californian case may perhaps be attributed to the absence of active involvement of higher government layers, leaving local and regional government with the need to find solutions for their coordination problems themselves.

It is not to be said that contextual factors were decisive in the successful application of network governance. The cases indicate that the dedication of parties involved, the (investment in) skills needed, the appropriateness of arrangements and the absence of viable alternatives are important success factors. These factors however are not completely isolated from the context. In the Schiphol and Brisbane cases central and federal government were actively involved, determining to a large extent which methods and arrangements were to be used and applying them in a half-hearted way.

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A final observation in this respect is the influence of network governance on the context. All the three cases show that the institutional context is not something static, but that it evolves. Furthermore, network governance practices seem to have had a paramount impact on the institutional context. In the Californian case it can be stated that due to a shift to a regional approach the institutional context also went through a transformation process. In the case of Schiphol the regulatory environment of the airport changed over the years, reducing the autonomy of the sector and giving local and regional governments, environmental groups and resident a permanent position in the policy area. Also the Brisbane case resulted in horizontal arrangements being added to the former public-private governance mix.

### **Do National Characteristics Matter?**

To what extent did national characteristics influence the success or failure of network governance? In light of this question the failure of network governance in the Schiphol case is remarkable, since one might expect this governance to be appropriate given the Dutch context of consensus decision making. On the other hand the successful application of network governance in California might be considered less obvious, given a lack of experience with this type of policy making. But perhaps these expectations are based on too generic assumptions about the contexts in these setting. California is governed by a federal system and has a high density of regulatory agencies, making intergovernmental coordination and collaboration not something unique. Moreover, one might wonder whether Schiphol and California are altogether that different. Being confronted with claims from local communities and environmental groups was as new for the policy makers in the Schiphol case, as it was for the planners in California. Actually the rise of the environmental issues was a more generic phenomenon that occurred in all Western democracies in the 1960s and 1970s. As a result former closed policy sectors were opened up and had to invent new ways of dealing with new issues and new interest groups (compare Hecló, 1974).

An important difference between California on the one hand and the Australian and Dutch case on the other is the predominance of litigation. However as the Schiphol case shows, in the Netherlands parties also increasingly use legal procedures to protect their interests. Legal procedures hindering decision making and operational activities are one of the motives for Schiphol and central government to engage in network governance. The Brisbane case, it can be argued, reflects a wider Australian reluctance to engage with politics and this seems to have transferred to community life. That is, until directly affected by, for example aircraft noise, transport congestion and decreasing property values, citizens do not get highly involved in community action. Environmental concerns present a growing but still largely interest-based group contained point of engagement with the airport operators. This appears to be in strong contrast with the Netherland's embedded consensus model of involvement.

Overall it might be stated that although national characteristics are of influence, they are not equally relevant in every policy sector, nor determining the course of affairs. They are being mitigated by other factors, as for instance by sectoral particularities. In this way they add up to the specific governance hybrids that may evolve in various policy areas and countries due to the rise of network governance.

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## CONCLUSION

It is a too simple representation of reality to state that network governance better suits some countries or context than others. Although national or sectoral characteristics can be identified, in concrete policy making situations a complex mix of various institutional practices comes together. Besides national features, global trends and sectoral particularities are also influencing network governance practices. These all influence the behaviour, but do not determine the course of affairs. For instance in the case of the Water Forum, parties consciously introduced expertise on network governance methods and skills, showing that unfavorable contextual conditions can be counteracted.

The case studies support the idea that the evolvement of network governance is a general trend, given growing complexities and interdependencies, although the selection of the cases restricts the possibilities to generalize the findings of this contribution.

Nevertheless we suggest that network governance is increasingly becoming an important governance mode. We also acknowledge that it evolves in specific institutional contexts, in which various contextual and situational influences interact. So although we conclude that referring to simple categorizations of national differences is not very useful, we do think that a contextual approach to network governance is important, trying to unravel the institutional conditions that further or hinder network governance, and the mutual interplay between network governance processes and institutional contexts.

Moreover we have observed that the application of network governance amidst other governance modes creates new governance hybrids, of which we do not know much yet. Also in this respect a contextual approach to network governance seems to be a fruitful direction for further investigations.

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## ABOUT THE AUTHORS

**Dr. Kerry Brown** is the Mulpha Chair in Tourism Asset Management and Professor in the School of Tourism and Hospitality Management, Southern Cross University, Southern Gold Coast, Australia. Her principal research areas are change management; collaboration, networks and clusters; capability, strategy, management and policy for infrastructure and asset management; work-life balance, gender and careers in the public sector, public sector management and policy; government-business relations; government-community relations and employment re-

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lations. She holds a PhD in industrial relations and public policy from Griffith University, Australia.

*Contact information:* Professor Kerry Brown; School of Tourism and Hospitality Management; Faculty of Business and Law; Southern Cross University AUSTRALIA; PO Box 42, Tweed Heads NSW 2485; kerry.brown@scu.edu.au; phone: + 61 40 7731939

**Dr. Joop Koppenjan** is Professor of Public Administration at the Erasmus University Rotterdam. Earlier he was affiliated with the Faculty of Technology, Policy and Management of the Delft University of Technology. He is staff member of the Netherlands Institute of Governance (NIG) and of the research school for Transport, Infrastructure en Logistics (TRAIL). His research interests focus on policy networks, policy making and planning, management of risk and uncertainties, privatization, public private partnerships and public values.

*Contact information:* Prof. dr. J.F.M. Koppenjan; Department of Public Administration; Faculty of Social Science; Erasmus University; Room M8-36; Burgemeester Oudlaan 50, 3062 PA Rotterdam; PO Box 1738, 3000 DR Rotterdam; koppenjan@fsw.eur.nl; phone: +31104088634

**Dr. Robyn Keast** is a Senior Lecturer in the School of Management and Research Director for the Airport Metropolis Project at the Queensland University of Technology, Australia. Her primary research focus is networks and collaborations. However, her research portfolio includes fields such as public management and policy, service delivery integration, governance arrangements such as networks, public private partnerships and clusters. A feature of her current research is on supply chain relationships and sustainable infrastructure planning and development. Her current position is as Research Director for the Airport Metropolis Project, Queensland University of Technology.

*Contact information:* Dr. Robyn Keast; School of Management; Faculty of Business; Research Director, Airport Metropolis Project; Faculty of Built Environment and Engineering; Queensland University of Technology; GPO Box 2434; Brisbane, Queensland 4001 Australia; rl.keast@qut.edu.au; phone: + 61 4040 32182

**Dr. Myrna P. Mandell** is Professor Emeritus at California State University, Northridge, and an Adjunct Faculty at Southern Cross University in New South Wales, Australia. Her work includes articles and chapters on a number of different facets of networks, including: how to organize and manage networks, performance measures for networks, citizen participation in networks and leadership in networks. She is also the co-author of a booklet specifically for practitioners in the non-profit sector on best practices for networks. She is currently involved in research on networks in the international arena.

*Contact information:* Dr. Myrna Mandell, Professor; California State University, Northridge; 8777 Tulare Drive, #407E; Huntington Beach, Ca. 93646; myrna.mandell@csun.edu; phone: 714-536-1505

