

Edited by W. Bartley Hildreth,  
Gerald J. Miller and Evert A. Lindquist



# Handbook of Public Administration

FOURTH EDITION

A complex network of glowing blue and orange lines and nodes, resembling a digital or social network, set against a dark background.

**PUBLIC ADMINISTRATION AND PUBLIC POLICY**

# HANDBOOK OF PUBLIC ADMINISTRATION

Public administration as a field of study finds itself in the middle of a fluid environment. The very reach and complexity of public administration has been easy to take for granted, easy to attack, and difficult to explain, particularly in the soundbite and Twitter–snipe media environment. Not only has the context for the discipline changed, but the institutions of public administration have adapted and innovated to deliver services to the public and serve those in power while becoming increasingly complex themselves. Has public administration evolved? And what new lines of research are critical for effective policy and delivery of programs and public services while preserving foundational principles such as the rule of law and expert institutions? This *Handbook of Public Administration* sheds light for new researchers, doctoral students, scholars, and practitioners interested in probing modern public administration’s role in solving major challenges facing nations and the world.

This fourth edition recognizes that the scholarship of public administration must reflect the diverse influence of an international orientation, embracing public administration issues and practices in governance systems around the world, and illustrating just how practice can vary across jurisdictions. Every section identifies foundational principles and issues, shows variation in practice across selected jurisdictions, and identifies promising avenues for research. Each chapter revisits enduring themes and tensions, showing how they persist, along with new challenges and opportunities presented by digital technology and contemporary political realities. The *Handbook of Public Administration, Fourth Edition* provides a compelling introduction to and depiction of the contemporary realities of public administration, and it will inspire new avenues of inquiry for the next generation of public administration researchers.

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# HANDBOOK OF PUBLIC ADMINISTRATION

*FOURTH EDITION*

*Edited by W. Bartley Hildreth, Gerald J. Miller  
and Evert A. Lindquist*

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Dedicated to Professor Jack Rabin for his contributions  
to public administration



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# 1

## INTRODUCTION TO THE FOURTH EDITION OF THE *HANDBOOK OF PUBLIC ADMINISTRATION*

*Evert A. Lindquist, W. Bartley Hildreth, and Gerald J. Miller*

### **The Current Context: Upheavals in Governance**

Public administration as a field of study finds itself in the middle of a fluid environment, with consensus fraying about the value of expertise and professional public administration. Questions abound on the foundations upon which over a century of public administration reforms have been built. Intellectual figures of that foundation, such as Woodrow Wilson, are now found lacking in morality. Citizens demand change, and they do it with heightened individual vigilance with a camera in a phone and global access. Even if in Great Britain the vote for Brexit was a ‘voice’ without intent, the result of that collective act moved institutions and policies away from the existing foundation. While global events such as the two World Wars (1914–1918 and 1939–1945) forged calls for stability, events such as 9/11 (2001), the Global Financial Crisis (2008), and the COVID-19 pandemic (2020) have challenged the so-called Washington consensus on the best ways to govern nation-state and the international order (Roberts, 2019 2020).

In the United States, there have been shifting mantras such as ‘change’ after the Watergate scandal back to normalcy with Jimmy Carter’s election as President in 1976; heightened security and intelligence outside and inside the United States to protect Americans after 9/11 from international terrorists; and, more recently and in the opposite direction, Donald Trump’s election in 2016 against the ‘deep state’ which has involved a sustained assault on long-standing national policies, the undermining of international institutions and agreements, evading accountability, and corroding ethical sensibilities. Once more, and to be clear, that ‘deep state’ President Trump and his supporters rail against are the principles and rule of law which constitute the foundation of public administration. Elsewhere, nationalism and authoritarian leaders are also challenging international institutions of order and collective action.

Not only has the context changed, the institutions of public administration have become very complex as they have been elaborated and adapted in order to deliver services to the public and serve those in power. Indeed, they become so complex that they almost defy description and explanation to citizens and observers. They are easy to criticize and deride by populist leaders; and the effects of ongoing cutbacks, departures of experts, and undermining of repertoires and regulations are not noticed until major challenges and failures occur. And, yet, as implementers of the rule of law and followers of tradition, public administrators face an unyielding clamor for change by recipients of public services and their elected officials. Years of calls for a more responsive approach to service delivery now confronts a loud demand for hybrid, and quick, solutions to social problems.



We do not subscribe to the view that public administration as we have known is crumbling in the face of these challenges, nor that the foundational thoughts and traditions underpinning earlier understandings of public administration should be immutable. However, we do believe public administration practice and research must forthrightly confront the tensions and complexity of living in this small world in the ending years of the first quarter of the 21st century. There is a role for public institutions to deal with the major challenges facing nations and the world, but has public administration evolved and what new lines of research are critical for developing new approaches to developing effective policy and delivery of programs and public services, while preserving foundational principles such as the rule of law and expert institutions?

This *Handbook of Public Administration* – the latest edition that follows three previous handbooks – seeks to shed light on for new researchers, doctoral students, and scholars and practitioners interested in probing the modern problems confronting public administration practice and research, and identifying new avenues for research.

### **Key Themes Animating Previous Handbooks and Approach for the Fourth Edition**

Our editorial lineage to the original *Handbook of Public Administration* frames this fourth edition. It builds upon the intellectual impetus behind those prior editions – Jack Rabin. In that first edition in 1989, the diverse scope of public administration as a field of inquiry was seen as advancing management and policies so that governments could better function. Such a wide scope and broad goal required an understanding of the field’s history, concepts, and theories. To achieve that mandate, the *Handbook* not only was the first of its kind but it introduced an innovative design of two chapters on each subfield of public administration written by the leading scholars in American public administration. The first chapter traced the major writers, theories, and applications, by decade (the ‘history’ chapter). The second chapter, by a different scholar(s), specified the five greatest, or most significant, ideas or theories associated with the subfield (the ‘great ideas’ chapter). These complementary essays evaluated the current state of knowledge in the subfield based on the accumulation of research and knowledge.

Two additional editions of the *Handbook of Public Administration* continued that distinctive design. In 1998, the second edition recognized that public administration was changing through reengineered institutions to make them more responsive to clients, customers, and ultimately citizens/taxpayers. A third edition in 2007 carried forward that tradition with the latest developments and research by subfield, but again from an American perspective. Each handbook reflected key issues, new approaches, and sensibilities of its time, and here we have an opportunity to reflect on them. This fourth edition recognizes that the scholarship of public administration must reflect the diverse influence of an international orientation. With this in mind, Evert A. Lindquist of the University of Victoria, Canada, and Editor, *Canadian Public Administration*, joins as co-editor. A broader charge enabled this team to attract scholars from around the globe to bring the latest research and theory to this compendium of knowledge.

In this collection, we want to honor the contributions of Jack Rabin and the motivations animating the first three editions. As with the previous handbooks, we wanted to show not only how the field has been changing but also to gather ideas for future research, but this collection differed in several ways. First, reflecting the internationalization of the public administration literature, we wanted to move from a US-centric collection to embrace public administration issues and practices in other governance systems and to illustrate just how practice can vary across jurisdictions. Second, with this in mind we invited several scholars from other countries or with comparative perspectives to show how ideas animating public administration have been expressed

and operationalized in other contexts. Third, we also wanted to show some of the inherent complexities found in public administration systems, which often reflect the complex challenges and cross-pressures that public policy and administrative systems must deal with.

As with all collections, the editors set out with an approach in mind: we identified several broad domains, invited authors to contribute papers covering enduring themes, comparisons, and research agendas in each. What surprised us was how many authors, though focusing on one domain, essentially took up or acknowledged other challenges and research domains, reflecting the extent to which our field embraces multilevel analysis and complex systems. As editors we felt that collapsing some of the original categories we had envisioned was fruitful, showing the overlap and resonances across that work.

Finally, and perhaps worryingly, as the contributors proceeded with drafting their chapters, we began to realize that many of the ‘enduring themes’ and foundations of public administration were increasingly under challenge and even assault in the United States. Although the *Handbook* has never been a textbook in the strict sense, it did reinforce our call for several authors to focus on enduring themes and foundations as reminders of why public administration principles remain salient even if the instruments, practices and ways of delivering services, managing budgets, engaging citizens, and holding governments to account have multiplied and resist categorization.

## **Overview of the Fourth Edition of the *Handbook of Public Administration***

This edition of the *Handbook of Public Administration* is organized into two parts, each with three sections containing various chapters. Every section identifies foundational principles and issues, shows variation in practice across selected jurisdictions, and identifies promising avenues for research.

The first part of the *Handbook* focuses on the contemporary complexities of public administration: first considering enduring traditions, institutions, and legal foundations in comparative contexts; then surveying the variety of government and non-government actors involved in increasingly diverse approaches to design and deliver public services, and frameworks for making sense of this diversity; and, stepping back, exploring the relevance of complexity theoretical frameworks as an overarching framework. The second part focuses on three well-known domains of public administration: budgeting, performance management, and accountability; modernizing human resource management systems; and the various disciplines and heuristics for understanding how policy gets developed in administrative systems. Each chapter revisits enduring themes and tensions, showing how they persist along with new challenges and opportunities presented by digital technology and contemporary political realities.

While our organizing categories do not mimic the traditional topics of public administration textbooks and many other handbooks, we think it provides a compelling introduction to and depiction of the contemporary realities of public administration, and may inspire new avenues of inquiry for the next generation of public administration researchers.

### **Part 1: The Contemporary Complexity of Public Administration**

Public administration in the 2020s has a different character than the 1880s when patronage was rampant, the years of reform and reinvestment in public works in the early Twentieth Century, the aftermath of World War II when expertise and planning were put to the test, the 1980s after Watergate and a decade of stagflation, or following 9/11 in 2001 and then the Global Financial Crisis in 2009. Despite these significant governance challenges and effects on public administration

structures and capabilities, many, if not most, of the concepts, principles, and issues associated with public administration endure, but require new balances to be struck. Now, added to the incredible variety in governance and management of public institutions is a new era of national politics and global realignment creating new tensions and complexities for public administrators to navigate and scholars to interpret and contribute new knowledge towards addressing.

### ***Section 1: Foundations and Tensions in Public Administration***

Céline Mavrot, Christian Rosser, Fritz Sager, and Pascal Hurni start off the *Handbook* by considering the origins and influences of ideas underpinning diverse public administration systems. It is usually presumed that national systems differ mainly because of the unique history, culture, and traditions of each jurisdiction, but like the policy transfer and diffusion literature (Rose, 1991; Dolowitz & Marsh, 2000; Bennett & Howlett, 1992), the authors suggest many national traditions are, in fact, influenced at crucial points by ideas and examples from other jurisdictions. Exploring different levels of analysis and domains of public administration, this chapter offers an overview of the transfer of ideas between German, French, and US Public Administration during the 20th century, suggests that administrative systems might be less exceptional than often supposed. They call for more cross-national studies of the evolution of governance and public administration systems.

William G. Resh similarly offers a historical perspective in Chapter 3, seeking to review the evolution of the normative foundations of the state writ large rather than the field's predominant focus on specific policy and administrative domains, in this case focusing on the US administrative presidency and its efforts to control the broader administrative system. The chapter reviews how, despite initial balance-of-power principles baked into the Constitution, more power has been given to sitting Presidents over time, leading to steadily more politicization, centralization, and privatization of the US administrative state. With this comes greater emphasis on loyalty in key leadership positions and less core expertise in policy-making, strategic management, and contract management, threatening the checks-and-balances long at the core of the system.

Lorne Sossin also takes a historical perspective on the administrative state in Chapter 4, but focuses instead on how administrative law – broadly defined as “webs of legality, including statutes and regulations, civil liberties and human rights, constitutional norms and a range of policy and informal constraints” – has steadily evolved to further rights and procedurally and substantively constrains public administration decision-makers. Sossin reviews the origins and evolution of administrative law with reference to US, Canadian, and UK court decisions on oversight of agencies, boards, and commissions, as well as rule-making in several other countries. Like Mavrot et al. in Chapter 1, He shows how cross-fertilization of ideas and practice occurred, and the need for adaptability and regeneration in the exercise of accountability as new technologies and blurring of boundaries challenge existing rule-making and oversight systems.

In Chapter 5, Christine Ledvinka Rush reviews key themes driving research on administrative law: the role of law as foundation and constraint on decision-makers, the importance of discretion and deference to rule-makers in judicial oversight, and the continuing relevance of law even with the emergence of collaborative approaches to governance. These principles have withstood the arrival of managerial or NPM models of delivering services, and de-emphasis of legal scholarship in the field. In an era of continuing interest in decentralization and deregulation, Rush suggests better linking legal and public administration scholarship, encouraging more research on citizen engagement in rule-making and the impact of different models of regulation on intended outcomes, potentially seeing law not simply as a constraint but also as an asset.

## ***Section 2: The Evolving and Increasing Variety of Public Administration***

In Chapter 6, Herman Bakvis provides a review of the emergence, evolution, and variations of federalism as an approach to public administration governance, developed in an era when ideas about limited central government and acknowledging regional diversity were ascendant before the Industrial Revolution. He considers different examples of federal structures, which have their own unique complexities, and how well these approaches mesh with the arrival of New Public Management and networked governance models, along with contemporary governance challenges observed in the rest of this section, concluding that federalism has always been a work-in-progress and perhaps well-suited to adapt in response.

In Chapter 7, Simon Porcher considers the traditional “make” or “buy” debate over whether government hierarchies versus market mechanisms are better for delivering public services and explores whether hybrid arrangements or concurrent sourcing might work better. He reviews five theoretical frameworks for appraising such decisions and whether the literature has investigated if better outcomes are indeed achieved. Porcher concludes the literature is “thin” in this regard, creating rich possibilities for more research.

Qian Hu and Naim Kapucu begin Chapter 8 by observing that public administration leaders are heavily involved in “interorganizational coordination” and that, to do so well, requires understanding networks and multilevel networks, which generate many governance challenges, and the theoretical frameworks for analyzing them. They provide a high-level review of the literature and more closely explore governance issues in multilevel emergency networks, which involves working across levels of government and many agencies from each level, with many different lead agencies during emergencies – essentially a complex governance system.

In Chapter 9, John Clayton Thomas and John Alford remind us of the many different “publics” governments serve, which add further complexity to the landscapes public administrators must navigate. In this chapter, they focus on the public as customer, partner, and citizen, respectively, focusing on better understanding citizen needs, leveraging co-production, and engaging them as citizens. While several terms have been coined to describe the nature of these relationships, they call for recognizing multiple roles, attributes, and preferences on both sides.

In Chapter 10, Robyn Keast examines the evolution in how public administration leaders and institutions have interacted with diverse civil societies, since the 1960s and the arrival of the New Public Management reforms, arguing that governments have resisted moving away from top-down, one-way approaches to more collaborative approaches. She argues that the Public Value and New Public Governance movements have placed greater premium on civic engagement, along with civil society actors innovating with digital tools for financing and delivering services, creating a panoply of governance arrangements.

## ***Section 3: Analyzing Public Administration with Complexity Lens***

This section of the *Handbook* arose out of a collaboration among three colleagues. Rather than independently drafting each chapter, Elizabeth Eppel, Mary Lee Rhodes, and Lasse Gerrits worked on them in an integrated way, essentially becoming co-authors on each. Together, the chapters in this section introduce the genesis and key concepts in the complexity literature, probe case studies of different public administration challenges and interventions using complexity precepts, and consider how complexity creates challenges for researchers seeking to generate knowledge of idiosyncratic policy and service delivery regimes when asking different questions and using different theoretical frameworks.

Chapter 11, led by Elizabeth Eppel, outlines the basic concepts and approach of complexity theorists and argues that complexity theories are becoming more important as frameworks for understanding and situating the multi-actor networks in digitally enabled contexts in public administration and governance (see also Section 2 and Chapters 6–10 of this *Handbook of Public Administration*). They are also useful for thinking about alternative approaches and roles for dealing with challenging problems and rapid, nonlinear change.

Chapter 12, with Mary Lee Rhodes as lead, considers examples of four very different kinds of public administration challenges (regulating transportation, homelessness, public-service-wide reform, and water management) and innovative responses in Canada, Ireland, Singapore, and New Zealand. Their exploratory work suggests that complexity concepts are useful for comparing very different public administration challenges working at different levels of analysis.

Chapter 13, led by Lasse Gerrits, reflects on the lessons learned in the previous two chapters and more deeply considers the implications of digital technology for multi-actor governance systems and for conducting research in public administration. The chapter argues that, along with recognizing complexity comes the need to understand the drive toward simplicity, and that the diversity and complexity of challenges allows for many different analytic approaches, which may lead to scholars talking past each other conceptually and empirically.

## **Part 2: Crucibles for Public Administration: Money, People, Policy**

Public institutions depend upon money and people to advance policy. Without them, policy responses wilt and die, but it is less clear how funding relates to performance. Government talent acquisition and management requires more than civil service tests today while these human resource management systems are subject to political influences as well as technological advances. Policy cycles and agendas move bureaucracy and institutions. The directions and concrete plans for interventions and achieving desired outcomes are of utmost interest.

### ***Section 4: Budgeting and Performance Monitoring for More Complex Environments***

Katherine G. Willoughby reviews various theories, issues, and debates in the field of budgeting – including efforts to control aggregates, strive toward better allocation of resources, and improve public reporting and monitoring. She compares efforts to improve budgeting in Greece, Indonesia, and the United States. Despite the “complex, chaotic, yet captivating aspects” of the topic, she is encouraged by the renewed focus on results.

John Wanna further explores the efforts of governments around the world, often encouraged and exhorted by international institutions, to improve the quality of public budgeting with respect to maintaining budget discipline, securing efficiency, and reporting on performance. He observes that the political context and history of even ostensibly similar governance systems lead to considerable divergence in practice and outcomes, and because budgeting practice and outcomes are as much about broader economic and political factors, influenced heavily by the coming and going of governments, achieving the goals of budgeting will always be a work in progress.

Tom Christensen and Per Lægrend note that performance management has been one of the central public sector reforms since the 1980s, regardless of the many issues and challenges in delineating performance monitoring regimes, the many guises it has been advanced, and, illustrating by means of the Norwegian case, whether it has performed well as a reform. They identify several researchable themes with the goal of better designing public performance systems and conclude with the provocative statement that performance measurement may be necessary and useful, but impossible to obtain unless the context is realistically understood.

Justin Marlowe shifts from top-down perspectives to considering public budgeting from the vantage points of engaging citizens and co-production, disclosure to citizens (particularly at the state and local levels), and fostering equity, and the effect of performance management and outcomes thinking on budgeting repertoires in government. Marlowe considers how budgeting has had to adapt to the new political contexts and resistance to increased taxation. He calls for more research on the creative approaches to financing public services and the resulting complexity of diverse financing and delivering services reviewed in Section 2 of this collection.

### ***Section 5: Contemporary Challenges in Public Sector Human Resources Management***

Rex Facer identifies contemporary issues in human resource management in the public sector, touching on challenges such as modernizing core and executive ranks; reducing gender-based pay differentials; combating corruption, competitive examinations, and competency-based HRM; and introducing performance pay and appraisal. He deftly outlines these themes with examples from Kazakhstan, Singapore, the United Kingdom, China, Germany, Canada, Trinidad and Tobago, and France.

Charlene M. L. Roach, Shahrin Shabnam Upoma, Meghna Sabharwal, and Hugo Renderos provide an intriguing and panoramic review of public-sector HRM systems in South Asia, the Caribbean, and Latin America – all under-researched in the literature – with some reference to the United States. They note that, while New Public Management reforms have been instituted, each country's history, culture, and traditions shape how well its human resources systems work in the public sector. They concluded that HRM functions and activities in these jurisdictions remain fragmented and their quality uneven.

Jared J. Llorens contrasts the recruitment of talent associated with the patronage era to more systematic traditional public employment systems underpinned by the merit principle, but then considers how the arrival of digital platforms and artificial intelligence technologies promise to transform how talent is acquired by governments. He calls for more HRM and other scholars to focus their research on this important domain of public administration.

### ***Section 6: Public Administration and the Policy Cycle***

Catherine Althaus and David Threlfall explore the origins and longevity of the 'policy cycle' framework as a heuristic for understanding public administration and policy-making, arguing that it remains a salient tool for practitioners in contrast to theories of public policy and administration. Tracing its origins back to early days of the fields of public administration and the policy sciences, they show how the policy cycle became a staple of scholars and practitioners creating practical guides, but suggest it can be consistent with more sophisticated policy theories.

Emiliano Grossmand and Friederike Richter provide an example of how policy and political scientists employ theoretical frameworks to more systematically explore one phase of the policy-making cycle – that of agenda-setting – which is particularly relevant given the gyrations buffeting contemporary governance and public administration systems. They explain the theoretical underpinnings of agenda-setting models and explore findings from France, the United Kingdom, and the United States using data from the Comparative Agendas Project on how issues move up the policy agenda for environmental and security issues, and show that policy change is slow and tempered, and that factors other than the resistance of bureaucracy are at play.

Like Althaus and Threlfall in Chapter 21, Evert Lindquist and Adam Wellstead in Chapter 23 note the many criticisms by scholars and the persistence of the 'policy cycle' as an organizing device for textbooks, courses, and practitioners for understanding policy-making in public



administration. They suggest that, when professors and executives, respectively, teach students and colleagues about undertaking policy analysis and navigating policy-making processes in public administration, they use the policy cycle as a point of departure for sharing implicit or explicit theories about preparing good analysis and how to achieve influence. They argue that there is an opportunity to bridge the gulf between this and the insight from more sophisticated public policy theories, which can be sharpened by identifying and employing causal mechanisms underlying their respective approaches.

### Concluding Observations

When this fourth edition of the *Handbook of Public Administration* was first conceived, it was clear that there would be efforts by the populist Trump Administration to challenge, undermine, and roll-back many national policies in the United States, particularly with respect to business and environmental regulation, as well as question long-standing international agreements and institutions. The very reach and complexity of public administration has been easy to take for granted, easy to attack, and difficult to explain, particularly in the single sound-bite and Twitter-sniping media environment.

What has been surprising, in retrospect, is how erratic and incoherent many of these initiatives to reform government have been. Indeed, when combined with an inability or unwillingness to attract expert leaders of departments and agencies, along with significant turnover in those remaining or appointed, the competence and resilience of the executive branch has become an open question. Allegations of improper behavior on the part of the President and other officials have been brushed aside, and even due processes have been highly politicized and obstructed in a variety of ways, reflecting the apotheosis of the steady removal of the norms of reciprocity, negotiating, and bargaining across the two elected chambers and the executive over last two decades. Even recognizing the fact that politics has long been a tough game, the implications for the conduct and resilience of expert and ethical public administration in the United States are serious, with spillover effects inside and outside the country, particularly for those developing and transitional governments previously seeing US public administration as a beacon.

The COVID-19 pandemic, which emerged as we were finalizing this collection, has served to test the political and administrative leadership of every country, and their public administration systems. Combatting the virus has led many governments to take dramatic actions to variously restrict movement of individuals and populations, shut down entire sectors of the economy and civil society, and to announce significant interventions to support individuals, businesses, and nonprofit organizations. Governments and public administration systems were thrust into a new operating environment, introducing initiatives that would have been inconceivable a few months earlier. In short, the pandemic has not simply been a health crisis but multiple crises of ever-increasing scale, with long-term implications for the trajectory of governance and public administration in countries around the world. Fundamental questions have been raised about the capacity of public administration in public health and beyond to anticipate and effectively respond to the challenges thrown up by the pandemic, and, to the extent to which the pandemic has been controlled, to re-open various sectors (e.g. business, leisure, schools, universities, etc.), and to set out a vision and plans for recovery and restoring fiscal health. This collection, though largely produced before the pandemic, nevertheless shows the complexity and diversity of public administration delivery systems around the world – despite the great stress that COVID-19 has placed on these systems, it also points to the considerable potential for resilience and scope for innovation and learning within and across jurisdictions.

Looking ahead to the next five years and beyond, governments around the world will continue to be under stress, take stock of their accomplishments and lapses in performance, and strike new

balances in policy priorities and administrative systems. Even in arguably the best-performing countries, public administration systems will come under considerable scrutiny along with the usual instincts to assign blame, and political and administrative leaders will necessarily work hard to maintain or restore trust, despite COVID-19 showing the value of well-performing public administration systems. It is always interesting to see how, when crisis is experienced, even the foremost critics of government and public administration expect excellence, quick responses, and reliability. The transition from crisis situations – where the public and critics cut governments a great deal of slack to show leadership and respond with alacrity – is always a delicate time, and, in this case, the economic challenges and international instability which await ensure recovering from the pandemic will be perilous for many governments, especially those which were not in good fiscal health or stable political situations to begin with. We can be sure that new balances, innovations, exemplars, and trajectories for public administration will emerge around the world, making the next *Handbook of Public Administration* an interesting and important project.

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**PART 1**

**THE CONTEMPORARY  
COMPLEXITY OF PUBLIC  
ADMINISTRATION**

# Foundations and Tensions in Public Administration

## 2

# A TRANSFER-OF-IDEAS APPROACH TO THE HISTORY OF PUBLIC ADMINISTRATION

## The Hybridizations of Administrative Traditions

*Céline Mavrot, Christian Rosser, Fritz Sager, and Pascal Y. Hurni*

The trends of American administration do not seem to have been greatly influenced by foreign experience.

*Leonard White (cited in Waldo 2007 [1948], 39)*

Virtually every significant concept that existed in the American literature as late as 1937 had already been published in France.

*(Martin 1987, 297)*

### **Introduction: Acknowledging Hybridization Processes**

Public administrations are intimately related to the political system and history of each nation. As such, they are usually perceived as highly representative of the institutional specificities of a country. This perception is reflected in the scientific approach to public administration, which tends to focus on the specificities and distinctive features of national administrative traditions. Accordingly, national administrative traditions are usually distinguished from each other according to a series of characteristics and classified along typologies. This approach reflects the historical reality of the construction of nation states across the centuries. However, an excessive focus on the specificities of national administrations tends to conceal important phenomena of transfer, exchange and hybridization actually taking place across nations. In contrast, analyzing this hybridity can shed a new light on the history of administration. We therefore apply a transfer-of-ideas approach that acknowledges the existing permeability between national traditions.<sup>1</sup> As will be shown, a closer look at the mutual inspirations on crucial aspects such as the separation of powers, checks and balances and the politics-administration dichotomy allows us to refine our conception of public administration.<sup>2</sup>

The borrowing of administrative ideas from one tradition to another does not occur without proper reappropriation of the imported notions. The way administrative ideas are reformulated during transfer processes is highly revealing of the characteristics of the importing administrative system, of the particular challenge that the conceptual transfer is intended to address and of the importer's perception of other systems. This opens the path to an in-depth study of so far under-explored aspects of public administrations, as a specific system can be well understood when considered in the context of its interactions with others. In examining the importation and adaptation processes of the circulated ideas, the transfer perspective allows both to examine how common

concerns were addressed in different systems throughout history, and to study each country's specificities. This makes it a valuable and original way to understand the administrative phenomenon at the crossroads of national paths and international dialogue. The transfer-of-ideas approach is as relevant from a historical perspective as it is for understanding contemporary administrative processes.

The chapter is structured as follows: The next section presents a theoretical framework for a transfer-of-ideas approach to the history of administration. An application of this framework can demonstrate how administrative ideas circulated between the USA, France and Germany from the end of the 19th century to the 1970s. Finally, the implications of this approach for the broader study of public administrations are discussed before we turn to the concluding remarks.

### **Theoretical Framework: From a Comparative Approach to the Transfer-of-Ideas Framework**

The common perspective of comparative research on Public Administration is to regard national traditions as rather clear-cut and closed units of analysis. These distinct traditions are consequently analyzed as self-referential national units, in a path dependency perspective. This sense of national traditions originates in the effective and historical legacy that shapes every country as a cultural, social and politico-institutional unit at the macro-level (Bevir et al. 2003, 6; Yesilkagit 2010, 148). In fact, these historical legacies gave birth to different administrative models in praxis (e.g., the models of the Germanic, Napoleonic and Anglo-American administrations). Public Administration as a field of study further reflects these national institutional specificities. In particular, Continental European and US-American traditions of Public Administration are often considered to represent two highly different models, sometimes almost incomprehensible to each other (Stillman 1997, 337). The contrasting Public Administration narratives are derived from the assumptions of the "stateless" nature of the Anglo-Saxon administrative tradition and of the "stateness" nature of the European tradition. However, as this section shows, this perspective has tended to foreshadow a constant and crucial parameter of intellectual life, which is the transnational circulation of ideas. The transfer approach challenges this perspective by examining crossbreeds between national traditions, thus shedding a new light on the history of Public Administration (Sager et al. 2018, 1).

Public administration traditions as an object of research have been subject to wide discussions and in-depth analysis. It is useful to categorize different traditions into a typology, which helps sorting out a complex reality and mapping certain national trends. From a general perspective, the existence of national "traditional flavors" in administrative studies – i.e., specific ontological and epistemological assumptions in conceptualizing Public administration (Rutgers, 2001) – is hardly disputed. Public Administration as a field of study takes place within a specific institutional context which is, to a larger degree, national (i.e., academic systems, administrative organizations) and constrains its orientations. However, each national field of study is a complex reality that shelters different sub-streams, each of which having specific analytical focus and orientations. Consequently, empirical reality challenges the very notion of tradition. Considering national traditions as closed and predefined units of analysis bears the risk of a tautological analysis, where the existence of national traditions is more presupposed than demonstrated. The transfer-of-ideas approach addresses this issue through an empirical and inductive exploration of the reality of such traditions (Sager et al. 2012). Instead of comparing different national units of analysis that are considered to have followed their own path, intersections are taken into account. Intellectual traditions are considered in light of their cross-breeding, which accounts for the international scientific dialogue that was, in fact, indissociable from the historical developments of Public Administration worldwide. As we will show, such transfers have given way to highly creative developments within each national administrative field, allowing importers to address specific issues

*Table 2.1* Differences between the Logic of Tradition and the Logic of Transfer

	<i>Logic of Tradition</i>	<i>Logic of the Transfer of Ideas</i>
Understanding of change	Incremental change (independence)	Mutual fertilization (interdependence)
Level of analysis	Macro-level	Micro-level
Epistemological approach	Deductive	Inductive
Logic of inference	Ideal-typical narrative	Historical-empirical narrative based on primary sources
Focus of interest	National paths	Road junctions

*Source:* Sager et al. (2018, 4).

from a new perspective or to overcome specific dilemmas (see below). The epistemic framework of the transfer-of-ideas perspective is illustrated in Table 2.1 below.

As shown in Table 2.1, the transfer approach to the history of administrative ideas has fundamental epistemological, theoretical and methodological implications. Acknowledging the hybridization processes between intellectual traditions instead of considering them in their national specificities impacts the whole analytical process including the logic of inference, the line of questioning, and the level of analysis.

The body of scientific literature on cultural transfer is in line with this approach (e.g., Kaelble 2003; Suppanz 2006). This literature acknowledges both the existence of exchanges and connections among different units (i.e., units that have become distinct subjects due to historical process) and the new products that emerge from these exchanges. Two specificities of approaches based on transfer must be underlined. First, the analytical focus lies on the importing culture, more specifically on its “webs of belief” (Bevir 2002). The meaning of the transfer for the importing author and the way it is translated in a new context are subject to close examination. As such, the analytical focus differs significantly from that of diffusion analyses, for instance, that look at the exporting culture, or at both sides – importers and exporters – to a similar extent. Second, the transfer approach focusses on the intentionality of the importer. Transfers are regarded as a deliberate action within the course of an intellectual process, and not as a fortuitous phenomenon deriving from a general diffusion process. In this sense, the transfer-of-ideas approach presented here does not focus on global converging trends but aims at closely examining the situation in which some scholars identify a solution to an intellectual dilemma in another tradition. The will or necessity to refine one’s intellectual tradition is identified as an important trigger for learning from others in the literature on cultural transfer (Lingelbach 2002; Middel 2000).

Furthermore, the transfer-of-ideas framework aligns with Mark Bevir’s approach to the history of ideas. In this perspective, administrative scholars are embedded in a cultural, intellectual and institutional context that informs their views and perceptions. It is this ideational context that we call “intellectual traditions”. However, although individuals are embedded in intellectual traditions, they are nevertheless considered as “agents who can extend, modify, even transform, the traditions that provided the background to their initial webs of belief” (Bevir 2002, 191). This is believed to be especially the case when these individuals face a *dilemma* with regard to which a new approach is required (Bevir 2002, 200). Following James Farr, we can distinguish two main types of dilemmas: “internal ones, presented by a particular intellectual tradition; or they may be external ones, presented by the outside world of politics” (Farr 1995, 135).

Consequently, we expect to be able to explain changes made to intellectual traditions (i.e., changes in the ideational path) by looking at internal dilemmas, which are inherent to a given tradition, according to Farr, and external dilemmas, which fall within the scope of broader

sociopolitical events. These two types of dilemmas are often intimately linked. The transfer framework aims at understanding the way administrative scholars face and address such dilemmas. This approach therefore challenges a purely comparative one: Evidence of transfers used to solve internal and external dilemmas highlights the empirical reality of hybridization among national intellectual paths. A further conceptual distinction must be made in this regard. As stated in the introduction, interactions between different ideational paths do not always occur in cases of pure adoption of an idea from another tradition. A substantial part of intellectual dialogue among traditions lies in the critical discussion of foreign concepts in order to partially or completely reject them. Such interactions also frequently go with more or less extensive modifications of the transferred knowledge (Middel 2000, 21). The two ideal types of importation or reception processes can therefore be categorized as adoption and rejection, with a wide range of intermediate situations existing between these two ends of the continuum. The theoretical reflection of the transfer approach on this wide range of importation types thus helps us refine our understanding of the notion of intellectual traditions (Sager et al. 2012, 136–137, 2018, 10–12).

Figure 2.1 proposes a process in three analytical steps to apply the transfer-of-ideas approach to the selected body of sources (Sager et al. 2018, 12). The three steps of the transfer are the mediation, the selection and the reception. We argue that these three steps enable accounting for the transfer process and understanding its meaning and wider implications for the importing tradition. First, the *mediation* step relates to the question of who is operating a transfer, from both the individual and institutional point of view. This analytical step deals with the “who” and “where” questions and acknowledges the situation and the perspective from which the transfer takes place. Second, the *selection* step investigates what ideas, concepts or discourses are being transferred among traditions (i.e., the “what” question). This analytical step includes the examination of the reasons leading to a transfer (the “why” question). It should be noted that equally important is the question of what is not being transferred depending on the needs of the importing actors, which the notion of *selection* accounts for. To be able to identify the relevant aspects pertaining to these analytical steps (who is transferring what, for what reasons and from which position), a highly inductive and exploratory research strategy is required. Identifying a scholarly transfer and being able to properly contextualize and analyze it require the exploration of a wide body of sources.

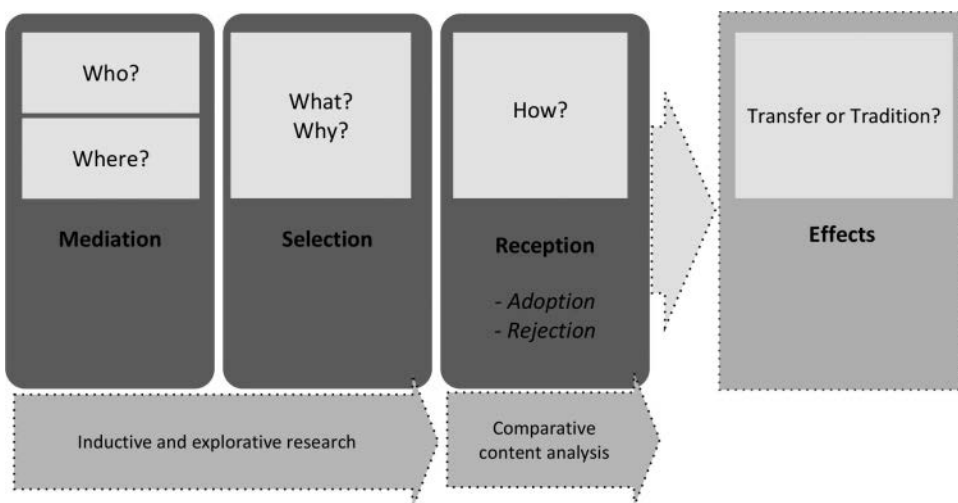


Figure 2.1 Analytical model of the transfer-of-ideas approach  
 Source: Sager et al. (2018, 12).

Third, we define the *reception* as the process through which the imported notion is transferred and received into the importing tradition. In fact, examining the transfer process includes analyzing the exact way the imported idea is integrated within the existing “web of belief” (Bevir 2002) of the importing tradition; this step addresses the “how” question (Lüsebrink 2001, 215–217). The analytical steps of the transfer framework are schematized in Figure 2.1.

### **Case Studies: The Internal Complexity of US, French and German Public Administrations**

In this section, we employ the theoretical framework to the study of the transfer of administrative ideas between the USA, France and Germany during the late nineteenth and the 20th century until the economic crisis of the early 1970s.

#### ***A Transatlantic Transfer-of-Ideas Perspective on the 19th and 20th Centuries***

The development of the transfer-of-ideas theoretical framework is based on a research on the history of Public Administration as a field of study in the USA, France and Germany (Sager et al., 2012, 2018). These three countries were chosen as paradigmatic examples of Continental European and Anglo-American traditions of Public Administration (Kickert and Stillman 1999; Painter and Peters 2010; Rohr 1992; Rutgers 2001). In this study, we adopted a transatlantic perspective, focused on the exchanges between these three administrative traditions. The time frame of the study was from the end of the 19th century up to the beginning of the 1970s. In the existing literature, several studies have provided insights into part of the history of Public Administration in France and Germany (e.g., Chevallier 1986; Ihl et al. 2003; Payre 2006; Saunier 2003; Vanneuville 2003 for France; Bogumil and Jann 2009; Jann 2003, 2009, 2011; Seibel 1982, 1996 for Germany). Regarding the USA, scholars usually agree on the fact that North-American Public Administration has a “poor understanding of its own history” (Luton 1999, 210; cf. Adams 1992, 368; Miewald 1994, 323–324; Raadschelders et al. 2000; Spicer 2004, 359).

Hence, a comprehensive study of their historical development still remains to be done, and we also lack an understanding of the mutual influences between the three traditions. Sager et al.’s (2018) study aimed at contributing to fill these gaps based on an original body of primary sources pertaining to the history of Public Administration in these three countries. The analysis was twofold. We retraced the historical development of each national path in the first place to identify the importance and the meaning of transfers within each country in the second step. One of the analytical focuses was on the debates about the place of public administration within the constitutional order and about the balance between the legislative, executive and judiciary branches (Hurni 2015; Rosser and Mavrot 2016). In sum, Sager et al. (2018) identify nine principal transfers of administrative ideas during the study period as shown in Table 2.2.

In the following, we briefly expose some examples of circulations and transfers between Public Administration in the three countries that we analyzed in our study on the transatlantic transfer of administrative ideas.

#### ***Early US Public Administration and Its European Inspirations***

The American case is highly interesting because while having strongly inspired France and Germany in the development of their administrative science after World War II, early American Public Administration at the end of the 19th and the beginning of the 20th centuries actually relied on European authors. Prominent scholars of the early American Public Administration, like



Table 2.2 Nine Transatlantic Transfers of Administrative Ideas between 1870 and 1970

No.	What	When	From	To
1	Hegelian organic state philosophy	End of 19th century	Germany	USA
2	Fayol's scientific management	Early 20th century	France	USA
3	Technocracy	Inter-war period	USA	Germany
4	Public Administration as a discipline	Immediate post-World War II	USA	France
5	Politics-administration dichotomy / democratic government	Post-World War II	USA	Germany
6	Administrative productivity	Post-World War II	USA	France
7	K.W. Deutsch's cybernetics	1960s	USA	Germany
8	Weber's theory of bureaucracy	Post-World War II	Germany	USA
9	Organizational behaviorism / social psychology	1960s/1970s	USA	France

Source: Sager et al. (2018, 132).

Woodrow Wilson and Frank Goodnow, were influenced by Hegelian theories (Miewald 1984; Overeem 2010; Rohr 2003; Sager and Rosser 2009; Spicer 1995). In particular, these authors from the Progressive movement found inspiring insights in the Hegelian organic state philosophy regarding pressing political issues the USA was facing at the time. In fact, in the late 19th century, the country was facing increasing problems that derived from the rapid industrialization of society – such as changes in the social structure, poverty and urbanization. At the same time, its political organization, characterized by clientelism and the spoils system, was unable to cope with these issues. The Hegelian notion of organic state functions offered a way to theoretically address the corruption problem by allowing conceptualization of administration as a state organ on its own, distinct from politics and pursuing its own tasks. In this way, an effective administration dealing with its duties and protected from corrupted politics could be theorized. Following this, the politics-administration dichotomy became one of the core notions of American Public Administration (Rosser 2010, 2013).

This example shows that not only the importation of concepts from one tradition to another is important, but also that the exchange of ideas between administrative traditions can be circular: countries mutually inspire each other during different historical periods. While some European ideas were used in the USA to consolidate American Public Administration, European scholars later drew attention to the well-advanced US Public Administration literature in order to develop the study of administration in their countries. This example also shows the close entanglement between socio-political and scientific considerations, as the scholarly transfer of ideas was triggered by the will to address societal issues. Scientific transfers undertaken under such circumstances are aimed at resolving what we call a historical dilemma (see Section “Discussion”).

### ***France and the American Reference: Moving Away from Administrative Law***

As to French administrative studies, it is striking that the American reference has repeatedly been used to challenge the dominant tradition of administrative law. While administrative law had managed to monopolize the study of administration during the 19th and until the mid-20th century in France (Chevallier 1986; Vanneuville 2003), calls for a complementary perspective on the study of administration strongly emerged in the immediate aftermath of World War II. A

movement drew on the US example to propose the creation of a *science administrative* that would renew French administrative studies. The founders of this discipline were comparative public law scholars willing to extend the study of public administration beyond its juridical features, to wider social, political and institutional aspects (Mavrot et al. 2010). They attempted to create a new academic discipline and heavily relied on the general example of American Public Administration to demonstrate the feasibility of this project. Their final aim was to create a supranational administrative science that would provide a common frame for enforcing fundamental rights and promote worldwide peace through mutual understanding and the convergence of national legal systems (Cassin 1968).

To say the least, this was a challenge in the Cold War context. In another perspective, a group of French reformist high-level civil servants also relied on the American example after World War II to criticize the dominance of legal instruments and procedures within French administration (Milhaud 1954). Their agenda was to introduce productivity techniques within the French administration, considered to be inefficient because of its legalistic functioning. The Technical Institute of Public Administration was created in 1947, which abundantly imported and diffused American literature on administrative rationalization (Mavrot 2016). Finally, at a later point in time, the well-known sociologist Michel Crozier imported American behavioral approaches into French administrative studies in order to substantiate his criticism of the dominant juridical approach to administration (Mavrot 2015). He extensively relied on the work of James J. March and Herbert Simon to construct his sociology of organization framework, which adopted a new perspective centered on informal individual behavior within administrative units instead of focusing on formal rules (Crozier 1969).

The French case shows the malleability of the reference to a foreign “tradition”, which can be appropriated by a very diverse set of actors to serve their purposes. In this context, the American example fulfilled several tasks: showing that the foundation of a proper administrative science distinct from law was possible, importing new paradigms such as productivism within administrative praxis or opening the path to new theoretical approaches in the academic field. Consequently, depending on the importers’ interests, the transfer of ideas might take various forms, from the broad invocation of a general model to follow, to applied administrative recipes or epistemological orientations.

### ***American Public Administration as a Continuous Inspiration for Germany***

Germany’s inspiration of concepts and theories from the USA was constant and took place at various moments of the country’s history. Like in France, German authors cited American Public Administration to contest the predominance of public law in administrative studies and to promote an approach that would be more centered on political aspects. However, this happened earlier than in France, already at the beginning of the 20th century. During the interwar period, there was then a strong focus on scientific management in Germany. The technocracy movement widely imported and translated the related American literature, with the declared idea of improving the state’s efficiency (Hurni 2015). It should be noted that in parallel, the USA had itself shown a great interest in the writings of the French author Henri Fayol, as a complement to Taylorism (Pearson 1945, 80). This shows the truly transnational nature of the circulation of administrative ideas, enriching each tradition with different layers of importations and translations.

In the post-World War II era, administrative studies were concerned with re-democratization after the fall of the National-Socialist Regime. German authors imported US publications and rediscovered the politics-administration dichotomy, which had had a German inspiration for the American Public Administration scholars at the end of the 19th century. In postwar

Germany, the dichotomy was seen as a means of conceptualizing administration as an actor of the politico-institutional system on its own rather than as the pure instrument of the executive's will, as it had been up to its extreme during the Nazi period. Returning from his exile to the USA, Fritz Morstein-Marx was especially active in conceptualizing administration as a distinct phenomenon from politics within early postwar German administrative science, relying on American Progressive Public Administration (1958, 1959). This opened the door for the study of administration as a subject of investigation for sociology and political science. Later on, the dichotomy was rejected by these disciplines as over simplistic and neither theoretically nor empirically valid. This led to a dominance of more holistic approaches such as by political cybernetics or the *Neo-Verwaltungswissenschaft* (Hurni 2015).

The German case shows how a foreign example can serve as a source of inspiration at very different times, at the service of a great variety of purposes. Germany's specific historical trajectory within Europe made it rely on some streams of US Public Administration to reject the predominance of administrative law, to pursue objectives of state efficiency or accomplish a political project of democratization. It also highlights the circular nature of transfer processes, which might involve a chain of different countries rather than being limited to a one-to-one transfer (i.e., the case of the scientific management, involving the USA, France and Germany), or involving back-and-forth processes between two countries (i.e., the politics-administration dichotomy). Specific historico-political events such as the de-Nazification process that Germany underwent after the war require a radically new conceptualization of the state, thus allowing for the rediscovering of forgotten notions such as the politics-administration dichotomy.

### **Discussion: Supranational Crossroads and National Specificities**

As our in-depth study of sources pertaining to the history of US Public Administration, French *sciences administratives* and German *Verwaltungswissenschaften* suggests, the notion of national traditions as closed units of study does not stand the empirical validity test. Although having heuristic value in helping to depict the dominant orientation of each country's intellectual tradition, "national traditions" appear to be highly complex realities bringing together different sub-streams of studies. In other words, French and German technocratic streams of Public Administration might, for instance, have more in common with their American counterparts than with other national subfields that are closer to administrative law. Although respectively focusing on very different administrative realities at the national level, their common epistemological approach to administration brings some national subfields closer together. Undoubtedly, it can be stated that paradigms and concepts did circulate among nations during our study period, leading to important hybridization phenomena. This invites us to take a closer look at the transfer itself, including the actors who initiate it, their rationale for circulating ideas and the adoption, adaptation or rejection of imported concepts. In this context, the notion of national tradition is too reified to account for this complex reality. Departing the analysis from a paradigmatic national path would be presupposing the results rather than empirically studying the complex dynamics that occur within each unit of analysis. The transfer-of-ideas approach, centered on hybridization processes, can therefore enrich comparative Public Administration.

By shifting the focus to supranational cross-breeding, a fresh look can be taken at the history of administrative ideas. Examining how foreign ideas can serve as a resource when imported in another context (Landrin 2006, 220–221) allows for a refined understanding of the ongoing discussions within each country. In this regard, the transfer approach does not only highlight what happens at the supranational level when ideas are circulating. Through the transfer approach's focus on the importation process, it also shows what happens within every national context when

new concepts are required to solve specific dilemmas (Bevir 2002, 200). The translation processes that transferred ideas go through during the importation reveal the different ways administration is conceived in each country and how the study of administration is structured: what are its purposes, what are the ongoing debates within the academic field and what specific challenges do Public Administration as a field of study and public administration in the praxis face. The aspects can be well analyzed when looking at the adaptation requirements of an imported idea. To carry out this analysis, the transfer-of-ideas framework proposes studying a series of questions relevant to the importation process: *who* is undertaking a transfer and from *where* (i.e., mediation), *what* is selected to be transferred and *why* (i.e., selection) and *how* is the imported notion being transferred in a continuum ranging from adoption to adaptation and rejection (i.e., reception). In this sense, the transnational circulation of ideas always says a lot about what happens at the domestic level (Saunier 2004, 142–143). Therefore, we state that the transfer approach enables examination of both the *crossroads* between different national fields of study and their respective *specificities*.

Finally, the transfer-of-ideas framework is equally relevant for the praxis, and some lessons can be learned from the findings generated in our study. First, if the borrowing of a new idea from another context is intended to solve a dilemma, it also often reveals the existence of conflicts and disagreements within the importer's field of study. The transferred idea is used as a resource within an interpretative struggle about what Public Administration is and should be. In this context, external examples can serve as authority arguments and be used to consolidate the position of the importer within its own field. Crozier's attempt to import behavioral theories to the French study of administration or the transfer of productivity paradigms within a French administrative context largely dominated by the legalistic approach of administrative law provide good examples of such mechanisms. Second, we can distinguish three necessary conditions for a successful transfer, i.e., a transfer that will trigger an effective learning process within the importing unit: (1) the need for a new concept or approach aimed at solving a problem or resolving a dilemma, be it a praxis or an intellectual dilemma; (2) importing actor(s) and a related supportive network to diffuse the idea; and (3) a possibility of institutionalization for the transferred idea, i.e., its intellectual canonization or its institutional embedment within praxis, which will allow it to last over time. Third, three main categories of transfer were identified. The first type of transfers aims at resolving a historical dilemma, regarding a political or social issue. The second type of transfer is driven by academic considerations from a professional group and serves the development of a scientific discipline, notably by contributing to establishing its boundaries. The third type of transfer can be depicted as pertaining to the pure internal logic of the scientific process and is driven by theoretical or methodological considerations. These categories are ideal-types, and the three of them might also be closely entangled within the same transfer process (Sager et al. 2018, 138–145, 151–152).

### **Concluding Remarks: A Transfer Approach to Move Beyond the National Traditions Perspective**

We have underlined the benefits of adopting a transfer approach to the history of Public Administration. This approach accounts for the hybridization processes that have marked the history of Public Administration, while at the same time acknowledging the crucial importance of intellectual and institutional contexts at the national level. The transfer-of-ideas framework takes these two aspects into account by focusing on the exchanges between traditions while also analyzing their meaning for the importing actors within their proper national context.

The empirical validity of the notion of national traditions might be even more challenged today than in the timeframe covered by our study. The notion of national traditions of Public Administration might be further blurred in today's interconnected world. It is all the more important to question the national nature of administrative studies at a time when medium-range

theories aimed at formulating generalizable observations on administrative behavior have flourished in the social sciences, to say the least. However, our study also showed the importance of remaining prudent with the pretention to formulate universal recipes, which must instead find intellectual resonance and institutional anchorage to make their way within each national context. For these reasons, it is safe to assume that the debate on “traditional flavors” (Rutgers, 2001) will remain on the contemporary Public Administration research agenda in the near future.

The transfer of ideas approach has important implications for the comparative study of Public Administration. Traditions change over time and hence cannot serve as explanatory variables for national differences in practice (Sager et al. 2018, 150–151). Moreover, the recipients transform imported ideas. Consequently, administrative paradigms rather than overall national traditions may serve as variables for comparative research. The notion of hybridization, analyzed from an empirical and inductive perspective, provides a valuable heuristic entry point to conceptualize Public Administration at the crossroads of national contexts and global exchanges.

## Notes

- 1 This chapter draws from the authors’ conceptual and empirical work published in Hurni (2014, 2015); Mavrot (2015, 2016); Mavrot et al. (2010); Rosser (2010, 2013); Rosser and Mavrot (2016); Sager and Rosser (2009) and Sager et al. (2012, 2018).
- 2 We use the term “public administration” in lower case letter to apply to administrative practice, while “Public Administration” with capital letters refers to administrative studies.

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# 3

## THE ADMINISTRATIVE PRESIDENCY AND THE DEGRADATION OF THE UNITED STATES CIVIL SERVICE

*William G. Resh*

### **Introduction**

In his 2013 John Gaus Award Lecture to the American Political Science Association, Robert Durant lamented what he saw as an all too frequent omission in the study of public administration in the United States and, more generally, across the field globally. In embracing the “behavioral revolution” of the 1950s and beyond, the field had largely forsaken systematic evaluations of root causes in the development, expansion, and normative foundations of the “state” writ large. In Durant’s words, “[the field] has been largely focused on predicting cross-sectional and short-term longitudinal relationships rather than on understanding the *reciprocal effects of those longer-term secular forces* that incorporate history, context, and contingency as explanatory variables” (Durant, 2014, p. 8; emphasis is mine). In this chapter, I seek to bridge this macro-perspective of public administration with the micro-level foundations of behavioralism by providing an example of how these secular, historical trends can produce observable and predictable patterns by which we can assess variation of executive and bureaucratic behaviors across temporal contexts.

My example rests in the modern US presidency. Specifically, I look at the “administrative presidency”—the collection of managerial and personnel strategies that are typically employed by modern presidents to “exert control over the executive branch in order to ensure that their policy preferences will not be subverted, intentionally or otherwise, by [career] officials unsympathetic to those preferences” (Rockman, 1986). The study of the administrative presidency is one that more obviously, though not uniquely, overlaps the research interests of both self-identifying public management and political science scholars. How a president’s managerial strategies are applied has profound implications on how one thinks about the role of federal public administrators in the United States’ polity and constitutional design. However, those strategies are not merely a function of the preferences and agency of a given president or presidential administration. Time presents a critical, if overlooked, macro-level embeddedness attribute in which individual decisions and behavior are nested. The timing in which a president operates within a political epoch and his ideological positioning vis-à-vis the dominant ideology within that epoch will have a vast influence on the alternative sets that are allowed for that president, his proxies, and career bureaucrats to consider.

The institutional system of the executive branch in any advanced democracy includes both the formally established organizations and ephemeral structures that are affected by (and affect) the



executive's ability to marshal resources according to the incentives and constraints of his position. Critically centered in this system are the various departments, agencies, governmental corporations, and public-private partnerships that comprise a public bureaucracy, especially those formally set in the executive branch as a collection of expert agencies

tasked with important governing functions through loosely drawn statutes that empower unelected officials to undertake such important matters as preventing 'unfair competition,' granting licenses as 'the public interest, convenience or necessity' will indicate, maintaining a 'fair and orderly market,' and so forth

*(Rohr, 1986, p. xi)*

In the United States, specifically, the permanent civil service at the federal level and its collective delegated responsibilities might be considered modern America's "cartilage" developed over time to maintain continuity and soften the friction inherent to the country's constitutional skeleton. Through the influence of all three constitutional branches of government, it keeps governance fluid by cushioning against the overt influence of any one branch over another branch or the American polity. At the same time, it remains central to the functioning of a separation-of-powers system by inheriting functions distinct to each branch. As Rosenbloom (1983) explains, "public administrators make rules (legislation), implement these rules (an executive function), and adjudicate questions concerning their application and execution (a judicial function)." Yet, despite this accumulation of executive, legislative, and judicial functions, and its role in maintaining interconnectedness among branches, intellectual doctrine regarding public administration has increasingly focused on "elected and appointed executives to be the primary sources of energy, efficiency, and leadership in managing public agencies" (Rosenbloom, 2010, p. 101). This, in turn, is endogenous to a political culture that "aggrandize[s] the importance of the presidency and presidential powers" (Rosenbloom, 2010, p. 101).

Congress and the judiciary have (with notable exceptions) gradually deferred power to the presidency, such that the current Trump presidency—as the Obama presidency before him—inherited "more constitutional and legal power than any president in U.S. history" (Balkin, 2008). The increased complexity of policy demands has led Congress to delegate substantial discretion to agencies or subnational governments, which allows executives and administrators at all levels of government "ample opportunity to move in a number of different directions in enforcing the law" (F. Rourke, 1991, p. 125). Therefore, presidents have sought to substitute their policy judgment for that of the Congress, the judiciary, the states, and the career federal bureaucracy through one or more of the following means: centralizing of administrative decision-making and regulatory review, politicizing the bureaucracy through appointment powers, exercising "top-down" budget procedures, reorganizing agencies, altering decision premises and career paths of careerists and Senior Executive Service (SES) personnel, and applying the unilateral tools of the executive.

These strategies stem, in part, from a high level of distrust by presidents that their policy aims will not be faithfully carried out by a career bureaucracy with merit systems protections and (at least) nominal or (at most) competing loyalty to the other constitutional branches. Notably, this distrust is likely at peak manifest in the current Trump administration, given its officials' (and the president's) explicit condemnation of the "deep state" and its complementary deregulatory and downsizing reform agenda. Nonetheless, this nadir of trust in the civil service is not without its predecessors from both parties providing graded steps to this point. Indeed, presidents in the modern age of the administrative state (across both parties) have increasingly relied on the strategy of "politicizing" the bureaucracy and centralizing administrative decision-making to tactically unite institutional and responsive competence (Rudalevige, 2002).

The increased focus on administrative strategies has become a norm of the presidency and simultaneously lends ample ammunition to unilateral predilections. Centralization and politicization, especially, have been used simultaneously, variously leading to complementary or contradictory outcomes. While centralizing policy formulation in the White House may effectively allow a president to circumvent congressional and bureaucratic policy preferences, implementation success of a president's policies depends on the ability of the White House to "monitor, prod, and pressure [the bureaucracy] to carry out policy" (Durant & Resh, 2010, p. 580). Thus, politicization of bureaucratic ranks is thought to be complementary to, and an extension of, centralization. Moreover, the privatization of civil service functions allows presidents to potentially circumvent the checks that merit protections and career employment provide civil servants in refusing to implement potentially unconstitutional, illegal, or unethical practices.

This chapter will provide a brief analytical history to the development of the administrative presidency over time. I provide a background on the institutional developments that allowed for centralization strategies to be used in conjunction with politicization and privatization in efforts to attenuate presidential administrations' relative distrust of the federal bureaucracy to carry out their policy agendas. I analyze these themes through Skowronek's (1993) conceptual lens of "political time," so that I might overcome an important flaw in earlier analyses that do not accommodate the particular historical contexts in which individual presidents operate. The Skowronek model suggests that some of the fundamental characteristics of these contexts are recurring, at least in respect to the sequence of regime politics, and that they prompt (or should prompt) particular kinds of strategies by presidents.

I extend Skowronek's evaluation through the lens of the administrative presidency to identify the political time and operative strategies of the presidents preceding Obama and Trump. In doing so, I ponder how the centralization, politicization, and outsourcing efforts by past presidents as a result of their political time have affected the US federal civil service currently. I am hesitant to attribute any of Skowronek's labels to either Obama or Trump (as proper retrospection helps with such assessments). Rather, I posit how the administrative presidencies that preceded them are reflective of the presidential time in which those presidents operated and the effect that has had on the US civil service currently. In doing so, I speculate (in line with Skowronek's own observations) as to the historical "type" to which each presidency seems to adhere and how patterns of their administrative presidency adhere to expectations.

My argument is that both Obama and Trump (in their own ways) operated within the dying, but resilient, energy of the Reagan regime. Thus, both ostensibly failed to reconstruct the institutions around them in a fashion that allowed them to manage administrative institutions to their preferred direction. Indeed, both were hamstrung immensely by the institutional expectations of the regime in which they and their predecessors operated and the layered reforms that each brought over the course of that regime. I close on a rather somber tone, noting the damage that these strategies have wrought on the current US federal civil service.

### **Politicization by Gradation: The Early Development of the Administrative Presidency**

Research on the administrative presidency has found that presidents' use of its tools has fluctuated in its impact—"it is neither as powerful as proponents hope nor as powerless as opponents hope" (Durant, Stazyk, & Resh, 2010, p. 383). Yet, as noted above, analysis of these strategies—or of presidential agency generally—seldom compares presidencies in a manner that incorporates an understanding of how presidents' fates can be contingent on various contextual elements (Hargrove, 2001). The implication of this acontextual lens is that individual presidents could succeed in

advancing their policy agendas, if only they were just more adroit in exploiting the tools that are presumably available to any given president. By placing presidents in different regime eras, however, we can get a sense of the larger political context in which presidents operate that might help us better evaluate the effectiveness of each presidency's application of the "administrative presidency" than static accounts of presidential agency.

To address this deficiency, Skowronek offers a "political time" or "regime" model that exposes recurring patterns of political history while accommodating presidential agency. A regime is "comprised of ideological and programmatic commitments that are supported and maintained by institutional arrangements and structures, including those in Congress, public agencies, the courts, interest group mobilizations, party alignments, and informal norms (e.g., patterns of congressional behavior)" (Durant et al., 2010, p. 384). As Skowronek (2008) argues, presidents "intervene in—and their leadership is mediated by—the generation and degeneration of political orders" or regimes (p. 77). "[R]egardless of century or skill," there are "four recurring patterns or sequences within which [presidents] must operate and that each induces relatively uniform fates for presidents laboring within them" (Durant et al., 2010, p. 384). These patterns are based on the interaction of two factors: resilience/vulnerability of the regime to change and the president's relative affiliation with (opposition against) "the dominant ideological and programmatic commitments of the era" (Skowronek, 2008, p. 85). Therefore, presidents who are opposed to existing regimes, under conditions in which the regime is vulnerable to change, might be judged on their relative success in "reconstructing" the regime. These conditions create a "politics of reconstruction," in which a president's success is based on his ability to restructure "disintegrating regimes into a new government philosophy and [evoke] partisan realignment in favor of their party" (Durant et al., 2010, p. 384).

Presidents (such as George W. Bush) who face situations wherein they are affiliated with an existing regime that is invulnerable to change find themselves in a divisive "politics of articulation." This situation typically produces an "orthodox innovator"—one who (as Bush tried) marbles together new "policies and programs amid ideological and programmatic commitments of the still-resilient political regime and its orthodoxy (e.g., Reaganism)" (Durant et al., 2010, p. 385). In Bush's case, attempts at innovation were spurred by the confidence that his "initiatives were more capable of meeting new challenges and expanding the regime's status quo-oriented base" (Durant et al., 2010, p. 385). But, marbling together new "policies and programs amid ideological and programmatic commitments of the still-resilient political regime and its orthodoxy" prove difficult (Durant et al., 2010, p. 385).

Presidents in a "politics of preemption" operate during a regime that is resilient to change, but the president stands in opposition to the existing regime. In these conditions, presidents tend to rely heavily on extra-legislative means (e.g., venue-shifting, parallel institutions, and unilateral presidential tools involving the administrative presidency), while they (often futilely) attempt to frame their agendas as moderate alternatives to the existing regime. This, I argue, is consistent with the presidencies of William J. Clinton and Barack H. Obama. Meanwhile, presidents who identify with existing regimes that are vulnerable to change operate in a "politics of disjunction" and tend to be vastly constrained. While the regime may be weakened by the relevance of its ideological and programmatic goals to changing circumstances, the president came to power with the expectation of holding this old coalition together (Skowronek, 2008, p. 61). Following Skowronek, we find several patterns of Donald J. Trump's administrative presidency that are consistent with expectations associated with the politics of disjunction that I outline below in evaluating the Carter presidency.

With this as context, consensus among presidential scholars is that the institution of the administrative presidency, and its role within our separation of powers system, dramatically changed with the Nixon administration's use of administrative strategies for pursuing

presidential agendas. First coined by Richard Nathan (1983), the “administrative presidency” was introduced by the Nixon administration through a three-pronged strategic approach to appointee placement in his second term: (1) a concerted effort to bypass the Republican party establishment’s claims for patronage in the 1972 Campaign Committee to Reelect the President; (2) a systematic focus on loyalty to the president’s programmatic goals and ideological orientation as the primary qualification for hire; and (3) an emphasis on operational control of agencies by presidential loyalists over patronage concerns of the Republican party (Hecló, 1977). The end goal was “comprehensive managerial control of the executive branch under the President” (Hecló, 1977, p. 75).

Skowronek (2008) argues that, within the schisms among the ranks of a dominant regime, opposition leaders attempt to appropriate established means of action by trying to substitute a “third way” through a personalized style of leadership and independent appeals. Nixon reorganized the Bureau of the Budget and renamed it the Office of Management and Budget (OMB), “hoping to extend the president’s reach into how the departments and agencies were run” (Andrew Rudalevige, 2006, p. 5). This reorganization strategy allowed the White House to promote identifiable loyalists within the senior career ranks to decision-making roles within organizations, while “burying” other careerists below these loyalists and adding layers of Schedule C appointees (Michaels, 1997). This would be a management strategy to be copied by his successors. And, while subsequent Republican presidents tended to believe “that the permanent government was only lukewarm toward their political objectives” (Dickinson, 2005, p. 156), there is evidence (as we shall see) that the same was true of Democratic presidents as well.

It is important to recognize that after the downfall of the Nixon presidency and Gerald Ford’s subsequently brief and quiet maintenance of an increasingly “imperiled presidency” (Cronin, 1978), Jimmy Carter entered office with a similar distrust of the permanent Washington bureaucracy. Rhetorically, Carter argued that his distrust was based more in the established structure and processes of the federal bureaucracy than the character of career bureaucrats. Paradoxically, Carter sought to reform the civil service system in a way that (unintentionally or not) might have had more lasting effects on the establishment of the “administrative presidency” as an enduring collective strategy and jeopardizing the role of career bureaucrats than anything Nixon ever put into practice.

Much like presidents who operated within some “politics of disjunction” in regime cycles before him, Carter maintained that the programmatic goals of the liberal regime were fundamentally sound and reflective of the general public interest (Skowronek, 2008). Carter, however, was a “New Democrat” who was more oriented to business interests than the interests that were traditionally aligned to the existing regime. According to Skowronek, presidents who operate in a politics of disjunction take alternative strategies to get things done, mainly through administrative strategies.

The Civil Service Reform Act of 1978 (CSRA) was the product of the Carter administration’s Personnel Management Project, replacing the Civil Service Commission and creating the SES, and “to address such issues as productivity, job quality, workforce planning, recruiting, training, development, compensation, and performance evaluation” (Brook, 2000, p. 2).

The SES was to be a corps of, primarily, careerists presumably selected for executive positions based on their leadership qualifications, rather than their technical expertise. Therefore, the creation of the SES was thought to address the “conflict between the desire for greater political responsiveness and the desire for greater managerial capability and independence” (Ban, 2000, p. 58). Subsequent evaluations of the creation of the SES have identified the CSRA as giving “potent partisan powers to the party that controls the presidency” (Brook, 2000, p. 8). Thus, CSRA and the SES have been called “Carter’s gift to Reagan”—facilitating the Reagan administration’s ability to politicize the executive branch (Michaels, 1997, p. 164).

## **Reagan's Regime Reconstruction and the Administrative Presidency**

The Reagan administration arguably marks the most successful and systematic implementation of the administrative presidency. Reagan's rhetoric represented an acute and overt distrust of the career bureaucracy. The "Reagan Revolution" represented a blunt repudiation of the liberal political regime that fundamentally redefined the "terms and conditions of legitimate national government," and instituted a new conservative regime that would continue for decades (Skowronek, 2008, p. 96). Reagan's managerial approach, therefore, served as a model for subsequent presidencies that operated within that regime (Moynihan & Roberts, 2010).

Empirical evidence indicates that Reagan appointees' fealty and ideological proximity to presidential prerogatives were, indeed, driving forces behind the placement of many appointees. Presidential policy preferences were believed to be more easily achieved as a function of: (1) constraining the discretion of agency leadership in line with the president's goals, (2) the structural flexibility allowed to leadership to see through those goals, and (3) the political leadership's capacity to shift policy direction through the reorganization of human capital within an agency (Durant & Resh, 2010).

The Reagan administration politicized the Office of Personnel Management (OPM) and took advantage of the CSRA's provisions that allowed the reassignment of career SES "from one job or geographic location to another" (Salamon & Abramson, 1984, pp. 46–47). With considerable expansion, each of these characteristics (e.g., centralized personnel and policy control, loyalty-focused selection patterns, increased number of lower-level appointments) reveal a good deal of "partisan learning," in which Reagan copied his co-partisan predecessor's (Nixon) staffing patterns (Walcott & Hult, 2005). At the same time, the amalgamation of the CSRA reforms, increases in lower-level appointees, centralized personnel selection, and the Reagan administration's primary goal to "stop" government action in various policy areas essentially sealed "presidential political domination of the federal government's personnel management" (Newland, 1983, p. 15).

The Reagan administration was able to usher in the dominance of a new political regime, partly based on a stance toward the federal bureaucracy that was to "stop doing what you're doing." Yet, this anti-bureaucratic stance may have only served as conceptual evidence of his administration's effort to reconstruct the institutional infrastructure of the old liberal regime. Reagan did not as much "[clear] the ground of obstructions to his alternative," as much as he was able to make rhetorical assaults that undermined the legitimacy of liberal government while simultaneously generating lasting norms within the existing institutional arrangements that favored his preferred ends (Skowronek, 2008, pp. 97–98).

Created to implement the Paperwork Reduction Act of 1979 (PRA), the Office of Information and Regulatory Affairs (OIRA) was soon after appropriated for the purpose of reviewing proposed regulations by Reagan's Executive Order (EO) 12291. The effect of EO 12291 was to officially codify centralized review on a substantive basis, while signaling to the federal agencies the clear intentions of the new administration to follow through with review in a systematic fashion. EO 12291 was seen as an effort to follow through on campaign promises to curb the encroachment of regulations on economic activity. The EO dictated that regulatory outcomes must prove to produce net benefits through the employment of the ostensibly objective technique of cost-benefit analysis (CBA) as an analytic tool used to predict economic impact. EO 12291 instituted clearance requirements that, as West (2005) explains,

stopped short of authorizing the executive office to block or change agency rules...[but] the architects of EO 12291 felt that agencies would hesitate to ignore suggestions from an

organization that scrutinized their budgets and that enjoyed such close proximity to the president.

(p. 80)

In 1985, EO 12498 enhanced the oversight power of EO 12291 and required agencies to publish an annual agenda of “ongoing and anticipated regulatory actions” (Arbuckle, 2008). But, Reagan faced increasing criticism from environmental and labor interests that led to a standoff, in which Congress threatened to cut funding for OIRA, entirely, by refusing to reauthorize PRA. The promise of disclosure procedures as the “price to pay for appropriations” was soon conceded (Arbuckle, 2008). Yet, the reason for the administration’s compromise was to ensure that regulatory review would remain an exclusive function of the executive branch, without Congressional interference or review. As Arbuckle (2008) explains, “...regulatory review disclosure opens the process enough for others to keep a careful eye on EOP influence without unduly interfering with necessary deliberative privilege within the EOP” (p. 63). Indeed, this transparency threshold did seem to be just enough. While George H.W. Bush kept the fundamental framework of EO 12291 intact in his administration, he shifted responsibility for review of regulations that seemingly affected important electoral constituencies to Vice President Dan Quayle’s Council for Competitiveness. The Council’s practices again led to increasing unease within Congress about the legitimacy of centralized regulatory review from the White House, and the Council was promptly dropped by the succeeding Clinton administration.

When George H.W. Bush entered the White House, there was a general expectation that he would continue to deliver on the Reagan regime’s commitments and extend its reign. Yet, as with many “orthodox innovators,” Bush entered the 41st presidency without an ability to exactly define “what these commitments entail, how they are to be adapted to new conditions, [or] what else they can accommodate” (Skowronek, 2008, p. 101). So, Bush introduced a “kinder and gentler” conservative policy agenda that was epitomized in the Clean Air Act Amendments of 1990 and in policies for the disabled. He came from a more centrist and non-partisan ideological background and “felt at home with a centrist, expert bureaucracy” (Maranto, 2002, p. 97). This meant that his personnel decisions were based on the premise of appointed leaders to provide “stewardship” to agencies, rather than any need for radical change from the previous administration’s policy agenda. Thus, Bush emphasized personal loyalty, but without the ideological baggage of “movement” conservatism that was accompanied by any overt distrust of the career bureaucracy (Maranto, 2002). Bush also highly valued “competence” in his personnel selections, which entailed a focus on Washington insiders who were professionally oriented with the agencies in which they were placed (Maranto, 2002; Michaels, 1997). For the most part, Bush was credited by the career civil service as appointing competent, and trustworthy, people (Maranto, 2002, p. 99).

Although Bush vigorously pursued his preferred policy ends through other strategic tools of the administrative presidency, he pursued a largely nonpartisan management style in respect to personnel selection and placement. Thus, the George H.W. Bush administration serves as counter-evidence to the idea that the politicization strategy is inevitably implemented by Republican presidents. But, as reflected in many reports of his son’s administrative presidency and as we will see below, the administrative presidency retained its attraction to subsequent presidents of both political parties. By all accounts, George H.W. Bush increased the centralization of policymaking in the White House through the mechanism of regulatory review. However, his placement in political time as an orthodox innovator left little room for major structural change.



## Preemption, Clinton, and Structural Continuity

With the election of Bill Clinton, in 1992, many thought that centralized regulatory review would be abandoned (Katzen, 2009). However, Clinton issued EO 12866, in 1993, and undoubtedly retained the essential framework of EO 12291, though with significant adjustments that included the encouragement of transparency, and a drastically more sensitive recognition of the unquantifiable nature of the benefits that could result from regulatory enforcement. EO 12866 also relaxed the requirement that all regulations be subject to review, by requiring that OIRA review only “economically significant” regulations with an annual economic impact of over \$100 million. This reduced the number of regulations from “nearly 3000 per year to approximately 600 per year” (Shapiro, 2004). Yet, the technical differences between Clinton’s EO and its progenitor were relatively modest. According to West (2005), “EO 12866 was crafted in such a way that it pleased everyone from the Sierra Club to the US Chamber of Commerce” (p. 81). On the other hand, as Shapiro (2004) argues, it “cemented the place of regulatory impact analysis and OIRA’s review authority in the regulatory process” while making rather nominal changes to how this review took place (p. 4).

Initial evidence of a political management strategy during the Clinton administration was lacking (Ingraham, Thompson, & Eisenberg, 1995), partly due to systematic turnover of appointees from the Bush administration. However, there was a higher rate of turnover within the career SES ranks than in the previous two presidencies, as careerists who were put into political positions by the previous administrations were scuttled to lower level “career-reserved” positions, and others left their agencies or government all together (Ingraham et al., 1995).

As David Lewis (2008) notes, a “frontal assault” technique in which career managers are pressured to leave, transferred to organizational “Siberia,” or otherwise isolated from important organizational decision-making, is a common political management technique (p. 33). The Clinton administration applied this technique aggressively in its first year, targeting career SES in the George H.W. Bush administration who were centrally involved in the implementation of policies adverse to their preferences (Pear, 2008).

Importantly, the Clinton administration’s stance toward bureaucratic *action* (rather than stopping things from happening) was one of the most active of any administration since Carter. Like Carter, Clinton used an administrative strategy to advance his policies. Moreover, Clinton sought to implement an active agenda that required bureaucratic expertise in developing regulations, actively pursuing enforcement, and administratively reversing countless Reagan initiatives. Thereby, Clinton sought to leverage administrative power to see through a liberal activist agenda, one that was purportedly more in line with the preferences of the career bureaucracy staffing domestic agencies (which might have made it easier to implement).

It is often argued that the Clinton administration lacked a “clearly defined policy vision” (Greenstein, 2005, p. 227). Instead, as a Democratic president in the post-Reagan era, Clinton seemed to have undertaken a preemptive stance toward the Republican revolution with a decidedly centrist and strategically coordinated, “third way” (Skowronek, 2008). In respect to the executive-administrative complex, the Clinton administration’s preemptive approach was especially evident in the Clinton-Gore National Performance Review (NPR). NPR was an alternative approach to administrative reform that attempted to appeal to “ideologues of all stripes” (Skowronek, 2008, p. 109) by proposing an amalgamation of managerial philosophies that were not that different to preexisting prescriptions from the Reagan era (e.g., the Grace Commission). NPR represented a departure from traditional hierarchical control models of presidential dominance while promoting the reduction or elimination of legislative controls on the bureaucracy (Lowery, 2000, p. 81). Like Clinton’s approach to regulatory oversight, NPR was intended to “facilitate the ‘moderately activist government’ favored by President Clinton” (Lowery, 2000, p. 87).

Regardless of ends, however, Clinton furthered the pursuit of centralization. The critical proposal in *The Gore Report* was to reform the budget process by establishing an “executive budget resolution” that centralized agency budget proposals in the White House, providing substantial changes to the structure and processes of agencies that would affect any subsequent president’s administrative strategy. As importantly, responsibility and authority for the delivery of public services exceedingly shifted “outward” through contracted relationships with private and non-profit organizations. From 1990—2002, Paul Light (2008) estimates that there was an overall 420,000–person reduction of non-military and non-postal service civil servants. Over the same period, jobs generated by government contracts or grants increased from a total of 7,474,000 to 8,028,000 (p. 197).

The reduction of federal employment did not adversely affect, however, the number of political appointees. There was a forceful “thickening” of government at the top “marked by a proliferation of deputy secretaries, undersecretaries, deputy undersecretaries, assistant secretaries, deputy assistant secretaries, associate deputy assistant secretaries, and chiefs of staff” (Seidman, 1998, p. 112). Yet, accompanying the increased layering of appointees at the upper echelons of organizational structures, federal agencies remained only marginally capable of changing their “[overall] structures, budgets, personnel decisions, priorities, and decision rules” to accommodate this outward and upward expansion (Durant & Warber, 2001, p. 222).

From Clinton onward, the number of contract managers across government has decreased or remained relatively static as the number of contracts exponentially increased. Therefore, diminished contract management capacity, combined with an increasing role for Schedule C and non-career SES in middle management roles, allowed for the possibility of presidential control over the letting of contracts, while simultaneously diminishing “the control that presidents and their appointees have over the ends, means, and outcomes of the policies they wish to pursue” (Durant & Warber, 2001, p. 226). This, in turn, brings appointees who increasingly appreciate the realpolitik of federal procurement and who are increasingly situated in one of two poles of networks in a given policy domain. This dynamic is especially important if the intent of an administration is to aggressively wield administrative power toward particularistic ends.

### **George W. Bush’s Orthodox Innovation through “Big Government Conservatism”**

President George W. Bush began his transition into the White House by “quietly building the most conservative administration in modern times, surpassing even Ronald Reagan in the ideological commitment of his appointments” (Milbank & Nakashima, 2001). Inheriting eight years of Clinton’s administrative mark compelled the Bush administration, like Reagan and Clinton before him, to target strategically those agencies and programs that were presumably opposed to its goals (Lewis, 2008, p. 113). The Bush administration pursued a coordinated personnel selection process that eclipsed even the Reagan administration’s in its zeal for comprehensive loyalty to the president (Moynihan & Roberts, 2010).

The Bush transition team assembled, perhaps, the most sophisticated and comprehensive database of appointee applicants that had ever been created by an incoming administration. Effectiveness was measured by the degree to which the preferences and identity of candidates for appointment were aligned with the administration’s (Warshaw, 2006). Yet, Bush was faced with considerable pressures to appoint campaign workers and members of supportive coalition constituencies to Schedule C appointments. While the definition of loyalty can be ambiguous, the Bush administration, like Reagan’s, saw it as a primary criterion for appointment (Moynihan & Roberts, 2010). To balance the focus on loyalty with these demands, incoming Cabinet secretaries were given their choice of three candidates to subcabinet-level appointments that were



preselected by the Office of Presidential Personnel (OPP) and the White House's political affairs office (Warshaw, 2006).

Defining the situation as one requiring Skowronek's "politics of articulation," Bush as orthodox innovator faced different demands from a broader swath of conservative constituencies than his most immediate partisan predecessors. Bush "entered the presidency in the late stages of a still-dominant and resilient regime reconstructed initially by Ronald Reagan in the 1980s," but felt that he had to adapt that majority's focus to changed circumstances (institutional, demographic, cultural, and philosophical) (Durant, Stazyk & Resh, 2010, p. 387).

The orthodoxy of the Reagan regime, while resilient, was less than coherent. To win election, Bush attempted to reconstitute the conservative electoral coalition, one that simultaneously absorbed the principles of social and economic conservatism, while promoting government activism to reach those objectives. This attempt to "complete a long-pending political agenda without sparking sectarian dissent from those committed to the prior consensus" was the same quandary faced by the "orthodox innovators" who preceded him in presidential history (Skowronek, 1993, p. 88). Bush's effort to build a permanent conservative electoral coalition was labeled by both supporters and opponents as "big government conservatism."

Although difficult to define precisely, Bush's big-government conservatism translated to an executive management approach emphasizing the institution of market mechanisms in the public sector through the increased use of outsourcing and "smart regulation," while relying on a decidedly hierarchical, top-down management approach within the confines of executive agencies to implement an activist agenda that expanded the scope of the federal government in several areas that pleased his diverse electoral base.

Substantiating the lack of difference between the Clinton's and Reagan's executive orders regarding centralized regulatory review was the apparent wholesale acceptance of EO 12866 as the guiding instrument of the George W. Bush administration. Several technical and procedural changes were circulated to agencies at the behest of Bush's OIRA Administrator, John Graham, including requirements for agencies to identify "market failures" as justification for regulation, stressing the monetization of benefits, discounting the value of future lives saved by regulatory impacts, and peer reviews of analysis (Katzen, 2009). Graham also instituted the practice of "prompt letters" that were used by OIRA to advise agencies to prioritize and take specific regulatory actions through the suggestion of OIRA's own unsolicited analysis. While these changes were accompanied by ostensible efforts toward increased transparency of the Office (e.g., public internet access to OIRA documents and data), the changes were widely condemned as a general politicization of regulatory review as a Republican majority in Congress "sat by" (Katzen, 2009). There was every indication that OIRA oversight was coordinated with appointees who were deferential to OIRA opinions.

By 2007, Bush amended EO 12866 with EO 13422 that required each agency to name one appointee as the "regulatory officer" to vet all regulations proposed by their respective agencies (Katzen, 2009). This action infuriated many public interest and environmental groups, and helped justify the politicization characterization. Bush's EO 13422 was promptly dropped by the incoming Obama administration, and it was probably issued so late in the Bush administration with recognition that a Democrat-controlled Congress would not stand by for long.

Indicative of the resiliency of the Reagan regime was the lack of change brought about in the process of regulatory oversight. As alluded to above, the institutionalization of centralized regulatory oversight has been accompanied by the institutionalization of CBA as the analytical framework of this function. Indeed, Obama's regulatory czar, Cass Sunstein, entered office as a spirited defender of CBA as a pragmatic instrument that reduces the tendency of agencies to poorly prioritize regulations, use "excessively costly" alternative analytical tools, and neglect "the unfortunate side effects of regulation" (2002, p. 6).

The Bush administration increased the pressure to outsource the implementation of federal services through contracting (Cooper, 2011), increasing substantially the Clintonian trend of increasing the number of contract-generated jobs. Light (2008) documents an increase of 2,466,000 contract jobs from 2002—2006, relative to a mere 54,000 job increase in the civil service and a 20,000 job decrease in military personnel (p. 197). Preceding this growth in the contract state, “there was an additional decline of 22 percent [of the federal contract management workforce] from 1991 to 2001” (Cooper, 2011, p. 9). Over time, scandals arose focused on the increasing use of “pinstripe patronage” schemes—such as no-bid contracts to corporate sponsors of the Bush campaign (Tolchin & Tolchin, 2010); exploitation of small-business contracting set-asides (Resh & Marvel, 2012); revolving door practices established between contractors and political appointees (Thompson, 2009); and the growth of inherently governmental responsibilities carried out by private contractors (Durant, Girth, & Johnston, 2010).

### **Obama and Trump under a Dying, but Still Resilient, Regime**

Broadly speaking, to what extent have politicization, centralization, and privatization in the US administrative state influenced the quality of policy outputs and governance? Over the last four decades, the use of contractors in the federal government has grown exponentially with only a recent and futile attempt by the Obama administration at leveling (Light, 2018). As scholars studying government contracting have noted, however, there is a diminishing level of contract management capacity across government (Resh & Marvel, 2012). With this, the administrative presidency has brought an overt focus on loyalty as a primary criterion for leadership positions through short-term presidential appointments, which has brought about a lack of attention to long-term human capital planning. This, in turn, leads to a lack of functional expertise and competence, increasing dangers of collusion due to recruitment incentives from the private sector, lack of budgeting for contract management, and simply a shortage in the number of professionals needed to capably run the many functions of the federal government.

By some estimates, there are currently three contracted employees to any given federal employee in the United States. As well, the ratio of contracts to contract managers within the US government can be up to as many as 5,000 contracts per contract manager in a given agency (Resh & Marvel, 2012). Strategic human capital management has been on the GAO “High Risk List” for almost two decades. Critical skills gaps contributed to 16 other high-risk areas in its latest report, including acquisitions and contract management.

Presidents (and their appointed proxies) are in some way expected to provide a representative role for their constituents. Administrative agencies are not electorally representative. Therefore, a common (if implied) normative assumption is that bureaucratic “agents” should be directly responsive to elected officials’ prerogatives in order to ensure democratic sovereignty. In a liberal democratic system, it is the individual member’s incentive to ensure that the outcomes of collectively derived laws are reflective of the needs and wants of their particular constituents if they desire reelection or advancement within the political power structure. Yet, centered within this power structure is the US federal civil service.

As their responsibilities have been outsourced significantly over the last several decades, as their policymaking functions have been further centralized, and as their leadership ranks have been politicized, a true correction to the path the Reagan administration introduced failed to occur and fell far short of what some argue is critical to maintaining professional integrity and democratic effectiveness in the US civil service system (Michaels, 2017). Many “inherently governmental functions” have been handed over to those who are simply contracted by government—functions such as

the making of law binding on citizens, authoritative adjudication of disputes, control over elections for government office, the unconsented taking of private property, the exercise of coercive force over others, and the denial of private rights on behalf of the state.

*(Moe & Gilmour, 1995, p. 140)*

When these “steering” functions are put in the hands of opportunistic private entities and short-term political operatives, several things are potentially lost: (1) institutional memory and expertise, (2) a sense of a general public purposiveness, and (3) meritocratic principles that prevent nepotism, cronyism, and patronage. Personnel reforms pushing toward “at-will” employment, either by proxy through contractors or explicitly in government employment at the state level has ushered in the possibility for a “neo-spoils” system to emerge—one that creates a mutually dependent system among legislators, executive appointees, and private contractors who are not held to the same levels of accountability as the career civil service. Consequently, the capacity of government to provide and deliver public services has diminished to the extent that—as Hacker and Pierson (2016) lament—the American public has “forgotten the universal benefits of a robust public infrastructure” (p. 24).

In this chapter, I suggest that the growth of the administrative presidency has simultaneously led to diminished capacity of the federal civil service in the realms of policymaking, long-term strategic management, and contract management. This accumulation has, in turn, created a dilemma that is central to questions of both democratic accountability and state legitimacy. Even in pure efficiency terms, the lack of capacity in the middle of this “delegation chain” of policymakers to implementers creates a complex shell game of “hidden costs,” such as the lack of transaction cost calculations. Costs for things such as training, facilities, and indirect charges are difficult to compare in the counterfactual of “in-house” delivery when such delivery is not considered as an alternative.

Appointees and contractors can become repeat players in their private and public sector roles through revolving door practices inherent to the entrenched dependencies between contracted firms and agencies. Contracting firms account for an unknown (but presumably large) proportion of federal lobbying and campaign contribution dollars. The reason we do not know how large the amount is? Legislation requiring transparency on contractor lobbying and contributions has been defeated, with no Executive Order in sight for such transparency in the Trump administration (and none promulgated in Obama’s). By some estimates, for instance, private prison companies raised over \$100 million for President Trump’s inauguration (Verkuil, 2017).

In political economy terms, my concern is centered on the concept of adverse selection. I worry that an overly cautious fear of bureaucratic moral hazard in the development of the “administrative presidency” has led us to ignore or possibly undermine the capacity of government to competently delegate to, or partner with, private sector actors. If (by extending the accountability chain through outsourcing, for instance) the electorate is unable to observe (1) the existence of a cost associated with implementation and (2) the ability of a contractor to manipulate contracts through electoral incentives to a given principal, then we inherently lose accountability through the selection of this agent. Of course, there will be abuses of power (i.e., agency loss) regardless of the agent. However, because autonomy is inherent to implementation and expertise is directly gained as a function of that autonomy (Gailmard & Patty, 2012), accountability is fortified by building capacity in contract management among those that carry an explicit oath to the US Constitution and carry broader comprehensive concerns than the narrow confines of a given contract.

Hence, I argue that the use of the administrative presidency in terms of centralization, privatization, and politicization has produced an existential threat to the integrity of a constitutionally consistent administrative state. Without appropriate capacities addressed within the career civil

service, the current state of administrative affairs is turning traditional accountability mechanisms of agency-contractor relations on its head. The average tenure of a Senate-confirmed presidential appointee is approximately two years (Dull & Roberts, 2009).

These short-term political appointees are often directly representative of the very industries that seek government contracts, and they are increasingly layered in executive and managerial ranks that can decide the very fate of contract outlays (Resh, 2015). If, as Jon Michaels (2017) contends, sovereign power is concentrated in the hands of presidentially appointed agency heads, sympathetic legislators, and mutually benefitting private actors, the result is “an unprecedentedly potent and potentially abusive State, led by a largely unfettered executive capable of wielding concentrated sovereign power in a hyperpartisan or crassly commercialized fashion” (p. 11). Moreover, if the presidency continues to aggregate powers with the growth of the administrative presidency (Resh, 2015), a capable executive must still rely on a competent corps of professionals who reject pure responsiveness to the president as their default in decision-making (Lewis, 2008, p. 62) and who do not share the parochial interests of legislators. Politicized agency leadership exacerbates the problems privatization presents to democratic accountability, regardless of the motives of a given president.

This is not to say that Obama or Trump were not successful in advancing their policy preferences administratively. There was agency exercised in both respective managerial presidencies that advanced the gradation of powers accumulating to the administrative presidency but diminished the necessary expertise and resilience of the US civil service generally. Whereas the relative success of their administrative presidencies may have been affected or thwarted as a function of this agency (future evaluations can make that assessment), the accumulation of powers to the administrative presidency through the gradation of privatization, politicization, and centralization may seem enabling to their successors. At the same time, the harm that these trends have caused to the integrity of the US civil service generally may be irreparable. Understanding how these long-term dynamics influence executive strategy illuminates the reader to the endogenous diminishment of administrative capacity in the United States’ federal government and, perhaps, the diminishment of its constitutional integrity.

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# 4

## THE IDEA OF ADMINISTRATIVE LAW AND THE EXPANSION OF THE ADMINISTRATIVE STATE

*Lorne Sossin*

### **Introduction<sup>1</sup>**

The expansion of administrative law has become a formative dynamic in public administration. At one time, the decisions of public servants were seen as subject primarily to political accountability. Today, these decisions are enmeshed in webs of legality, including statutes and regulations, civil liberties and human rights, constitutional norms and a range of policy and informal constraints. Courts have served as the catalyst for a rights-based framework which imposes both procedural and substantive constraints on public decision-makers.

The goal of this chapter is to set out the organizing principles of administrative law, how this shapes the administrative state and how these principles are evolving to meet new challenges. With this goal in mind, the chapter will be organized as follows:

- 1 Administrative Law and the Expansion of the Administrative State
- 2 The Emergence of Agencies, Boards and Commissions (the ABCs)
- 3 Rulemaking, Soft Law and Discretionary Decision-Making
- 4 Comparative Approaches
- 5 New Challenges (the digital state, etc.)

For public administration practitioners, scholars, policy-makers and observers, administrative law serves as an indispensable and invaluable point of departure for understanding the administrative state. Administrative law cannot tell a public servant what to decide or tell someone affected by state action whether that decision is right or wrong. Rather, administrative law provides a vocabulary and legal compass to guide public servants, those affected by their decisions and those reviewing those decisions for their legality.

I hope this chapter serves as a bridge between important communities of experience and expertise. Lawyers and legal theorists often are unable to satisfactorily explain the realities of today's complex administrative state because they lack an understanding of the institutional dynamics and complexities that shape state action. As David Rosenbloom noted in his contribution to the third edition of this text, "public-administration scholars and practitioners are apt to find conventional administrative law texts, articles, and treatises difficult to follow, as well as formalistic and alien to their concerns and experience" (Rosenbloom, 2006). Similarly, public administration practitioners and scholars tend to grapple with administrative law in superficial ways, and do not do justice to its formative role both in shaping and regulating administrative action. This chapter

addresses both concerns and provides an account of administrative law informed by institutional reality, and an account of administrative action informed by the constitutive roles played by legal structures and ideas.

### **Administrative Law and the Expansion of the Administrative State**

What is administrative law? It begins with an idea. The idea underlying administrative law is that all public authority must be exercised lawfully. This idea, in turn, gives rise to two imperatives: first, the principle that there is no absolute discretion or unlimited state power; and second, the principle that accountability requires some recourse (through the courts or otherwise), to hold executive decision-makers legally accountable for their decision-making.

All public authority – precisely because it is *public* authority – must have a source in law, and therefore be subject to the bounds of the rule of law. In other words, all public action has not only a legal origin, but also legal boundaries which define the ambit of legitimate authority from the zone of illegal, illegitimate or corrupt authority. In a democracy, this idea is knit together with the separation of powers and also leads to the necessity for a recourse for appeal or review to the courts if someone believes a decision that affected them was unlawful or invalid in light of the legal authority of the decision-maker.

The democratically legitimate law-making institution (whether Congress or Parliament) enacts laws, which then empower executive officials to exercise lawful authority, and an independent judiciary then ensures that the actions by executive officials conforms with their democratically legitimate authority.<sup>2</sup> From this relatively simple structure, an entire network of rules, accountability structures and relationships between political and legal institutions follow.

The rise of the administrative state closely tracked the rise of the market economy, and the failure of markets to address the impact of industrialization. In the 1880s and 1890s, for example, the political system became concerned with monopolization, particularly of the railroads. In some areas and towns, their rates were sensitive to competition, but elsewhere they were set at whatever level the traffic would bear, regardless of the actual cost of transporting goods. Competition in the public-utility field was also viewed as inadequate.

The creation of huge trusts was another development not satisfactorily controlled by competitive market forces. New laws dealing with public health, factory inspections, and pure food and drugs were enacted in response. Labor markets also failed to prevent practices that eventually were viewed as antisocial, such as child labor, long working hours and dangerous working conditions. These situations led to the establishment of the US's first administrative agencies and regulatory initiatives.

The rise of the state as an intermediary in the social and economic lives of broader swaths of the population also led to the significant expansion of public sector employment, and the need for a legal and constitutional structure within which the public servants could operate. One of the defining elements of bureaucracy is civil service employment: the selection and promotion of public officials based on merit and insulated from political influence through tenured employment. Public service safeguards were introduced over the course of the 19th century: beginning in the 1840s in France, 1870 in Britain, 1873 in Prussia, 1882 in Canada, 1887 in Japan and 1883 in the US (Bignami, 2012).

In addition to the professionalization of the public service and its reliance on merit and expertise, the need for greater state regulation also grew over this period. The scale and pace of industrialism created difficulties with “externalities,” as the impact created by markets but not controlled or coordinated by it became more apparent – such as environmental damage, labor protections and public health crises. During the 1880s through 1919, the regulation of such externalities frequently involved public health laws and inspections. For instance, although it had limited influence and



even less power, the Wisconsin State Board of Health, established in 1876, publicized such externalities as “discolored, odorous, and nauseous-flavored” water pollution (Friedman, 1973, 404).

The existing legal infrastructure of common law doctrines in property, contract and tort proved inadequate to respond to the challenges of industrialization. For example, the iconic 1905 U.S. Supreme Court judgment in *Lochner v. New York*<sup>3</sup> highlighted the problem. In that case, New York enacted a law prohibiting the employment of bakery workers for more than ten hours a day or sixty hours a week. The state considered the law to be a public health measure. *Lochner*, a Utica baker, was convicted and fined for allowing an employee to work for more than 60 hours a week. The Supreme Court held that the law unconstitutionally interfered with the employee’s liberty to contract out his or her labor. The majority held:

There is no reasonable ground for interfering with the liberty of person or the right of free contract, by determining the hours of labor, in the occupation of a baker. There is no contention that bakers as a class are not equal in intelligence and capacity to men in other trades or manual occupations, or that they are not able to assert their rights and care for themselves without the protecting arm of the State, interfering with their independence of judgment and of action. They are in no sense wards of the State.... Statutes of the nature of that under review, limiting the hours in which grown and intelligent men may labor to earn their living, are mere meddlesome interferences with the rights of the individual....

(198 US 45, 57–61 (1905))

Notwithstanding a spirited and influential dissent by Justice Oliver Wendell Holmes, *Lochner* became emblematic of the need for state intervention where the courts were unwilling to see existing legal doctrines evolve to meet changing societal needs.

Some notable judges did rise to this challenge. For example, in New York State Judge Benjamin Cardozo’s oft-cited decision in *MacPherson v. Buick Motor Co.*,<sup>4</sup> the limitation of privity in product-liability law was overcome. Prior to *MacPherson*, in such cases, a direct relationship had to exist between the plaintiff and the defendant, generally the buyer and seller. The source of produce defects, however, often turned out to be the manufacturer of a dangerous product, rather than only its retailer. The threat of such suits would create an incentive for the manufacturer, who produces the danger in the first place, to make its products safer, and the absence of such potential liability could and did have the opposite effect. It was precisely such reasoning that led Cardozo to alter the case law and allow *MacPherson* to sue the Buick Motor Company, which under the concept of privity would be the wrong defendant (the dealer who sold the car being the proper one). Eventually, other state courts followed Justice Cardozo’s lead.

This embrace of broader state intervention in the economy continued to create friction with property rights. Historically, the owners of economic enterprises might acquire and use their property more or less as they saw fit. The use of property for industrial production might have harmful effects on the workers and on the society, for example, through dangerous conditions or pollution. However, the basic presumption was that the government was restricted by the Constitution with regard to regulation of the use of economically productive property.<sup>5</sup>

The Fifth and Fourteenth Amendments of the U.S. Constitution allow the abridgment of liberty, property rights and even life itself with due process of law. Historically, due process has been conceptualized as having two components: (1) procedural due process and (2) substantive due process. Procedural due process guards against unfair governmental decision-making and is perhaps best exemplified by the full-fledged criminal trial. It includes the right to an impartial judge and jury, confrontation and cross-examination, the right to counsel and to present witnesses and so on. A reduced version might simply be the right to present one’s side of the story to a public official whose proposed action would harm one’s individual liberty or property interests.<sup>6</sup>

The extent of procedural due process afforded to an individual generally depends on the following three factors:

- 1 The nature of the private interest affected by governmental action
- 2 The risk that the governmental action will be erroneous and the expected value of more elaborate procedures that would reduce that risk
- 3 The government's interests, including financial and administrative burdens, that might be affected by additional procedures<sup>7</sup>

Substantive due process has been more controversial and less clear. It focuses primarily on the meaning of the word "liberty" in the Constitution's due-process clauses. "Liberty" can be defined to include the right to sell one's labor at whatever rate one wants, as well as several rights of greater contemporary interest, such as the freedom to die.<sup>8</sup>

Under the concept of substantive due process, it is possible to challenge a law that interferes with liberties that are not specifically enumerated or defined in the Constitution. The rights protected by substantive due process must be determined by judges in the context of deciding specific cases. Toward the close of the 19th century, substantive due process was defined primarily in terms of economic rights by judges committed to the common law and a free-market economy.

For the most part, however, it was clear that new social and economic challenges required a new kind of public authority (Ackerman, 1984). This new authority would be created to advance specific policy goals around the public good in ways courts could not, but would also be independent of direct political control and therefore distinct from government. This new kind of authority came in many forms, including agencies, boards, commissions and tribunals (or, "ABC"s, for ease of reference).

### **The Emergence of Agencies, Boards and Commissions (the ABCs)**

Just as legislation created new regulatory standards as a response to the rise and risks of the market economy, so new agencies followed to implement these regulatory schemes. These entities were established to implement regulatory standards, and do so based on specific statutory authority, expertise and clear policy goals. While they may have adjudicative functions, they are not courts and are not cloaked with judicial independence. While they may develop and implement policies and broadly speaking form part of the executive branch of government, they are not subject to direct political control or accountability. Because, in the words of former Canadian Supreme Court Chief Justice Beverley McLachlin, ABCs "may be seen as spanning the constitutional divide between the executive and judicial branches of government."<sup>9</sup>

ABCs first appeared in the context of transportation. In Great Britain, advisory powers concerning railroads were given to a newly established Board of Trade in 1840. In 1844, a commission was established to report to Parliament on applications for railroad charters. It was clear that competition was not effectively regulating traffic and rates. Yet another commission was established in 1846. In 1854, the British Parliament passed the *Railway and Canal Traffic Act* to protect local roads and through traffic, secure proper facilities, and prohibit discriminatory treatment of shippers.<sup>10</sup> But this proved inadequate. Parliament would respond again with the Act of 1873, which created the Railway and Canal Commission, by which the industry was regulated. In contrast, Belgium, Prussia, France, Austria, Italy, and Canada responded to these concerns simply by nationalizing their railroads.

In the US, the first major federal agency was the Interstate Commerce Commission, established in 1889 ("ICC") to regulate railways and other transportation networks<sup>11</sup> (Dempsey, 2012). As Dempsey argues, the ICC represented "the birth of economic regulation in the U.S." followed several years later by the Sherman *Antitrust Act*. Together, he argues, these two pieces of legislation

formed “the cornerstone of regulation in America,” and from those two acts of Congress came “a proliferation of government regulatory controls” (Dempsey, 1162).

In the early life of these agencies, the courts were used most often to constrain or roll back these delegated powers, often invoking administrative law rights such as due process. For example, in *Chicago, Milwaukee and St. Paul Railway Co. v. Minnesota*,<sup>12</sup> the Supreme Court declared unconstitutional a Minnesota statute creating a public commission to regulate railroad rates. In the process, the Court asserted that such rate regulation, if engaged in at all, ought to be subject to far-reaching judicial review.

In 1897, the U.S. Supreme Court held that the federal Interstate Commerce Commission (ICC) lacked the authority to establish railroad rates (*ICC v. Cincinnati, New Orleans and Texas Pacific Railroad Co.*)<sup>13</sup> At this time, the ICC also had to seek out court orders to enforce any of its rulings, which resulted in de novo hearings which reversed or modified many ICC decisions. Dissatisfaction with its regulatory effectiveness led to the *Hepburn Act, 1906*,<sup>14</sup> which made ICC decisions binding unless an aggrieved party challenged it, and could show it was unreasonable, and also gave the ICC for the first time the power to impose just and reasonable rates. This new framework shifted the analysis to the standard by which courts would review the determinations of the ABCs.

As in the case of *Lochner*, the courts generally, although not always, provided a recourse to property owners and companies to stop or roll back state initiatives to regulate economic and social relations more effectively. This was a losing battle. Not only did regulatory agencies proliferate, but eventually, the courts shifted their perspective as well, and developed doctrines of deference to demonstrate respect for the legislative intent in establishing ABCs, and their legitimate sphere of autonomy in areas of their jurisdiction and expertise. For example, in *Texas & Pacific Co. v. Abilene Cotton Oil Co.*,<sup>15</sup> the Supreme Court held that the ICC pre-empted common law actions as to whether rates were reasonable, as Congress had intended to give the question of reasonableness of rates to the ICC and not to the courts.

Beginning in the 1910s and continuing through the 1930s, administrative law tended to focus on the proper extent of judicial review of agency decisions, procedures and powers. In 1914, Roscoe Pound asserted that administrative adjudication was itself improper, calling it “executive justice” and consequently “one of those reversions to justice without law” (Pound, 1914, 18). From this perspective, the greater the ability of the courts to substitute their judgment for that of administrators, the better.

The *Administrative Procedure Act* (APA) of 1946<sup>16</sup> aimed to set the parameters of judicial review of federal administrative activity. For example, the act precludes judicial review of matters committed by law to agency discretion and sets evidentiary standards for judicial review of administrative rules. Soon after the APA’s enactment the judiciary’s impact on public administration grew well beyond its statutory framework, however, and the focus turned to fashioning constitutional constraints on administration. As Rosenbloom explained,

Beginning in the 1950s and continuing to the present, the Supreme Court has articulated many previously undeclared constitutional rights of individuals interacting with administrative agencies. Substantive rights and liberties under the First and Fourteenth Amendments, procedural and substantive due process, individual property rights, and equal protection are now much more extensive than they were when the APA was passed. Since the mid-1960s, a growing emphasis also has been placed on making public administration more open, more representative of the general public, and participatory.

(Rosenbloom, 2006)

In the US, deference to ABC’s is usually tied to *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*<sup>17</sup> Under the deferential framework outlined in *Chevron*, a court should first ask if

congressional intent is clear from the statute. Second, “if the statute is silent or ambiguous ... the question for the court is whether the agency's answer is based on a permissible construction.”<sup>18</sup> The power of *Chevron* deference, in theory at least, is that it calls on judges to affirm statutory interpretations against their own best judgment of how statutes should be understood. While it has been applied unevenly over the years, and once again appears to be unstable as a precedent, the underlying principle of judicial deference to the expertise of ABCs appears well-settled – and not just in the US, as similar doctrines can be found in Canada,<sup>19</sup> the UK,<sup>20</sup> Australia<sup>21</sup> and elsewhere.<sup>22</sup>

Today, many jurisdictions have hundreds of agencies, boards, commissions and tribunals both regulating aspects of economic and social life as well as adjudicating diverse disputes with government, public entities and sometimes private entities too. Ontario, Canada, for example, has over 500 provincial ABCs,<sup>23</sup> which while not quite covering A–Z, includes a gamut of regulatory and adjudicative organizations from the Accessibility Standards Advisory Council to the Workplace Safety and Insurance Board (Ontario). Many of these agencies promulgate their own policies and enforce their own procedural rules and substantive policies. The process of developing and applying these rules and policies has become a significant pre-occupation of administrative law, and of judicial oversight.

By the 1970s, in the light of the growth of ABCs, Richard B. Stewart began referring to what he characterized as “the reformation of American administrative law.” The underlying premise of the traditional model was its conception of “the agency as a mere transmission belt for implementing legislative directives in particular cases” (Stewart, 1975, 1675). In Stewart’s view, the transition belt was a misconception, because Congress broadly delegates its legislative authority to federal agencies: “[F]ederal legislation establishing agency charters has, over the past several decades, often been strikingly broad and nonspecific, and has accordingly generated the very conditions which the traditional model was designed to eliminate” (ibid., 1677). Stewart’s concern was rooted in the separation of powers, as major questions of social and economic policy were determined by officials in agencies who were not accountable to the electorate.

For these reasons, the focus of administrative law began to shift from the accountability of administrative or agency decision-makers for particular decisions to accountability over policy direction and rulemaking. It is to this key area of administrative law I now turn.

### **Rulemaking, Soft Law and Discretionary Decision-Making**

Agency focus shifted in the postwar era from individual adjudications to generalized rulemaking. The *Federal Trade Commission Act* (establishing the Federal Trade Commission (FTC)), for example, prohibited unfair methods of competition in commerce, but it was left to the FTC to determine how it would exercise its prosecutorial discretion under this authority. In developing and disseminating policy with respect to this discretion, the FTC provided advance guidance to market participants on “safe harbour” practices that would keep them safe from running afoul of the statute.

This shift to generalized rulemaking occasioned a shift in administrative oversight to ensuring fair participation in the rulemaking process. Stewart noted that the federal courts became a venue for these new struggles over the breadth of delegation. He observed,

Faced with the seemingly intractable problem of agency discretion, courts have changed the focus of judicial review... so that its dominant purpose is no longer the prevention of unauthorized intrusions on private autonomy, but the assurance of fair representation for all affected interests in the exercise of the legislative power delegated to agencies.

*(Stewart, 1975, at 1712)*

This transition, however, strained judicial expertise. While distinctions between law and fact were straightforward to apply to reviewing individual enforcement decisions of agencies, they were not easily applied to the adoption of policy choices at the heart of rulemaking. As Jerry Mashaw explained, to understand the judiciary's response, one needs to remember another aspect of separation of powers in the American legal culture, which is the ideal that Congress legislates, while agencies merely implement. The reality is, however, that broad delegations of authority, like those contained in the 1960s and 1970s health and safety statutes, required agency legislation (Mashaw, 2017, 279).

This reality led to doctrinal developments creating stronger presumptions in favor of judicial review of agency actions and facilitating the ability of individuals and groups to gain legal standing to obtain such a review. While this representational model led to significant costs in terms of time and caseloads and a palpable imbalance in favor of organized, entrenched interests, it set American administrative law on a broader path to address the realities of agency power.

The focus of this public law regulations has been the rulemaking process adopted by agencies and supervised by courts. Public participation requires some official method for the agency to communicate to the public (Cognlianese, 1997). Generally, agencies produce an official gazette, or periodical for publishing all rulemaking notices, such as the Federal Register. Once a rule is final: the language of the rule itself (not the supporting analysis or data) is codified in the official body of regulations, such as the Code of Federal Regulations (CFR)).

In essence, the accountability of the rulemaking system assumes that the public actually does take note of all of the notices in the Federal Register, which can run over a hundred pages per day. In practice, many industry or public advocacy lobbyists and lawyers monitor the Federal Register Table of Contents every day by email on behalf of their constituents or clients.

Public comments are the heart of the public's ability to participate in the rulemaking process. The agency rulemaking is usually required to consider and publish a written response to all comments. Although high-profile rulemakings may include public hearings, most rulemakings are simply noticed in the Federal Register with a call for written comments by a set deadline.

Holding agencies accountable for objective, fact-based rulemaking requires maintaining a formal record of the facts and analysis behind the rule. Agencies must assemble and make public a rulemaking record that includes all information considered as part of the rulemaking process. In the US, interested parties can sue to have a judge review the rulemaking process once the rule is finalized. Interested parties frequently sue the rulemaking agency, asking the court to order the agency to reconsider. For example, environmental groups may sue, claiming that the rule is too lax on industry; or industry groups may sue, claiming that the rule is too onerous.

Traditionally, courts have been reluctant to step into the shoes of the technical experts and reopen the decisions made in the agency's detailed analysis. However, courts do review whether a rulemaking meets the standards for the rulemaking process. The basis of this review by the courts may be limited to certain questions of fairness or the procedures that ensure that both sides of a dispute are treated equally before any decision-making occurs or that the decision is not unreasonable (under Canadian law) or *Wednesbury* unreasonableness (under UK law) and so forth.

Thus, it is not enough to simply claim that the rulemaking agency could have done a better job. Instead, under U.S. administrative law, to ask the court to order changes in a rule, a party must argue that the rule is arbitrary and capricious and/or unsupported by the record.

Most frequently, objectors will argue that, even if the judge is not an expert, the judge can tell that there is an obvious gap in the agency's data or analysis. A court may intervene if it finds that there is no reasonable way that the agency could have drafted the rule, given the evidence in the rulemaking record. A court may send a rule back to the agency for further analysis, generally leaving the agency to decide whether to change the rule to match the existing record or to amend

the record to show how they arrived at the original rule. If a court does remand a rule back to the agency, it almost always involves an additional notice and public comment period.

In part due to the rise of the ABCs, the process of rulemaking and the scope of agency authority became the dominant discourse in American administrative law. In other jurisdictions, where the focus has remained on the review of individual decisions or exercises of discretion, the relationship between the courts and agency policy-making is less straightforward.

In Canada, for example, the doctrine of Parliamentary sovereignty means that ABCs cannot usurp the role of the legislative branch by issuing its own binding laws or rules (unless exercising expressly delegated regulation-making authority under a statute), though agencies may develop guidelines as to how it will exercise its authority. As opposed to rulemaking, which deals with the process by which binding rules are developed, non-binding guidelines are a species of what is generally referred to as “soft law,” which may also come in the form of manuals, circulars, bulletins and other policy instruments.

Consider the case of *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*,<sup>24</sup> which challenged the seizure of gay and lesbian pornography under the definition of “obscenity” under the federal *Customs Act*.<sup>25</sup> It became clear that the material was being seized based on an incorrect interpretation of the prevailing law of obscenity contained within the guideline used by customs officials. The Canadian Supreme Court considered whether policy guidelines of this kind could be subject to constitutional scrutiny for compliance with the Canadian *Charter of Rights and Freedoms*, which contained both protections for freedom of expression and equality rights. Justice Ian Binnie, writing for the majority, concluded (at para, 82, 85).

However, I agree with the British Columbia Court of Appeal that the trial judge put too much weight on the Memorandum, which was nothing more than an internal administrative aid to Customs inspectors. It was not law. It could never have been relied upon by Customs in court to defend a challenged prohibition. The failure of Customs to keep the document updated is deplorable public administration, because use of the defective guide led to erroneous decisions that imposed an unnecessary administrative burden and cost on importers and Customs officers alike. Where an importer could not have afforded to carry the fight to the courts a defective Memorandum D9-1-1 may have directly contributed to a denial of constitutional rights. It is the statutory decision, however, not the manual, that constituted the denial. It is simply not feasible for the courts to review for *Charter* compliance the vast array of manuals and guides prepared by the public service for the internal guidance of officials. The courts are concerned with the legality of the decisions, not the quality of the guidebooks, although of course the fate of the two are not unrelated.

Justice Binnie’s approach to this guideline reflected a broader and binary view to the distinction between law and policy which has become key to administrative law. Because laws are binding and policies are not, the latter cannot be subject to legal standards for their development or dissemination. Accountability over guidelines comes not at the stage of their development, but rather when a decision-maker relies on them for a legally binding decision (Sossin, 2002).

In describing the distinction between rulemaking and soft law, Jacob Gersen and Eric Posner described the scenario where agencies issue statements of “best practices,” which may induce voluntary compliance by regulated parties. Critics complain that administrative agencies produce too much policy through informal and non-binding guidance documents or policy statements in order to avoid costs associated with formal mechanisms like notice and comment rulemaking or formal adjudication. For example, they take the example of a statute requiring that wild animals be contained by fences that are “structurally sound.” An agency might use notice and comment



proceedings to issue a formal rule interpreting the phrase “structurally sound” to require a fence taller than eight feet. Alternatively, the agency might issue a guidance document stating that the agency understands the statute to so require, and pronouncing that the agency intends to enforce the statute only against owners with fences less than eight feet high. This statement has no formal legal force; the agency must still defend its interpretation of the statute in an enforcement proceeding or litigation. Nonetheless, as Posner and Gersen observe, many regulated parties will simply construct a fence to comply (Posner and Gersen, 2019).

While rulemaking and soft law are thus importantly distinct from one another, both play a key role in shaping the exercise of administrative decision-makers’ authority, particularly discretionary authority.

Through these institutional mechanisms, the ideas of administrative law continue to adapt. From the foundation of ensuring all public authority is rooted in legal sources, and subject to judicial oversight for staying within the bounds of those sources, administrative law has grown to encompass a range of procedural justice rights, and standards by which to assess the reasonableness and legality of the substance of administrative decision-making. The expansion of administrative law also has brought new principles, standards and oversight to the exercise of discretionary justice (Davis, 1969).

The importance of rulemaking and soft law are heightened given the lived experience of those subject to discretionary authority. In today’s “culture of justification,” (Dyzenhaus, 2014), people who are denied licenses, permits and benefits, or singled out for burdens, penalties or stigma, are not content simply to hear that a decision-maker had the right to make a decision; they want to know why the decision-maker thought it was the reasonable or right decision. What criteria guided that exercise of discretion, and who participated in the development of those criteria? Rules and guidelines, like the requirement of reasons and transparency, create new and expanding burdens on public decision-makers. What is less clear is whether this new form of legality in public administration enhanced public trust.

## **Comparative Approaches**

In order to understand the trendlines in administrative law, it is not only important to look at public administration longitudinally to see how it has evolved over time, but also laterally as to how it is similar or different across peer jurisdictions. Administrative law has elements which are jurisdiction-specific and broader questions about accountability of public authority that are near universal. For example, every legal system must confront the question of accountability for the exercise of collective or public authority. In this sense, every legal system includes a claim about its view of the ideas of administrative law.

Comparative approaches to administrative law engage not only different jurisdictions within states (whether municipalities, provincial or state governments, or Indigenous governments) but also various supra-state and multilateral bodies, whether through the European Union’s more than 40 regulatory bodies, or the UN and its many agencies, the IMF and World Bank, or trading bodies such as the WTO.

There are comparative insights which arise from an inquiry into how peer jurisdictions have diverged or converged around administrative principles. For example, why have Australian Courts embraced the doctrine of legitimate expectations while Canadian Courts have rejected it and instead focused on the interstices of reasonableness and the obligation to provide reasons? Why does rulemaking dominate the administrative law conversation in the US and Europe but not in Australia or Canada, where arguably constraints on executive discretion and standards of review have loomed larger? Such lateral insights shed light both on how legal systems are interconnected, and how each jurisdiction’s administrative state is distinct (Sossin, 2013).

In several cases, the jurisprudence of one country has relied on or engaged with the jurisprudence of another. For example, courts in Germany, South Africa and Israel have shared ideas about proportionality and balancing in public law that involve citing each other's decisions, speaking together at conferences, and building toward a global consensus on how rights ought to be protected in a constitutional democracy (Weinrib, 2009).

Daniel Halberstam has argued that the tensions in judicial oversight of regulatory and administrative agencies cannot be understood outside of a comparative perspective generally, and the reaction of the UK to specialized administrative justice in France and elsewhere in continental Europe (Halberstam, 2017). Based on his comparative analysis of the US, France and Germany, Halberstam concludes agencies need to be seen as a response to specific constitutional and political challenges. He writes,

The language of 'administrative law' can at times be deeply misleading. It may suggest a certain principal/agent model that does not match the institutional role of those agencies that have a good measure of autonomy vis-à-vis the regularly constituted branches of government. But it would be mistaken to view such agencies as mere appendages or servants of parliament, the executive, or the judiciary. Instead, we must recognize them for what they are: partially autonomous institutions of public governance demanding independent justification within the constitutional constellation of which they form a part.

*(Halberstam, 2017, 155)*

Administrative law, in other words, never emerges in the abstract. Rather, it forms within a constellation of legal, political and institutional dynamics unique to each jurisdiction. By the same token, however, each legal system's approach to administrative law also develops in concert and conversation with, or as a reaction to analogous or competing developments in other jurisdictions.

Just as new insights on administrative law can be gleaned through comparative analysis, it is also important to consider how administrative law within each jurisdiction also continues to evolve and adapt to new challenges. It is to this final section of the analysis that I now turn.

## **New Challenges**

While many challenges relating to the idea of administrative law loom on the horizon, I will focus on two of the most significant. First, the digital transformation and rise of artificial intelligence raises specific and important challenges for administrative law. Technological innovation may not always arise in a way which a single jurisdiction can regulate, and is often not susceptible to regulatory models developed for an analog world. Second, and relatedly, the boundaries of administrative law itself, tethered to a stable concept of public authority, is being disrupted by a continuing array of outsourced and/or privately contracted set of public services. I canvass both briefly below.

### ***The Disruptive Potential of Digital Transformation and Artificial Intelligence***

The digital transformation and rise of artificial intelligence have as much disruptive potential to shake up administrative agencies and decision-makers as they have other aspects of social and economic life. Below, I explore just some examples which scratch the surface of what is to come.

First, one area of exponential growth is digital platforms for administrative adjudication, which in some areas are replacing in person hearings altogether. These platforms not only facilitate virtual presence hearings, but also asynchronous dispute resolution through avatars, which takes place through parties sharing materials and submissions in a confidential digital "room" with a



third-party mediator or adjudicator intervening to bring the parties closer together or rule on matters if negotiation and mediation are ineffective.

Online dispute resolution was pioneered by private developers in e-commerce settings such as Ebay and Amazon. Modria, a company which designed such platforms, partnered with (The Hague Institute for Innovation of Law (HiiL)). An early example of this approach was the Dutch “Burenrechter” program for disputes between neighbors, which ran between 2012 and 2013, and “Rechtwijzer,” dealing with family disputes, which ran between 2015 and 2017. Each program allowed parties a digital pathway to resolve disputes with negotiation, mediation and arbitration stages.

These innovations set the stage of online statutory tribunals, such as British Columbia’s entirely digital Civil Resolution Tribunal, which opened its doors with small claims and strata property (condominium) disputes in 2016, followed by jurisdiction over small claims in 2017, and in April 2019, the CRT assumed jurisdiction over motor vehicle accident adjudication as well. Between 2016 and February 2019, the CRT had been used in just under 10,000 disputes, with approximately 1,500 resolved by a CRT adjudicator and the rest settled through negotiation or mediation, or withdrawn (CRT, 2019).

Second, relying on AI and automated decision-making in Canada’s immigration context, whereby an algorithm is used to sort through temporary resident visa applications both to triage on-line visa applications and process routine cases more efficiently, which may be based on assumptions and data which violates human rights standards, as detailed in a report, “The Bots at the Gate” by the University of Toronto’s Citizen Lab in September 2018 (Kenyon, 2018). The Report concludes that the Canadian government has already been experimenting with their adoption in the immigration context since at least 2014. The federal government has been developing a system of “predictive analytics” to automate certain activities currently conducted by immigration officials and to support the evaluation of some immigrant and visitor applications. According to the report,

The ramifications of using automated decision-making in the immigration and refugee space are far-reaching. Hundreds of thousands of people enter Canada every year through a variety of applications for temporary and permanent status. Many come from war-torn countries seeking protection from violence and persecution. The nuanced and complex nature of many refugee and immigration claims may be lost on these technologies, leading to serious breaches of internationally and domestically protected human rights, in the form of bias, discrimination, privacy breaches, due process and procedural fairness issues, among others. These systems will have life-and-death ramifications for ordinary people, many of whom are fleeing for their lives.

*(at p. 1)*

For the moment, there is no clear regulator of digital and AI initiatives in public or private spheres. A Report from an industry group, “AI Now Institute,” observed: “[public institutions] must be able to understand and explain how and why decisions are made, particularly when people’s access to healthcare, housing, welfare, and employment is on the line” (AI Now, 2018).

### ***The Shifting Boundary between Public and Private Action***

The second challenge in the shifting boundary between public and private action, is closely related to the first challenge, as many digital and AI related innovations blend private contractors with public decision-makers. As Rosenbloom concluded, judicial review of agency actions remains a powerful tool for the “constitutionalization” of public administration (Rosenbloom, 2006). In short, what were once revolutionary developments, such as the APA, FOIA, congressional standing-committee oversight of federal agencies, judicialization of federal administration, and

the strengthening of individuals' constitutional rights in the context of public administration, are now routine features of the way the federal government operates. The same cannot be said of the private contractors which have assumed a variety of contracted-out government functions.

Rosenbloom's anxiety around the legal accountability of private contractors remains a largely unresolved question for administrative law. The state-action doctrine is the major exception to private contractors' freedom from constitutional constraints. It would be better termed the governmental-action doctrine because it pertains to all levels of government in the US (Rosenbloom & Piotrowski, 2005).

How and when can constitutional and administrative-law constraints be outsourced along with government functions? Whereas governments at all levels in the US are regulated by the federal Constitution and constitutional law, only the Thirteenth Amendment's prohibition of slavery and involuntary servitude constrains purely private relationships. As Jud Mathews has written, through the development of the state action doctrine, the Supreme Court constructed a "cordon sanitaire" which kept constitutional and administrative law rights out of relationships governed by private law (Mathews, 2017, 664).

The state-action doctrine immunizes private contractual relations from constitutional scrutiny, except where a private entity's activities can be "fairly treated as that of the State [i.e., a US government] itself." *Brentwood Academy v. Tennessee Secondary School Athletic Ass'n*.<sup>26</sup> Application of the doctrine requires a balance that protects three major values: individual rights; the autonomy of the private sphere; and assurance that "the most solemn obligations imposed by the Constitution" on government are not circumvented through privatizing, outsourcing, corporatizing, or other means (Saidel-Goley and Singer, 2018).

While the evolution of the state-action doctrine means that some forms of outsourcing are subject to judicial oversight, most of these operations fall outside its ambit. As Kimberly Wehle emphasizes, there remains a disconnect between administrative law and outsourced government contracts as administrative law places no legal constraints on private contractors. The *Administrative Procedure Act* (APA) – the primary statutory source for public disclosure, public involvement in rulemaking, and judicial review of government decision-making – applies only to agencies, creating an impenetrable legal division between governmental and nongovernmental activity. Wehle highlights that as a consequence, the APA's Freedom of Information Act (FOIA) provisions do not require private contractors to make available to the public any records related to their work for the federal government. Thus, in the aftermath of the Space Shuttle Columbia's tragic disintegration over Texas in 2003, a contractor who was deeply involved in the program had no obligation to produce pertinent documents for investigation under the FOIA (Wehle, 2011).

Consequently, accountability under public law typically will flow from a private party being deemed or designated a state actor. In the US, this will occur where a contractor is: (1) engaged in a public function, such as incarceration, (2) actually controlled by the government; (3) a joint participant with or is otherwise entwined with government in an endeavor or (4) it is empowered by government. Assessing precisely when state-action doctrine applies is "a matter of normative judgment" and "necessarily fact bound."<sup>27</sup> However, a private entity will not become a state actor simply because it is paid, subsidized, licensed, regulated, or chartered by government.

Thus far, it has been up to the judiciary to determine when an entity is a state actor. In *Lebron v. National Railroad Passenger Corp.*,<sup>28</sup> the Supreme Court admonished that it is not for Congress to make the final determination of Amtrak's status as a government entity for purposes of determining the constitutional rights of citizens affected by its actions:

If Amtrak is, by its very nature, what the Constitution regards as the Government, congressional pronouncement that it is not such can no more relieve it of its First Amendment restrictions than a similar pronouncement could exempt the Federal Bureau of Investigation from the Fourth Amendment.<sup>29</sup>

The extant case law establishes some parameters. Public functions include incarceration, providing medical care in public or private prisons, administering elections, managing a privately owned town (though not a homeowner association).<sup>30</sup> However, it is also evident that "...cases deciding when private action might be deemed that of the state have not been a model of consistency."<sup>31</sup>

The track record of judicial imposition of administrative law accountability mechanisms on contractors has been uneven. Overall, the courts are inclined to look at: (1) the nature of the function and records involved (2) the extent of government funding, regulation, or involvement and (3) whether the private entity was created by government or is explicitly under freedom of information or related legal requirements (Feiser, 2000). In Canada, as well, the Supreme Court has limited the reach of administrative law to settings where there is an exercise of state authority of a sufficiently "public" character.<sup>32</sup>

Demarcating the boundaries of administrative law in the face of new and growing examples of public-private partnerships and the blurring boundary between public and private action is both a new challenge, and an existential one for administrative law. As discussed at the outset of this chapter, the rise of the administrative state and of ABCs reflected a public response to the harmful consequences of market forces and the need to regulate contractual and property rights. Today, a binary approach to "state action" and "public character" may need to be revisited.

In 21st-century societies, regulatory action is no longer the preserve of state and public actors. NGOs, social enterprise organizations, and distributed networks may all play important roles in holding both public and private bodies accountable, and to standards of fairness. Innovations in accountability in the private sector (through board governance, for example) provide important new insights about the ideas of administrative law (Anand and Sossin, 2018). While the ideas of administrative law remain as relevant as ever, the institutional forms and legal/constitutional relationships to which those ideas give rise continue to evolve.

## **Conclusion**

The ideas of administrative law provide vital scaffolding for the structure of public administration. The requirement, for example, that all public action and decision-making must flow from a legal source (statutory authority, regulatory power, delegated discretion, etc.) ensures that no individual or office is above the law. Further, this idea makes both possible and necessary recourse to independent courts to enforce the requirement of a legal source for all public authority.

As I have canvassed in this chapter, these formative ideas spawned more pervasive and complex forms of accountability with the rise of the administrative state, from the development of ABCs to new expressions of public authority through rulemaking and soft law, to the refinement of standards of deference and judicial review. Administrative law relies on ideas of accountability for the exercise of public authority, rather than particular institutional forms or characteristics, as demonstrated by the various responses of peer jurisdictions to questions of accountability in public decision-making. For the same reason, administrative law is well positioned to address the disruptive potential of digital contexts for public authority, and the blurring of the boundary between public and private entities responsible for exercising public authority.

The enduring relevance of administrative law flows from its adaptability, dynamism and regenerative forms. While public institutions may be in flux, the idea that public authority must be paired with public accountability continues to underlie the very premise of constitutional democracies under the rule of law.

## Notes

- 1 This chapter builds on the excellent analysis provided by David Rosenbloom “Administrative law & regulation” in W. Bartley Hildreth, Gerald J. Miller, Jack Rabin, W. Bartley Hildreth, Gerald J. Miller (eds.), *Handbook on Public Administration*, 3rd edition (Taylor & Francis, 2006) pp. 635–696.
- 2 Executive decision-makers may also derive authority from inherent powers afforded this branch of government by a country’s constitution, such as the Crown prerogative in countries such as the United Kingdom, Canada, Australia and New Zealand, or presidential authority in the United States.
- 3 198 US 45 (1905).
- 4 217 NY 382 (1916).
- 5 For example, through the Fifth Amendment’s “takings clause,” as discussed in *Murr v. Wisconsin*, 137 S.Ct.1933 (2017).
- 6 See *Goss v. Lopez*, 419 US 565 [1975]; *Cleveland Board of Education v. Loudermill*, 470 US 532 [1985]; *Harndi v. Rumsfeld*, 542 US 507 [2005].
- 7 *Mathews v. Eldridge*, 424 US 319 [1976].
- 8 *Washington v. Glucksberg*, 521 US 702 [1997].
- 9 *Ocean Port Hotel Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, [2001] 2 S.C.R. 781, 2001 SCC 52.
- 10 *Railway and Canal Traffic Act*, 1845, 17 & 18 Vict. C. 31 (Eng.).
- 11 *Interstate Commerce Act*, ch. 104, 24 Stat. 379 (1887).
- 12 134 US 418 (1890).
- 13 167 US 479 [1897]
- 14 Pub.L. 59–337.
- 15 204 U.S. 426 (1907). See also *Illinois Central R.R. Co. v. ICC*, 206 U.S. 441 (1907).
- 16 Pub.L. 79–404.
- 17 467 U.S. 837, 842 (1984).
- 18 *Chevron*, at 843.
- 19 *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190, 2008 SCC 9.
- 20 (*Mahmood*) v *Secretary of State for the Home Department* [2001] 1 WLR 840 at [18].
- 21 *Corporation of the City of Enfield v Development Assessment Commission* (2000) 199 CLR 135.
- 22 See generally, Paul Daly, *A Theory of Deference in Administrative Law: Foundations, Application and Scope* (Cambridge University Press, Cambridge, 2012).
- 23 See <https://www.ombudsman.on.ca/have-a-complaint/administrative-tribunals>.
- 24 [2000] 2 S.C.R. 1120.
- 25 *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.).
- 26 531 US 288, 295 [2001].
- 27 *Brentwood*, at 295, 298.
- 28 513 US 374, 397 [1995].
- 29 *Lebron*, at 392.
- 30 See *Malesko*; *West v. Atkins*, 487 US 42 [1988]; *Terry v. Adams*, 345 US 461 [1953]; and *Marsh v. Alabama*, 326 US 501 [1946].
- 31 *Lebron*, at 378.
- 32 *Highwood Congregation of Jehovah’s Witnesses (Judicial Committee) v. Wall*, 2018 SCC 26, [2018] 1 S.C.R. 750.

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## 5

# THE CHALLENGES OF DISCRETION, COLLABORATION, AND AMBIGUITY FOR ADMINISTRATIVE LAW

## Researchable Themes and Issues

*Christine Ledvinka Rush*

### **Introduction**

Three main themes drive much of the contemporary research in administrative law: the role of law as the foundation of public administration; discretionary decision-making and the reevaluation of the deference standard in judicial oversight and the relevance of law in the modern, collaborative form of governance. Scholars have long emphasized the need to study the influence of law on public administration, and the fundamental role of public law in support of administrative legitimacy and accountability continues to be prominent in our scholarship (Rosenbloom 1983, Moe and Gilmour 1995, Lynn 2009, Wright 2011, Newbold and Rosenbloom 2016).

Recent public administration and legal research also highlights questions raised when agency decision-makers exercise discretion to resolve statutory ambiguity. This work reviews the current state of administrative law, with the objectives of revealing common themes and charting a course for further examination. The result is a focus on three main themes that guide much of the contemporary research in administrative law: public law as the foundation of public administration, deference to public administrators' discretion and the role of administrative law in collaborative governance. While each of these themes carves out a distinct position in current scholarship, the three themes are all notable for applying a modern lens to topics of historic relevance. The resulting scholarship positions a future course for administrative law that firmly balances progress with the traditional concerns that continue to inform our understanding of law and democracy.

The traditional considerations of accountability, legitimacy and democracy provide the structure for the research that continues the discourse on public law as both a foundation of and constraint on public administration. This line of scholarship reinvigorates the historic debate over public administration's reliance on management over law (Rosenbloom and Naff 2010) and adds an examination of the frequency of citations between the fields of public administration, law, management, and political science (Wright 2011) as well as theory building (Feldman 2015).

Research into the connected concepts of public administrative discretion and deference for public administrators' expertise features empirical studies as well as analyses of judicial opinions. Relevant public administration research considers the efforts of administrative law judges as well as immigration judges, and the resulting projects highlight administrative law practice and reveal the expectations and constraints inherent in this work of these often-overlooked public

administrators (Portillo 2017, Chand and Schreckhise 2018). Concurrent law review scholarship tracks the evolution of judicial interpretation of the standard of extending deference to public administrators' decisions (Maezell 2011, Walker 2016).

The scholarship on the final, contemporaneous theme considers the opportunities for public law to support the rapidly expanding practice of collaborative governance and public service provision. Scholars emphasize the potential for an emphasis on the law to improve both the theory and the practice of collaborative governance (Bryson, Crosby and Bloomberg 2014, Rush and Zingale 2015, Amsler 2016). They also offer law as a mechanism to connect collaborative practices with traditional public administrative values.

The results of this analysis suggest an opening for public administration scholars to contribute to the development of administrative law literature with a willingness both to incorporate and to extend legal research. Such an expansion would require public administrators to suspend judgment of the less empirical techniques often seen in legal research in order to find innovative methods to incorporate legal findings into the more scientifically oriented research into public administration. The impact has the potential to expand our understanding of both administrative law and the practice of applying the law.

Over the past 35 years, judicial oversight of these discretionary actions has applied a principle of deference to agency expertise, but that standard may be narrowing (Walker 2016). Finally, the ongoing focus on greater public sector efficiency has led to efforts to run government "like a business" and resulted in collaborations between public, private and nonprofit organizations (Kettl 2002, Battaglio and Ledvinka 2009, Amsler 2016). These shifts in service provision place greater pressure on our public managers, and the changes create new challenges and opportunities to incorporate legal values (Rush and Zingale, 2015). But these themes – the role of law in the foundation, discretion and collaboration of public administration – still unite the research and form the basis of much of the scholarship on administrative law.

### **Law as Foundation and Constraint**

One of the enduring themes in administrative law scholarship has also been the subject of much of the recent research. The role of law as both foundation of and constraint on public administration is an ongoing, essential question in the scholarship on administrative law (Moe and Gilmour 1995, Bertelli 2005, Rosenbloom 2007, Lee and Rosenbloom 2015). These competing roles, foundation and constraint, tap into the central concerns of public administrators' accountability, public administration legitimacy and democratic governance. Scholars have long analyzed the role of law as the foundation of public administration theory and legitimacy, and this trend continues with several prominent projects.

Shortly after the publication of the *Handbook of Public Administration*, 3rd edition, Lynn advocated a return to the rule of law as the legitimate foundation of public administration (2009). His argument that public law, and not management, should guide the field stands in sharp contrast to the decades-long effort of applying generic management techniques to public work (Rhodes 1996, Kelman 2002, Lynn 2009).

Contemporaneous criticism of Lynn's focus on law as the foundation for public administration instead defined administrative law as "...creating the legal zone of discretion that administrators work within" (Moynihan 2009, 817). Moynihan advocated for law's rightful place among other essential public values that constrain administrators' discretionary decision-making (2009). However, this view of law as predominantly a boundary for administrative action fails to appreciate the dual roles law plays as both the foundation of and a constraint on public administrators' behavior. Cooper adamantly argues for this dual vision of law, both a support and a limit on administrative discretion, describing legislation as, "critical sources of administrative authority and discretion" (2017, 637). His view of public law as the "Sine Qua Non" (without which nothing) of public



administration offers an expansive advocacy of the fundamental role of law in public administration theory and practice (Cooper 2017, 634). Cooper strongly supports the view of law as foundation for public administration and moves forward to advocate for law as the mechanism to ensure public sector organizational innovation as well (2017). Weaving together historic public administration scholarship, statutes, agency regulations and case law, Cooper developed a complete representation of the place of law in public administration practice.

The scholarship on administrative law moved beyond the normative argument regarding law's appropriate role in public administration theory and practice in research by Rosenbloom and Naff (2010) as well as by Wright (2011). The first of these studies examined the place of law not only in public administration literature, but also its education and practice (Rosenbloom and Naff 2010). Rosenbloom and Naff noted the field's historical trend of positioning law as inferior to management. They advocated that legal scholarship was not absent, but rather, specialized within the public administration literature (2010).

Wright presented a quantitative examination of the frequency with which public administration research links other fields (Wright 2011). By examining citations to and citations by research in the fields of public administration, law, management and political science, Wright offered an objective measure of the role that each discipline plays in the development of public administration (2011). Finding that public administration is singular in its isolation from and by the three other fields, Wright posited that public administration could enhance public administration theory, practice and recognition if scholars would consider the inclusion of research in the fields of law, management and political science (2011).

Feldman proposed linking the constitutional focus of John Rohr with Lon Fuller's view of the need to balance constitutional and managerial goals (2015). Feldman's pairing offered a modern exploration of how to employ administrative law as the legitimizing force for administrative agencies (2015). Feldman illustrated his model with a series of examples of bureaucratic discretion in decision-making (2015). There he described both courageous decisions by federal bureaucrats to enforce constitutional values and decisions where discretion enabled them to prioritize entrepreneurial values to the detriment of citizens' constitutionally established rights (Feldman 2015). Feldman's theory development and application through practical examples offered a clear argument for the capacity of public law values, and his work links the literature on law as a foundation of public administration with that on discretion for bureaucratic decision-making.

## **Discretion and Deference in Administrative Law**

The concept of bureaucratic discretion is prominent in both the public administration scholarship and in the legal literature. Where the public administration research focuses on the relationship between discretion, bureaucratic legitimacy and accountability, the legal scholarship highlights the role of judicial oversight and deference to agency action. These related ideas, discretion and deference comprise the second central theme of research in administrative law.

Discretion is an essential element in our understanding of the administrative law process in part because the agency decision-making that lies at the heart of administrative law requires the almost constant exercise of discretion to fill in the gaps between statutory directives and execution. Whether agency staff are engaged in rulemaking or adjudication, their work is defined by the need to translate legislative intent to wide-ranging possible situations or to individual cases.

### ***The Impact of Administrative Discretion***

Two recent pieces highlight the practical impact of administrators' use of their discretion. Portillo's examination of Administrative Law Judges' (ALJ) decision-making considers the role of



administrative discretion in our democratic system (2017). Chand and Schreckhise compare discretionary action by Social Security Administration (SSA) ALJs, who are relatively shielded from outside influence, and the more politicized Department of Justice (DOJ) immigration judges (IJ) (2018).

Portillo's 2017 analysis examined ALJs who presided over unemployment insurance hearings. She found that hearings differed systematically based on the ALJs' use of discretion (Portillo 2017). When counsel was present for either the employee claimant or the employer respondent, Portillo found that ALJs were less directly engaged in the hearing, instead acting as a "passive adjudicator" (2017, 264). Conversely, when no legal counsel was present, the ALJ assumed a much more active role and engaged in questions that lead the claimant through the process of presenting his or her case (Portillo 2017). Portillo recommends reform of the system to ensure legal counsel for all parties to an administrative hearing (2017). However, she also recognizes that the ALJ use of discretion often worked to the advantage of pro se claimants (2017). A change in the law to require counsel would limit the possible exercise of ALJ discretion, in effect creating a border or limit to administrators' action similar to that described by Moynihan (2009). Based on Portillo's (2017) findings, applying the law to require counsel could then narrow ALJ discretion and again shows how law serves as both a foundation of and constraint on administrative behavior.

In order to examine environmental influences on administrators' discretionary application of the law, Chand and Schreckhise used self-reported survey responses to compare ALJs and IJs nationwide (2018). Their study revealed that the IJs, who are not protected by the formal requirements of the Administrative Procedure Act (APA), exhibit higher concern with external political pressures (Chand and Schreckhise 2018). Describing the ALJs who engage in decision-making under the protection of the APA, they advance, "The law not only provides them with the moral authority to render decisions, in the case of administrative law judges, but it also shapes those decisions" (2018, 24). Their findings offer a new perspective on law and discretion and highlight the role of law to enable these actors to decide cases based on the professional expertise that is the mark of administrative discretion (2018).

Later, Chand reported on analyses linking ALJs' independent exercise of discretion with their perceptions of confidence in their decisions (2019). His conclusions highlight the bias that is possible when individual ALJs participate in both the prosecutorial and judicial function (Chand 2019). Chand's research makes an important contribution to our understanding of discretion by linking independent administrative discretion with the constitutional concepts of due process and separation of powers. His findings suggest an important avenue for further study with an emphasis on the relationship between discretion and the separation of powers.

### ***Research on the Role of Judicial Deference to Administrators***

The study of judicial deference to administrative decisions is an important link between the work of public administration and legal scholars who more often disseminate their work independently of one another (Rosenbloom and Naff 2010, Wright 2011). Research in the area of deference is prevalent in both of these fields, and there are significant distinctions between the approaches in the public administration and the legal inquiries.

In recent research, public administration scholars have examined deference to agency interpretation and expressed concern over the potential for courts to undermine agency decision-making and expertise (Osorio and O'Leary 2017, Roberts 2019). The contemporary legal scholarship highlights Supreme Court decisions that signal a possible change to the longstanding "Chevron" standard of judicial deference to agency decisions in the face of statutory ambiguity (Walker 2016).

Osorio and O'Leary returned to the 1993 findings of O'Leary and Straussman to evaluate how those initial ideas fared after 25 years (2017). The authors found a concerning lack of public

administration scholarship examining the impact of courts on public administration and, accordingly, focused their analysis on the legal scholarship (Osorio and O'Leary 2017). On the key issues related to judicial oversight and deference, Osorio and O'Leary cite more than a dozen law review articles that fairly consistently find that courts are extending deference to agency interpretation of law (2017). Although the generalizability of the law review findings is limited somewhat because most analyses concentrate on judicial oversight of one agency, the EPA, the near uniformity of their findings is striking (2017).

The arguments posed by Osorio and O'Leary are less compelling because of their somewhat dismissive approach to the law review scholarship. The authors offer grudging recognition that some legal scholars have moved to incorporate empirical data in their analysis, but later diminish the importance of these consistent law review findings that support the view that courts are most often deferential to agency interpretation of law (Osorio and O'Leary 2017, 662–663). While the legal scholars' primary focus on oversight of EPA actions certainly limits the reach of their findings, the research nonetheless offers substantial insights into the judicial deference for agency discretionary interpretations.

Roberts' 2019 work addresses the gap in public administration scholarship noted by Osorio and O'Leary. His project included an historical analysis of judicial oversight and the corresponding executive branch responses (Roberts 2019). He argued that the Supreme Court's ambivalence toward presidential overreach through the mechanism of administrative agencies' discretionary powers has prompted lower federal courts to reassert judicial dominance through more active management of agency operations (Roberts 2019). Roberts' concludes with serious concern that either the Supreme Court could limit lower courts oversight, thus allowing for the continued expansion of the administrative presidency, or that the Court could expand oversight and exert excess control over administrative decision-makers (2019). Either scenario poses serious uneasiness for the future of administrators' legitimate exercise of discretion.

Legal scholars take a different approach to the issues of judicial oversight and agency independence than their public administration colleagues. Rather than focusing on the use of discretion as many public administration scholars choose, relevant law review articles most often highlight deference to agency expertise and the standard of judicial review. The type of judicial deference to agency decision-making prominent in the law review scholarship is commonly referred to as Chevron deference in recognition of the United States Supreme Court's opinion in *Chevron U.S.A. v. Natural Resources Defense Council* (1984). There, the Supreme Court established the principle that generally requires deference to an agency's interpretation of an ambiguous statute that the agency administers when the agency's interpretation presents a "permissible" view of the statute (Chevron 1984).

In a different type of oversight that rejects deference to agency interpretation, Cole described the significant, recent increase in the application of the Congressional Review Act (CRA, 5 U.S.C. §§801–808, 2012). The CRA is used to overturn recently issued agency final rules (2018). This Act permits Congress to revoke certain agency rules but also includes a prohibition against the agency promulgating any further rule(s) that is "substantially the same" as the revoked rule. The CRA does not define "substantially the same," and there is concern that the provision could be used to invalidate all further rules on the topic (Cole 2018). Additionally, the statute includes language that has been interpreted to prohibit any judicial review of congressional decisions to limit future agency action under the CRA.

In the more than two decades since the enactment of the CRA, Congress has employed this tool 15 times, and 14 of these instances occurred during the first year of the Trump Administration (Cole 2018). Cole assessed the possible interpretations for "substantially the same," and he evaluated the application of the Chevron standard as a tool for courts to defer to agency interpretation. When Congress construes the "substantially the same" standard broadly in order to preclude

any further action on the part of the agency, Cole found the Chevron standard an inappropriate vehicle to evaluate deference to agency discretion (2018).

Cole's analysis took what may seem at first like an unlikely avenue for congressional overreach into an agency's rightful exercise of discretion and offered tangible examples of the type of administrative crisis that could very well arise (2018). Cole advocated against Chevron deference for agency interpretation of the "substantially the same" language in the CRA on the basis that agency decisions should only be entitled to deference when the agency in question administers the statute (2018). Instead, Cole would apply the Administrative Procedure Act's (APA, 5 U.S.C. §§551–559, 701–6, 1946) arbitrary and capricious standard to review the agency's interpretation regarding whether a new regulation was "substantially the same" as a prior rule invalidated under the CRA. The effect of using this APA standard of review would be to require Congress to clearly demonstrate reasoning for ignoring administrative expertise (Cole 2018).

Research by Maezell (2011) analyzed the example of serial litigation, where an agency and the reviewing court repeat the process of decision-making, judicial oversight, and remand. Maezell recognized that such repetition raised concerns of inefficiency and agency intransigence, but she urged readers to consider the possibility that this process is actually an intentional dialogue between an agency and a reviewing court (2011). In these cases, the dialogue that Maezell supports offers an opportunity for the court to motivate agency compliance with greater specificity and the promise of deference to an agency's preferred remedy (2011, 1779).

As a part of a recent symposium on the future of administrative law that appeared in the University of Missouri Law Review, Walker advised public administrators and lawyers alike to "pay more attention to the Chief Justice's dissent in *City of Arlington*, as it may well soon become the law of the land" (2016, 1096). The Chief Justice's dissent in the *City of Arlington* Case suggested that the standard of deference to agency interpretation of statutes should be contextual. Roberts' standard would make deference contingent upon whether congress has delegated authority to the agency to interpret in the specific context of the statute where the question of agency deference arises (Walker 2016).

The long-standing Chevron standard requires the court to consider two questions when an agency's statutory interpretation is challenged: (1) Has Congress clearly spoken on the issue and, if not, then (2) is the agency's interpretation permissible? (Chevron 1984). The new "context specific Chevron deference" would add a prior step, and require courts to first ask whether Congress intended the agency to have the authority to interpret the specific provision of the statute in question (Walker 2016).

Justice Scalia, writing for the majority in *City of Arlington*, explicitly rejected the dissent's narrowing of the Chevron standard and argued that such a change would result in an ad hoc application of the standard of deference to agency interpretations. Scalia predicted a disordered result of differing application of deference across the circuits (2013). Justice Scalia noted that by adding an extra component of judicial oversight into the agency's authority to interpret, "The excessive agency power that the dissent fears would be replaced by chaos" (*City of Arlington v. FCC*, 133 S.Ct. 1863, 1874, 2013).

In opposition to Walker's predicted narrowing of *Chevron*, Bednar and Hickman contended that the courts' reliance on the Chevron standard of deference is unlikely to wane because it is a necessity given the requirements of our contemporary administrative state (2017). They offer a normative argument against overturning Chevron and suggest that enabling expansive deference to agency interpretations is simply the trade-off required by Congress' substantial delegation of authority to agency decision-makers (Bednar and Hickman 2017).

Shortly after the 2017 publication of Bednar and Hickman's applied argument in favor of Chevron deference, Barnett and Walker presented the findings of their empirical examination of the use of the Chevron doctrine in federal circuit courts (2017). Barnett and Walker's 11-year

analysis of the federal circuit court decisions found both an overwhelming application of Chevron deference at the federal appellate level and a clear indication that agency interpretations prevail when circuit courts apply the Chevron standard (2017). This preference for agency interpretation at the circuit court level differed significantly from the recognition that agency discretionary decisions received at the Supreme Court. Most notably, the Supreme Court's application of Chevron deference was much less likely to result in a victory for the agency (Barnett and Walker 2017).

In light of the challenges of navigating deference to agency interpretation, Nielson's advocacy for a return to formal rulemaking offers an interesting alternative (2014). Formal rulemaking is rarely applied, but it requires agencies to engage in formal, court-like procedures in order to develop new regulations. Nielson suggested that formal rulemaking would clarify judicial oversight and deference as well as provide opportunities to increase legitimacy and moderate agency discretion (2014).

### **The Role of Law in Collaborative Governance**

Recent scholarship also integrates law with the increasing significance of collaboration across levels of government and across sectors. These efforts expand our understanding of both collaborative governance and, specifically, collaborative public service provision (Bryson, Crosby and Bloomberg 2014, Rush and Zingale 2015, Amsler 2016). This research expands the theory on collaboration to specifically include law and also proposes public law as the mechanism to ensure that due process and civil rights protections present in government service delivery remain intact when private and non-profit organizations provide public services.

Bryson, Crosby and Bloomberg describe the evolution of public administration from the traditional approach through New Public Management to an emerging view that encompasses the experience of collaborative governance (2014). The authors describe this emerging approach as jointly normative, descriptive and hopeful, and they highlight law as both a constraint on public managers' behavior and a source for public accountability (Bryson, Crosby and Bloomberg 2014, 448).

Bryson and colleagues directly incorporate law into their model of contemporary public administration, a design that reflects the focus on public value that is relevant in current collaborative public service provision (Bryson, Crosby and Bloomberg 2014). The authors include law as an essential element in both the role of the public manager and the approach to accountability in their "emerging approach to public administration" (Bryson, Crosby and Bloomberg 2014, 446). Their emerging approach model returns to the conception of law as a constraint on public administrators' behavior, but it also recognizes the fundamental consequence of law in modern approaches to governance (Bryson, Crosby and Bloomberg 2014). Bureaucratic discretion is constrained by the law and the law additionally holds public servants accountable to citizens (Bryson, Crosby and Bloomberg 2014, 446). Although collaborative efforts across public, private and nonprofit organizations have the potential to dilute public law protections for both citizens and employees, Bryson and colleagues depict law as an enduring force that will continue to shape public administrators' discretionary action (2014).

Where law is one of several important elements in the Bryson et al. (2014) emerging approach model, later work by Amsler (2016) places a clear focus on the role of administrative law in collaborative governance. Beginning with our constitutional foundation, Amsler notes that the separation of powers requires collaboration across the branches (2016). From those earliest beginnings, administrative law has grown as a support and a guide for collaborative governance. Current administrative law statutes both support and limit the cross-sector relationships inherent in collaborative service provision. Amsler submits, "Collaboration is both a process and an outcome, both a means and an end in itself. As an end, it is the public value that is reflected in the history and the language of administrative law (2016, 702)."

Amsler grounds her research into collaboration, joining management, politics and law and arguing that law is an essential, often omitted variable in the examination of collaboration in practice (2016). She employs Ostrom's institutional analysis and development (IAD) framework as a mechanism to integrate administrative law rules into an examination of collaborative governance (Amsler 2016). Applying the IAD approach, she assesses collaborative governance at the federal, state and local levels, at each point highlighting the role of rulemaking and rules (Amsler 2016). This work demonstrates the indispensable role that administrative law plays in both the theory and practice surrounding cross-sector collaboration.

Cooper described this current, collaborative state of public service noting, "...both the federal and state governments have become increasingly dependent on the local governments to do the actual work or to manage contracts with those nonprofit or for-profit agencies who do" (2017, 637). Considering the prevalence of collaborative service provision, another line of research has examined concerns over the potential loss of public law protections that may result from the transfer of public service provision to private and non-profit organizations. The Constitution clearly requires the state to protect individual constitutional rights, but this link becomes more tenuous without the direct involvement of government agencies as service providers (Battaglio and Ledvinka 2009, Rush and Zingale 2015).

Rush and Zingale explore this concern raised by collaboration as well as the opportunity for administrative law to serve as the vehicle to expand constitutional values to the private and nonprofit sectors (2015). The authors' proposed framework relates the choice of direct service provision or outsourcing with a focus on public value as well as public law value (Rush and Zingale 2015, 114). Their model works to balance concerns regarding outsourcing and public law, including worries over the loss of procedural safeguards, the lack of political accountability and expectations for performance measurement and compliance (Moe and Gilmour 1995, Rush and Zingale 2015, 107).

Collaboration with private and non-profit service providers frequently requires a formal agreement (such as a contract) to spell out the expectations between the parties. Indeed, the need for a greater facility in developing contracts and monitoring compliance is one of the public human resource challenges that have arisen with the growth of collaborative service delivery (Battaglio and Ledvinka 2009). Examining federal case law involving cross-sector collaboration suggests that the courts are more willing to require that private and non-profit organizations protect individual constitutional rights when the contract defining the collaborative relationship includes "purposeful, complex entwinement of politics" (Rush and Zingale 2015, 127). In the case of collaboration, this complex entwinement occurs when the service provider has regular, "intentional interactions" with the government agency during the term of the service delivery agreement (Rush and Zingale 2015, 125). An example of complex entwinement is a requirement that the private or non-profit service provider engage citizens and interest groups to ensure effective and responsive service delivery. Public managers who seek to ensure the protection of individual constitutional rights in collaborative arrangements must ensure that contract language requires the regular interactions needed to extend the constitutional relationship to these non-governmental providers (Rush and Zingale 2015). Rush and Zingale's support for outsourcing agreements that clearly provide for the retention of public law values (2015, 125-126) highlights the importance of using administrative law as a vehicle to support public values.

### **What Issues Need Resolution over the Next Ten Years?**

Work by Wright (2011) and by Rosenbloom and Naff (2010) suggests that our research into administrative law could benefit from a greater willingness to engage with the legal literature. However, Osorio and O'Leary exemplify a significant view in public administration scholarship

that finds little relevance in much of the legal scholarship because of “an adherence to doctrinal analysis” and general lack of empiricism (2017, 663). Whether or not one agrees with the general failings of the legal literature, the public administration literature is also open for criticism. For example, it would seem that the possible shifting of the Chevron would be of significant interest to public administration scholars, but these public administration scholars have made only limited contributions to the analysis (Feldman 2015).

The distinctions between the fields of public administration and law result in a more comprehensive look at discretion and deference, but these differences also leave gaps where research is difficult to compare across the fields. While legal scholars have become more likely to employ empirical analyses to assess the questions that cut across the scholarship in public administration and law, the majority of law review articles adopt a doctrinal analysis that some public administration research appears not to regard (Osorio and O’Leary 2017). As Wright noted in his “systematic assessment” of cross-collaboration between public administration, political science and law, the work of public administration scholars stands alone in both its lack of references to the legal research and to its exclusion from notice by the scholarship in these areas (2011, 96). The effect appears to be a constant repetition of failure to cite and failure to be cited by relevant administrative law scholars. Osorio and O’Leary clarify a prevailing opinion among public administration scholars when they note, “...the literature on courts and public management reflects disparate academic traditions that complicate any effort to neatly sum up the current state of research into this field of study” (2017, 673).

Shifting service provision with the complex entwinement of benefits gained by citizen engagement stands out as important guides for the next decade’s research in administrative law (Bryson, Crosby and Bloomberg 2014, Rush and Zingale 2015, Amsler 2016). The role of citizens in defining administrative law is an historic concept that has again moved to the forefront following advances in opportunities for individuals’ input. Public participation in the administrative process links the traditional value of participatory democracy to innovative technology that expands opportunities for public comment. In addition, the sustained movement to alternative service provision prompts research on the impact of this shift over time and offers an important source for furthering our understanding of the changing roles of administrative law and regulation.

Studies that unpack citizen engagement as one element of administrative legitimacy will help translate our scholarship from the goals of the Administrative Procedure Act of 1946 to modern, technological advances that empower direct public comment. On this theme, Newswander and colleagues renew the call for greater attention to self-governance and public engagement (2018). Further, recent work explores the opinions of the federal administrators who experience public engagement in the administrative process (Dudley, Webb Farley, and Gniady Banford, 2018). However, much remains to be examined in this expansive topic that links administrative law with the earliest scholarship on our democratic system of governance. Current research also sets a foundation to assess the organizational impacts of shifts toward more decentralized, market-based strategies (Rutherford and Rabovsky, 2018). Decentralization is a recurring theme in administrative law scholarship, but there remains a gap in the research into the impact of outsourcing on organizational performance over time.

### **What Kinds of Research Approaches Do These Issues Need?**

Furthering our knowledge of and capacity to affect administrative law and regulation will require novel approaches to both sources of data and unit of analysis. New sources for empirical analysis, such as detailed federal agency docket indices will support research into the democratic underpinnings of interest group influence in the federal regulatory process (Wagner, Barnes, and Peters 2011). Moreover, recent research promotes a multifaceted approach to the challenges of access to



administrative data: collaboration with elected officials, applying specialized legal knowledge and developing tailored arguments to use the law as an asset, rather than a barrier to access (Petrila 2018). Shifting the focus to the regulated entity offers yet another mechanism to expand our understanding of the impact of regulation. Amirkhanyan and coauthors considered the perspective of administrators in nursing homes, a highly regulated industry, to begin to tap into this arena (2017).

Research into administrative law and regulation is grounded in the themes of law as a foundation of public administration and the need to assess the impact of decentralization and deregulation. These pillars are essential components of needed analyses of citizen engagement in the administrative system as well as the influence of outsourcing on organizational performance. With new approaches to both data sources and units of analysis, future research will develop our understanding of this fundamental area of public administration that bridges the gap between public administrator and citizen.

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# The Evolving and Increasing Variety of Public Administration

# 6

## FEDERALISM AND MULTILEVEL GOVERNANCE

### Contexts for Public Administration

*Herman Bakvis*

#### **Introduction**

At first glance, federalism and public administration make for an uncomfortable pairing. Modern federalism, whose core ideas were first articulated in the 18th and 19th centuries, is in many ways at odds with present day conceptions of what constitutes good governance. This is particularly true of traditional federations such as Australia, Canada, Switzerland, and the U.S., all influenced by the U.S. constitution of 1789. These federations share certain key features: the allocation of political authority among two or more orders of government presiding over the same territory and population; the idea of distinct jurisdictional compartments; the lack of hierarchy between orders of government and the subsequent absence of a single unified authority coupled with the need for coordination between governments. These federations, spawned in an era of limited government and prior to significant industrialization, suggest that federalism as a governance model is ill-suited to the needs of effective policy-making and administration in the 21st century.

On the other hand, in the present era, some features seen as liabilities, such as the lack of hierarchy and the need for cooperation, can be seen as advantages. And to the extent there is competition or even conflict rather than cooperation, the result can be innovation that diffuses across governments. Furthermore, working effectively across boundaries domestically can help develop skill sets transferable to other arenas, such as transnational networks spanning not only different levels within federations but also regional and sub-regional units in other nations, as well as international organizations, phenomena often discussed under the rubric of multilevel governance.

#### **Origins**

In many ways, federalism and the idea of federation goes back to the time of Greek antiquity and the existence of various leagues of city states, such as the Achaean League, which were more than military alliances but at the same time preserved the autonomy of the individual units (Larsen, 1968; Beck and Funke, 2015). During the Middle Ages the Hanseatic League, created primarily by merchant guilds starting in the late 12th century seeking to protect trading routes and composed of cities, towns and regions in the Baltic region and beyond, came to be seen as a prototypical federation (Dollinger, 1970). Similarly, the Swiss Confederacy formed in 1291 and later the United Provinces of the Netherlands (1581) are frequently cited as early examples of federations. This period also spawned a number of thinkers such as Heinrich Bullinger and Johannes Althusius who sought both to explain these prototypical federations and to promote the idea of federalism

and the then closely associated concepts of consociationalism and covenant theory (McCoy and Baker, 1961; Bakvis, 1987; Hueglin, 1999, 2008). Biblical thought, particularly from the Old testament, played an important role in shaping their ideas; much later the Catholic-based principle of subsidiarity – that higher orders of government undertake only those actions that are necessary to achieve objectives that cannot be handled by lower levels, which are best positioned to address issues of mainly local concern – came to influence the architecture of European federations, most notably that of the European Union (Golemboski, 2015).

The ideas on federalism that animated the proto-federations of the Middle Ages came into direct conflict, however, in the 16th and 17th centuries with the rise in the belief of the importance of undivided sovereignty, a development that coincided with the rise of royal absolutism. The collision between the two sets of beliefs can be seen in the critique of Jean Bodin – a proponent of undivided sovereignty – by Johannes Althusius who argued the merits of cooperative association between and within states as the best way of providing stability and harmony. The Peace of Westphalia, which ended the 30 years war, and the subsequent rise of the Westphalian world order, which recognized nations had exclusive sovereignty over their territory, began to overshadow the idea of federalism; but not entirely as shown by the creation of the American federation in the late 18th century, the new Swiss federation in 1848 and the Canadian federation in 1867 (Riley, 1973). There were also the German and Austro-Hungarian empires in the latter part of the 19th century, which had distinct federal characteristics.

It should be noted that many of the early proto-federations, such as the Swiss and Dutch confederacies, were in certain crucial respects quite different from the U.S., Canadian and Australian federations that came later. A primary feature of these confederacies was the lack of an autonomous central government; the central authority, as it were, was in effect both a creature and under the control of the constituent units. Under the U.S. Articles of Confederation of 1781, for example, the assembly of delegates that constituted the unicameral U.S. congress could only act on the direction of the states and had little authority of its own. It was the U.S. constitution, crafted in 1787, ratified in 1788 and coming into effect in March of 1789 that introduced an entirely new conception of federalism: the central (or federal) government would have its own separate existence, have its own taxing powers, and be largely (but not completely) elected by the people, not the states. The genius of the 1789 constitution was to establish a central authority, one that was beholden not to the states but to the people, a dual structure where the state and federal governments were both beholden to the same citizen body. This principle came to play a prominent role in a number of federations that followed – the Swiss federation of 1848, the Canadian in 1867 and the Australian in 1900. The post-war Federal Republic of Germany was also heavily influenced by the US, which in large part reflected the wish of both the allied powers as well as the German people themselves to disperse power to a variety of government institutions, including state governments, to prevent the possibility of the events of the 1930s from ever recurring again. These federations varied considerably in many respects relating to the distribution of powers and the like, but all feature a central government that is relatively autonomous from other governments.

As illustrated by the period before and during the U.S. Articles of Confederation, under confederal arrangements the central government was strictly limited in its powers. The U.S. congress had no taxing powers and no means of enforcing its legislation and instructions. While the states during this period were prevented from negotiating with other nations or maintaining their own military, they retained control over everything else. Under the new U.S. constitution the U.S. congress, now with a bicameral structure and the new executive branch were granted a raft of new powers. With this arose a set of the critical questions pertaining to the design of federal arrangements: the rationale for and the logistics of assigning powers and responsibilities to two or more orders of government and subsequently how to handle jurisdictional and coordination issues when those responsibilities appeared to overlap. There were also questions of principle, often related to

the founding of the federation; questions of substance, such as which order of government is better suited to handle particular policy domains; and questions of method for allocating powers, such as whether to have distinct and separate powers for each order of government or to have shared or concurrent powers with one order having paramourcy. And then there was the question of how to resolve conflicts between orders of government and by whom.

On questions of substance, a basic operating principle has been that domains national in scope, such as national defense, foreign relations, and money and currency, weights and measures and the like were clearly best handled by the national government while responsibility for local matters such roads, education and the like were best suited for local and state/provincial governments. It was in the areas in between that generally proved more difficult. Most federations have settled on what is called a list system with separate federal and state/provincial lists of powers, though typically there will also be a number of shared or concurrent powers. In most cases the lists of enumerated powers are far from exhaustive with most attention given to the specific powers assigned to the national government. In the U.S. in a move to placate those states reluctant to see too much power delegated to the federal government and to solve the problem of what to do with powers, potential or otherwise, that do not appear in the enumerated lists, the 10th amendment (Part of the Bill of Rights) was passed, specifying that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” This so-called residual powers clause also became a feature of the Australian constitution. In contrast, the primary Canadian constitutional document, the Constitution Act of 1867 (originally titled the British North America Act) was designed with the intent to have the residual powers vested in the federal government, mainly by making the federal level responsible for “Peace, Order and Good Government” (POGG) as well as by endowing it with the powers of reserve and disallowance (i.e. being able to veto any piece of provincial legislation). These clauses were all part of what was intended to be a design for a highly centralized federation. In fact, well into the 20th century a basic text on federalism labelled Canada as only a quasi-federation given the highly centralized nature of its core constitutional document (Wheare, 1953).

The Canadian Constitution Act (1867) was also noteworthy for the specificity of the enumerated powers, especially for the provinces. The lists of powers are far more detailed compared to other federal constitutions. The irony, however, is that despite the efforts of the architects of the Canadian federation, the end result was a federation that is far more decentralized than either the U.S. or Australian federations. The reasons for this are manifold, but one reason was that the judicial authorities (at first the British Judicial Committee of the Privy Council, then the Canadian Supreme Court) were reluctant to read into the open ended POGG clause anything more than an emergency power to be relied upon only in rare circumstances. The justices were much more comfortable with the more detailed provincial powers as a hook on which to hang their decisions. Over time the provincial power over “property and civil rights” (s. 92, ss. 13) became the primary source of provincial authority and in the eyes of many the *de facto* residual clause.

The Canadian example, and its contrast with the U.S. and Australian federations, is also instructive for those dependent on neo-institutional frameworks to explain the workings of federations. More so than other forms of institutionalized governance federal systems rely on written constitutions and an array of institutions that go beyond simply the executive and legislature. The manner in which path dependencies develop and shape the distribution of power and future patterns of policy-making, however, as illustrated by a number of federations, is not simply a matter of a set of rules, boundaries and institutions. It is the interaction between endogenous and exogenous events, political mobilization and leadership that can result in some paths simply being extinguished while others are enhanced. The time bound nature of many of the original constitutional documents is another factor. The founding of the Australian, Canadian, Swiss and German federations all predate the innovations of the 20th century, including air travel and

wireless broadcasting. Furthermore, many of the functions identified in federal constitutions have changed radically in scope. Thus, in the Canadian case education and health care were considered strictly local matters and thus left to the provinces. These two functions combined now represent over three-quarters of provincial budgets, and while it provides transfer payments to the provinces to help with these expenditures the federal government has very limited power over what and how the programs in question are delivered. Jurisdiction over and ownership of natural resources, and the royalties derived from them, was assigned to the provinces in 1867 as a revenue source. By the mid-20th century, the value of natural resources and their extraction as a revenue source was far greater than anyone would have anticipated. The federal government has only limited capacity to tax these resources; there is now also an enormous difference in the fiscal capacity of the different provinces.

The question of fiscal capacity, revenue sources and taxing after powers is likely by far the most critical issue when it comes to the allocation of powers and responsibilities. Jurisdiction over a particular area is meaningless if the unit in question lacks the fiscal resources to manage the area in question, and whether or not those resources are there is largely a function of the taxing powers and other revenue sources it has access to. With the exception of the Canadian federation, in most federations when the constituent units become dependent on the central government for fiscal resources those transfers typically come with strings attached. The contrast between Canada and Australia is illustrative when it comes to the power to tax. In Canada provinces are restricted to direct taxes (i.e. taxes plucked directly out of taxpayers pockets by governments). Even though retail sales taxes are collected by store clerks rather than governments directly, Canadian provinces, with the sanction of the courts, were allowed to rely on retail outlets for tax collection by deeming that clerks were at the time of collection agents of the provincial government. When the Australian states tried to make a similar argument, the High Court ruled their scheme beyond their jurisdiction. Thus, Australian states were restricted to inefficient means such as stamp duties, license fees and the like and over time became much more dependent on the Commonwealth government for fiscal resources. Thus, Australia evolved into a much more centralized federal system and Canada more decentralized. The combination of the initial distribution of powers and a series of critical decisions by the courts led the federations in two quite different directions.

### **Horizontal Federalism**

Federations where powers are divided between orders of government by subject matter are usually referred as jurisdictional federations. There are, however, other means of allocating powers. In particular, responsibilities can be allocated in terms of the roles played by the different orders of government in the process of developing, implementing and delivering policies and programs with the German federation representing the best example of this approach. In essence, basic legislation is developed and passed by the German parliament but then in many areas the actual implementation and delivery or enforcement of the legislation becomes the responsibility of the Länder (state) government. This type of federalism is referred to as horizontal or administrative federalism. It is possible to combine both approaches – jurisdictional and horizontal – within the same federation where some jurisdictions are kept distinct while others are shared with the federal and state governments taking responsibility for different aspects of the area in question. In Canada, for example, criminal justice is under federal jurisdiction, with the federal government responsible for legislation while the provinces in turn are responsible for the administration of justice. At the same time, in federations that are primarily jurisdictional it is possible to use less formal means to achieve a similar outcome. In the U.S., for example, grants-in-aid are often used to persuade state governments to adopt programs effectively developed by the federal government, with the latter specifying conditions and standards to be met in order to receive funding to support those

programs. Actually referred to in the U.S. as administrative federalism, it has been used to implement programs ranging from Medicaid, to highway safety, to education.

With respect to confederal elements, with the possible exception of the Canadian federation, these elements were not entirely absent from the new federations. The U.S. senate, for example, was designed as a body where the states and its representatives would continue to have direct influence over federal legislation by virtue of state legislatures being responsible for the election of senators, a provision that was changed to popular election with the 17th amendment in 1913. Even with direct election, however, the U.S. senate is still seen in good part as a states' house given that each state has the same number of senators implying that it is the state that is being represented. Given the enormous variation in population from state to state, the make-up of the senate ensures that the smaller states will always carry more weight. The Australian senate was modelled directly after the U.S. one. The German equivalent, the Bundesrat, is much more like the original U.S. senate with its representatives comprising members of the Länder (state) governments, including the premiers. The Bundesrat is also a crucial component in the logic of the horizontal design of the German federation (Gunlicks, 2003). Specifically, the Länder representatives in the Bundesrat are directly involved in shaping the legislation that they would subsequently be responsible for implementing. They have the capacity to alter or, with sufficient votes, to veto the legislation at stake.

One of the contrasts between a horizontal federation such as Germany and a jurisdictional federation such as Canada is captured by the concept self-rule vs. shared rule (Broschek, 2020). In the German federation the emphasis is on the sharing of jurisdiction and joint-decision-making. In Canada, with its separate federal and provincial lists of enumerated powers the emphasis is on self-rule where each order of government has its own sphere of jurisdiction where, at least in constitutional terms, each government is independent. As discussed below, the self-rule model is in many ways at odds with the realities of intergovernmental relations.

### **Autonomy and Interdependence**

One of the key assumptions underpinning most of the newer federations is that it was possible to make clear-cut distinctions between the responsibilities of the central government and those of the constituent units. In the U.S., this assumption has been referred to as “dual federalism”, In the case of the U.S., this assumption was quickly shown to be unrealistic as the ‘watertight compartments’ separating federal and state/provincial responsibilities proved to be highly porous even prior to 1789. Indeed, it was argued by Daniel Elazar (1962) in his classic study of cooperative federalism that under the Articles of Confederation (1782) cooperation between and among state and federal governments was actively encouraged. Post-1789, a variety of mechanisms was used, including joint stock companies, to foster close cooperation in areas like banking, education, and, particularly, transportation. The need for cooperation, the fact of formal dualism notwithstanding, also proved to be the case in other federations, though this was somewhat easier to achieve in some federations than in others. In contrast to the U.S., Canada has far fewer areas with concurrent jurisdiction and, as well, the judiciary from the early years until well into the 20th century were far more ready to cleave to the “watertight” compartments doctrine. Nonetheless, even in Canada cooperation was evident in various informal mechanisms.

Thus, even in the 18th and 19th century, cooperation or collaboration was necessary. Looking at it logically, it seems fairly obvious and it relates to the near impossible task of delineating the separate areas of responsibilities in such a way that the two orders of government can pursue their tasks in relative isolation. In practice, governments find it very difficult not to interact with each other, even in the delivery of fairly straightforward programs. Often it is the need for financial support that would allow for the delivery of basic services such as education, something that was



true early in the life of the American federation. Other times, it was simply a matter of coordination. Construction of canals and later railways, for example, required close cooperation between state and federal governments. Over time, as economic development took place and the original provisions on the distributions became outmoded in critical areas, if only because unanticipated innovations such as the telegraph and later wireless transmission came along, the functions of the different orders of government became evermore intertwined. It was Morton Grodzins (1966) who likely best captured this phenomenon by likening American federalism to a marble cake, where the different strands reflecting different governmental functions while visible are thoroughly intertwined and not easily disentangled.

Over time, the intertwining of functions can lead to the erosion of the independence of the constituent units, which certainly occurred in federations such as the U.S. and, especially Australia, where the form of cooperation definitely contained coercive elements. Yet other federations, such as Canada, were able to resist such pressures to a fair degree. In Canada, for example, the province of Quebec refused to allow the federal government to collect income taxes on its behalf and during the 1960s persuaded the federal government to provide it with unconditional transfers and additional taxing authority. Subsequently, some of these provisions were extended to other provinces as well so that presently Canada stands as one of the more decentralized federations in the world. Yet at the same time, many of the functions of the two orders of government still remain intertwined, a situation that led Richard Simeon (2006 [1972]) to point out that a high level of interdependence did not necessarily preclude a high level of autonomy on the part of the constituent units. In the Canadian federation, the fact that both provincial and federal governments are headed by powerful first ministers who generally have full control over both their legislature and cabinet and are inclined to use their position to dominate dealings with other governments, including those with the federal government. Furthermore, rather than channeling regional demands and pressures through central government legislative bodies such as the senate in the U.S., the Bundesrat in Germany or the party system, in Canada these pressures are channeled into various intergovernmental arenas.

### **Parliamentary Vs. Congressional Federations**

Federations are in large part about institutions and constitutions and when it comes to the constitutional make-up the primary focus is usually on the distribution of powers. Yet there are other institutional features that should not be ignored. In the U.S., the federal system is seen as part and parcel of the system of divided government where the checks and balances involving the senate, the House, the executive branch and the judiciary all help constrain executive power and/or the tyranny of a simple majority. Checks and balances exist in all democratic states but in parliamentary systems they are somewhat fewer. And in systems based on the U.K. Westminster model, one tends to find a much greater concentration of power in the hands of the executive, something that is true in both federal and non-federal Westminster systems. The intersection between federalism and the Westminster model can have consequences, however, insofar as the highly adversarial nature of parliament is at odds with the collaborative norms said to underpin the effective functioning of most federations.

In Canada, it is argued (Simeon, 2006 [1972]), the presence of powerful premiers and prime minister has led to an exacerbation of conflict between federal and provincial governments, and in the absence of a meaningful second chamber for the representation of regional and provincial interests there are few alternatives other than direct meetings, either bilaterally or multilaterally, between first ministers. In contrast, the German Bundesrat is deliberately designed to channel input and demands from Länder governments directly into that chamber for discussion and resolution and where, if necessary differences between the lower and upper chambers can be resolved

by joint committees. Furthermore, decision-making is governed by a set of rules, with some decisions requiring a qualified majority (i.e. more than a simple majority), others unanimity.

In brief, it is the combination of a variety of institutions and rules of the game, some related directly to federalism, such as a federal constitution, others based on legacies from the colonizing country that are unitary in form but which nonetheless can have a major impact on how the federal arrangement functions.

## **Multilevel Governance**

Increasingly the term ‘multilevel governance’ (MLG) is used to describe relations between or across the different orders of government within or outside a federation or, sometimes, as a synonym for federalism itself. Its use also reflects criticisms of the federalism literature to the effect that this literature fails to capture those political processes that do not fit neatly into the federal-state-provincial nexus. As well, its increasing use can be traced to the fact that, with the rise of the EU, for example, standard federalism concepts no longer seem adequate to capture newer forms of federalism or quasi-federalism.

In the case of the traditional federalism literature it is certainly the case that with the focus on institutions and constitutional arrangements, and on government rather than governance, MLG is in many ways more in sync with the main tenets of the current political science and public administration literature, particularly where the examination of political processes involving connections with actors or institutions outside of formal governments is seen as an integral part of political and policy analyses. With respect to new developments, the interest in MLG, which began in earnest in the 1990s, was sparked in good part by developments, both domestically and internationally. In the case of the former, the rise of non-government organizations working alongside or even displacing traditional interests groups, as well as the mobilization of communities such as indigenous peoples means that traditional forms of intergovernmental relations between state/provincial and federal governments can no longer be the sole or even primary focus. Instead, linkages, networks and policy communities involving non-governmental and quasi-governmental actors have become an integral part of the analysis (Alcantara et al., 2016). And this analysis, in turn, has come to depend on new material not usually found in the traditional literature. Network theory (Castells, 1996), for example, based in part on an older literature on cybernetics and in part on newer writings on the impact of information technology has stimulated some writers on MLG to move the concept of the network to center-stage, where the network is seen almost as having self-managing and governing properties, seemingly without active agency on the part of either political leaders or bureaucrats. In the most extreme version, the network can be seen as trumping normal institutional parameters and the constitutional rules of the game.

In the case of the international dimension, the prime example and the main instigator of writings on MLG is the rise of the European Union (EU). While the EU’s core institutions – the European Commission, the Council of Ministers and the European Parliament – bear more than passing resemblance to those of the German federation, complete with confederal characteristics, in other respects it is quite different. Among other things, even though there is a common currency and a monetary union, not all EU member states participate in this union and also the European Central Bank (ECB) lacks some of the fiscal and monetary tools available to a typical central bank (Honohan, 2018). Also, the EU is almost entirely dependent on member states for the enforcement of its laws and regulations and it lacks the means of monitoring directly how well member states perform in ensuring compliance.

While traditional federations such as the U.S., Canada and Australia were in large part the result of the recession of empire, with former colonies banding together for defensive and secondarily trade purposes (Riker, 1964), the forces that drove the creation of the EU were primarily

economic where the motives were to eliminate trade barriers and foster economies of scale. In brief, the EU constitutes an incomplete federation, falling well short of the level of integration that many would consider necessary to qualify as a full-fledged federation. Yet, despite its incompleteness by most standards it has been remarkably successful. And in order to explain this success, analysts began relying on alternative concepts and frameworks, with MLG the most popular among them. It is no coincidence, therefore, that the bulk of the literature on MLG is focused on the EU (e.g. Hooghe and Marks, 2001a, 2001b; Bache, 2008; Benz, 2010; Piattoni, 2010). Perhaps the most compelling aspect of MLG in the context of the EU is the extent to which the interdependence of various levels – municipalities, regions and nations – and the need for MLG is recognized in the charters of various EU bodies and committees (e.g. “Charter For Multilevel governance in Europe” as used by the European Committee of the Regions (Nicolosi and Mustert, 2020)). MLG, standing alongside with subsidiarity and proportionality, is among the fundamental values underpinning core governance practices in the EU.

A further driving force of MLG has been the developments in public sector management, in particular, those changes associated with New Public Management (NPM). NPM in and of itself has not necessarily encouraged MLG practices. Rather the arrival of NPM with its emphasis on distributed governance, which in concrete form led to the creation of self-standing agencies with distinct responsibilities, created a subsequent need for the integration or re-integration of disparate units that had previously been housed in broad-based ministries, for example. In many cases integration was attempted, and sometimes achieved through the creation of networks, often in the form of committees or working groups. And when these networks spanned across different levels of government, these forms of cooperation then became seen as prime examples of MLG.

These developments have also been examined through the lens of “horizontal management” and “horizontal policy-making” (e.g. Bardach, 1998). While focused mainly on intragovernmental coordination – i.e. how to get different line departments working together – it extends to other governments and agencies, particularly in areas such as regional economic development and environmental protection (Lindquist, 1990). Again, the role of networks and the creation of special coordinating agencies feature in analyses of this type.

The EU remains as the prime example of multilevel governance, both as an actual institutional entity that is unlikely to disappear anytime soon and as a particular mode of governance that depends less on hierarchy and more on shared governance arrangements and the exercise of various forms of soft power. The other forms noted, mainly based on networks and located within countries or involving cooperative arrangements between contiguous regions but lying on opposite sides of national borders, tend to be more temporary and fragile, arrangements that can be easily trumped by a national or provincial government exercising its hierarchical authority. This would include exercises in horizontal management, which tend to be focused on particular policy issues or projects of limited duration. Nonetheless, both MLG and horizontal management have come to be recognized as important tools in dealing with complex policy issues that span internal and external borders.

### **Federalism, MLG and Democracy**

One of the questions asked in connection with federalism is how federal arrangements help or hinder democratic practices and values and whether federalism in and of itself can be seen as a democratic institution. A response to this question requires recognition of the fact that there are a variety of different models of democracy – a pluralist democracy vs. a more plebiscitarian direct democracy, for example – and even within those models there are invariably a number of dimensions that need to be balanced against each other (Benz and Sonnicksen, 2017). One of the more vexing tensions, for example, involves individual rights vs. group rights. Since federalism is often

seen as a solution to protecting the rights of geographically concentrated minority groups, this is something that needs to be discussed in this chapter along with citizen participation and direct democracy.

As noted earlier, the U.S. founding fathers saw federalism as part and parcel of its conception of divided government as a major bulwark protecting the rights and interests of citizens. James Madison, in particular, saw the U.S. constitution as a representative republic rather than a direct democracy with its potential for mob rule, something that he felt should be avoided at all costs. In other words, the democracy he had in mind put a premium on negotiation and compromise and with elected representatives serving as delegates being able to exercise their enlightened judgment on matters of legislation rather than taking instructions directly from citizens. It is a view that still persists (e.g. Beer, 1978), though it is not the only view. In the post-war period within both political science and public administration social choice and public choice became a significant intellectual force. Roland Pennock (1959), for example, was able to show that the odds of being on the side of the majority are far greater in a federal arrangement by virtue of being able to participate in twice as many elections. Thus, a citizen whose party failed to reach a majority at the national level may well have received satisfaction in seeing their party succeed at the state or provincial level, for example. Similarly, Vincent Ostrom, another public choice theorist argued that enhanced potential for public participation was one of the clear benefits of federalism. Along with others he developed the concept of polycentricity – multiple, autonomous centers of decision-making formally specified in a system of government. Such centers would help generate quasi-market like conditions as they competed with each other in the provision of services thereby providing greater responsiveness to citizens.

In a famous debate with William Riker (1969) over the question of whether federalism can make a difference, a question to which Riker responded with a definitive “No”, Ostrom (1973) listed ten points on what he felt was the greater democratic potential of federalism, including: citizens will have the capacity “to exercise greater voice in the conduct of public affairs” (229); they “will have access to a larger number of remedies in articulating grievances in relation to the provision of public goods and services” (229); there will be more “diverse economies of scale .... in both the production and consumption of public goods and services” (229); and “Conflicts among public jurisdictions in a highly federalized political system will elucidate larger amounts of information about alternative solutions to public problems” (230). He also noted, however, the downsides of federalism for democratic participation, including: “A highly federalized political system will be more subject to recurrent stalemates and less subject to preemptive commitments” (231); “A highly federalized political system will place a substantial burden upon citizens for a relatively high level of education and information in order to take advantage of the opportunities inherent in such a system” (231), which in turn implies that less well educated and informed citizens might be at a disadvantage in such a system.

There are further aspects of federalism that can serve to inhibit democracy, for example, the fact that while national minorities may find they have the opportunity to become a majority in one or more of the units at the sub-national level, these local majorities can often behave in tyrannous fashion. The Jim Crow laws restricting the rights of black citizens passed by state and local legislatures in the Southern U.S. in the post-civil war reconstruction period would be one prominent example. And since democratic governance in federal systems is often more inefficient, the possibility of the policy-making process becoming stalemated means that a good portion of the citizen body can be prevented from receiving public goods in a timely fashion (Scharpf, 1988).

The theme of more direct citizen participation in the policy process also features in the MLG literature. First, it should be noted that the centrality of networks in the MLG literature is also evident in the writings on polycentric governance by Elinor and Vincent Ostrom (E. Ostrom, 1990; V. Ostrom, 1973, 1991) and others (e.g. Provan and Kenis, 2007). Again, there is considerable overlap in the different approaches to the study of federalism, intergovernmental relations and multilevel

governance. In the case of the EU, MLG is seen as an important vehicle for “citizen participation in the policy cycle” (Nicolosi and Mustert, 2020), especially at the grassroots level. Marks and Hooghe (2004), for example, see MLG as being much better in reflecting the heterogeneity of citizen preferences in the policy process. In part this participation through MLG is seen as a way of addressing the EU’s democratic deficit. While directly elected by EU citizens, the EU parliament has no control over who is selected to the EU Commission and only some control over the removal of commissioners. Critics have also noted the opaque nature of decision-making and the absence of clear criteria for inclusion in the deliberative discussions within the multitude of these committees making up EU MLG (Hurrelmann and DeBardeleben, 2007). Further, it needs to be kept in mind that in the eyes of the Ostroms one of the things that helped render polycentric governance democratic was accountability: in a federation the capacity to hold governments, politicians and officials accountable is much greater. A local municipality or a state or provincial capital is a lot closer to the average citizen than a national capital. In the EU there are really no comparable accountability mechanisms.

As noted earlier, federal systems often have decision-making rules featuring double or qualified majorities. This places federal systems in a category described by Arend Lijphart (1984) as non-majoritarian democracies. Such rules serve to protect the interests of smaller sub-units and, in particular, minority populations who may be concentrated in such states. Not only the fact that within the sub-unit the minority in question has a measure of protection by virtue of constituting a majority within the unit but also because the national government or a national majority may find it challenging to alter the status of the unit or implement policies inimical to the interests of the minority because of the high thresholds in the constitutional amending formula. A sub-set of smaller units may also band together to effectively veto a national policy by thwarting the possibility of a national majority forming, again because of the requirement of a qualified majority. Switzerland – divided by two cleavages, language and religion – is seen as a classic example of a federal polity based on consensus rather than majoritarian rule (Steiner, 1974). As explained by Ronald Rogowski (1974) from a rational choice perspective, the two cleavages are cross-cutting so that there are both French speaking Catholics and French speaking Protestants as well as German speaking Catholics and Protestants, which means that French speaking Catholics and Protestants may be at odds with each other. (Worth noting is that the 1847 Civil War primarily involved religion, not language.) Both Catholics and French speaking Swiss are in the minority. The key to conflict management and the protection of minorities, according to Rogowski, is the constitutionally enshrined referendum procedure and the fact that the 25 cantons are largely homogenous (i.e. a typical canton is 75–95% German Catholic, French Protestant, etc.). Should a piece of national legislation be contemplated that is perceived by one of the minority populations to be offensive or unacceptable then the legislation can be put to a national referendum on the submission of a petition with at least 100,000 signatures, a relatively low threshold. Since the vast majority of referendums result in a “no”, the ability to invoke a referendum on proposals that a minority finds inimical to its interests comes close to an effective veto.

A good deal of the interest in non-majoritarian models lies in their potential for conflict management and integration in deeply divided societies. Hence, much of the discussion is whether the Swiss model, for example, can be transplanted to other countries, particularly in the developing world. Nonetheless, while the focus may be on stability, this state of affairs can be seen as a basic prerequisite for a well-functioning democracy. Furthermore, the protection of minority rights, and the success any given polity has in this respect, can be seen as an important criterion in assessing the overall performance of a democracy. Thus, the positive role that federalism can play in this regard should not be dismissed. Finally, the question of the extent to which the citizen body as a whole, including members of minority groups, buy into a non-majoritarian governance arrangement, whether federal or not is linked to the issue of legitimacy, another crucial criterion in assessing any given democracy.

## **Federalism, MLG and Public Policy**

One of the key questions asked in relation to federalism and public policy is whether federalism makes a difference, that is, in the way policy is formulated, the policy choices that are available and what the outcomes are. In the debate between Riker (1969) and Ostrom (1973) noted earlier, Riker started the ball rolling by putting forward the proposition that when it comes to basic policies, programs and expenditures there really is no meaningful difference between federal and unitary systems. Ostrom, in his response to Riker, noted that when it comes to how policies are made and who participates there were significant differences. At the same time, he did not really address the issue of possible differences in policy outputs, either in quantity or quality. Over the years various studies that sought to measure the impact of federalism, either specifically (e.g. Cameron and Hofferbert, 1974) or as part of a set of several variables (e.g. Cameron, 1978) as determinants of public policy expenditures. The results have been somewhat mixed but federal countries tend to spend rather less on social policy and overall government expenditures generally take up a smaller proportion of GDP.

Over recent decades there has been greater focus on specific policy areas and the role of federal institutions, particularly by those working within what can be loosely termed the neo-institutionalist perspective. Among the key findings is that, depending on the particular federal configuration, federal structures offer greater opportunities for participation not only to citizens but also to advocacy groups. In what Grodzins (1966) called the “multiple cracks” hypothesis, an advocacy group that loses out at the national level may be successful at the state/provincial level, both because there are more relevant agencies and politicians it can lobby but also because the partisan complexion of the government and agency may be more closely aligned with that of the group. Federalism can also influence the form of the group’s organizational design. Rather than a single national organization, the group may feel the need to have separate state or provincial branches. Cross-national research on business associations shows that groups in comparable industrial sectors often organize themselves along national or regional lines depending on whether they are in a federal or unitary state (Coleman, 1987). One argument is that being forced to organize along both national and regional lines weakens the organization. On the other hand, organizations that have the resources can exploit these additional “cracks” and thus gain advantage over competitors.

One of the key findings stressed by those looking at specific policy areas is that the results can vary enormously between federations and even within federations depending upon the particular set of institutional, social and political variables in play at the time. As Paul Pierson (1995: 451) notes in his careful study of social policy in two federations: “Federalism has played a critical role in both systems, but the interplay of quite different federal institutions with other distinctive features of the two polities has frequently led to divergent political outcomes.” Differences can be equally pronounced within federations. In Canada, for example, the government’s public pension scheme, the Canada Pension Plan (and its counterpart the Quebec Pension Plan) is regarded as well-run and financially sound and highly envied by other countries. On the other hand, universal medicare in Canada, while regarded certainly by Canadians as preferable to the U.S. healthcare system, is nonetheless seen as lagging behind other universal healthcare systems. The difference in outcomes is that the Canada/Quebec Pension Plan is jointly run by the federal and provincial governments where both levels have jurisdiction and where the decision rules (7 out of 10 provinces plus the federal government have to agree with changes) are constitutionally enshrined, allowing for gradual changes and improvements. In contrast, medicare is entirely under provincial jurisdiction and while the federal government has a strong interest in protecting medicare and provides a good portion of the funding in the form of unconditional grants, it has very little leverage: two different social programs in the same federation with quite different outcomes (see Brown et al., 2019).



In brief, the question of whether federalism makes a difference is often better phrased: ‘what are the particular institutions and political dynamics in this particular federation that explain the outcome in this policy domain?’ This is not to rule out either broad scale quantitative studies or federal-unitary state comparisons, but the numerous variables involved need to be carefully specified and controlled.

The study of public policy in federations is in many ways unique, at least in the sense that a lot of energy is devoted to looking at activities and processes that are either absent or less prevalent in unitary systems. It is worthwhile briefly summarizing some of the different areas that attract the attention of policy specialists in federal systems:

*Intergovernmental Relations.* It is in the intergovernmental arena where much of the discussion between federal and state/provincial officials, both elected and non-elected, over policy matters takes place. While in the U.S., a good portion of the discussion takes place in Congress, and in the Bundesrat in the case of Germany, in Canada legislatures, both federal and provincial, play virtually no role in the intergovernmental process (Simeon, 2006 [1972]). The intergovernmental process, both bilateral and multilateral, takes place in various intergovernmental arenas such as the Council of Ministers on Health Care. In federal systems where municipalities as well as states play a significant role, and whole countries in the case of the EU, the intergovernmental process tends to be multi-layered and much more complex. It is in this environment where formal and informal networks tend to thrive and indeed become a necessary part of the federal arrangement. It is these multiple networks and web of relationships that constitutes the prime focus of MLG. IGR is also the major focus of public choice analysts, particularly in areas where jurisdictions are unclear, shifting and overlapping such as in water quality management and environmental protection. Much of the work of Elinor and Vincent Ostrom and others working in the public choice field (e.g. Sproule-Jones, 1993) is devoted to tackling the tricky governance and management problems associated with common property resources.

*Fiscal Federalism and Policy Instruments.* It is often said about political parties and party finance that ‘money is the mother’s milk of politics’. The same holds true, although in a somewhat different way, for intergovernmental relations. In discussions about new programs that the federal government would like to see implemented, strengthening of existing programs or the coordination of policies the question of money, specifically fiscal transfers is front and center. Indeed, it is often the leading question. In most federations the constituent units are dependent for a significant portion of their financial resources on the central government. The central government, in turn, often finds that its path to achieving certain policy objectives is hindered by the absence of jurisdiction or lack of administrative infrastructure and hence requires the cooperation of the states or local governments, something that can often be obtained through fiscal transfers allowing states/provinces to deliver part or the entire program. Then there is the question of horizontal balance and equity. Invariably some sub-units will have stronger tax bases or fiscal capacity than others, which will result in disparities between the units, in their ability to deliver basic public services, for example. In most federations the central government will make an effort to even out to some extent this imbalance, again through fiscal transfers. In Australia the Grants Commission looks at the fiscal capacity and budgetary effort of the different states and recommends on the size of the transfers to be made by the central government to the states with the weaker capacity. In Canada the federal government provides equalization payments to the so-called ‘have-not’ provinces. In Germany the better off Länder actually make direct contributions to the weaker Länder to help the federal government address the problem of fiscal imbalance.

In a federal system the fiscal transfer is often the primary policy instrument that the federal government has to hand when it comes to implementation. Various called grants-in-aid, conditional grants or 50 cent dollars, these transfers with strings attached are typically used to induce states to participate in major infrastructure projects such as the inter-state highway system in the



U.S. or universal health care in Canada. It is a far from perfect instrument, however. Sub-units find it relatively easy in many instances to circumvent the conditions attached to grants, often because the central government lacks the capacity to monitor state/provincial expenditures. As well, it has been shown with respect to policy coordination that transfer schemes incorporating conditions don't necessarily result in improved coordination or greater consistency in outcomes (Bakvis and Brown, 2010). They are often called second best instruments because the grants are frequently a substitute for direct delivery. Certainly, both national and state/provincial governments often find themselves restricted in their choice of instruments, being forced to choose fiscal transfers or tax measures in place of tackling a program area directly themselves.

Fiscal transfers, and fiscal federalism generally, is the area of federalism studies that has attracted the greatest attention of economists, given that other areas tend to be messier and don't lend themselves as easily to quantification. In particular, the effects on the efficiency and distorting effects of transfers aimed at addressing horizontal fiscal imbalance have been extensively studied and debated (e.g. Buchanan, 1950; Tiebout, 1956). In general, not only the horizontal balance but also the vertical balance between the constituent units as a whole and the national government is dependent on the fiscal capacity of the of the units, which in turn is dependent on their taxing powers and the robustness of their tax base. If one wants to find reasons for the divergence over time between Australia and Canada, for example, with respect to degree of centralization, one can't but help notice that in the former a series of key decisions effectively deprived the Australian states from imposing sales and income taxes, leaving them with sources such as stamp duties. In Canada, the opposite happened so that it currently stands as far more decentralized than the Australian federation.

### ***Policy Innovation, Transfer and Diffusion***

Among the more important ideas in the policy literature are policy learning and policy transfer. The former, developed by Hugh Heckscher (1974), challenged the idea that policies are developed in response to social and economic pressures emanating from outside government. He argued instead that often there is a vacuum where policy-makers realize there is a need but have no clear idea of how to respond. The result is that they learn by observing what happens in other jurisdictions, by experimenting or through experience in developing policies and programs (Bennett and Howlett, 1992). Much of this literature focused on how governments observe and draw lessons from what other countries were doing. Sometimes the lessons were on what to avoid, but more often it became a lesson in policy emulation. This in turn led to a closely allied field of policy transfer where learning was focused on taking complete models and implanting them in different systems, as well as the pitfalls associated with such an approach.

Early on, and indeed about the same time, students of federalism began using these concepts to look at how policies were adopted by states and provinces and how they learned from each other. Added to the concepts of learning and transfer was the idea of policy diffusion and convergence where the focus was on how policies and programs spread from a few key states/provinces to other units and how over time the key metrics associated with these programs converged over time (Walker, 1969; Boyd, 2017).

A closely related theme pointing to a feature that is special to federalism is the capacity for innovation. The constituent units are seen as a collection of laboratories where individual units can experiment with new policies and, if they prove viable, are then picked up by the other units. Particularly in the U.S., there have been numerous studies of policy innovation and diffusion among the states in areas ranging from health to education to same-sex marriage. Innovation and diffusion are not just horizontal, from state-to-state, for example, but can also involve transfer from state/province to the national level. Romney Care in Massachusetts was an important model for Obama Care, for example. And in Canada universal medicare was first introduced by the

province of Saskatchewan in 1962. A few years later the federal government decided it was worth making it available to the country as a whole and promised provinces it would cover up to half the costs of hospital care and physician services (but not pharmaceuticals).

Learning, innovation and diffusion are not restricted to within federations or between countries. It can also involve sub-units in different federations. In what Brendan Boyd (2017: 565) labels interjurisdictional policy transfers in a multilevel governance context, the Canadian provinces of British Columbia and Quebec looked to California and other jurisdictions regarding instruments such as carbon pricing and cap-and-trade in connection with climate change.

## Conclusion

One of the more commonly cited works in federalism studies is a piece that attacks the very utility and viability of federalism – a 1939 article by Harold Laski that stated, among other things, that federalism was obsolete and anachronistic and ill-suited to deal with the major social, economic and political problems of the day, problems that required intervention by strong central governments. To be fair to Laski, he was writing on the eve of the Second World War. Nonetheless, federalism scholars over the years have used Laski's article as a foil, underscoring the fact that federalism is alive and well. Furthermore, federalism has not necessarily proven a hindrance when it comes to tackling major issues. As noted by Pierson (1995), 7 of the 23 OECD countries are federations, including the US and Germany, systems that certainly in economic terms have fared quite well in the face of major crises. More recently, the EU, a not quite federation, has shown a surprisingly robust and unified response to the Brexit crisis (which stretched from the referendum in 2016 to the UK's actual departure in 2020) despite lacking many of the coordinating mechanisms of normal federations. In the case of the Covid-19 pandemic and how different governments have handled the crisis, while the U.S. has not performed well by international standards, the opposite has been true for other federations such as Australia, Canada and Germany.

To be sure, federalism has been far more successful in advanced industrial democracies; it has been less so in developing countries as illustrated by the failures of the Malayan and Caribbean federations (Watts, 2008). Furthermore, there have been questions of how useful it is as a conflict management strategy in countries with pronounced linguistic and ethnic cleavages. Nonetheless, it is doubtful that anyone would repeat what Laski said 80 years ago.

Finally, it is worth highlighting that not only the EU but most federations are incomplete in the sense that they constantly struggle to find the right balance between national and local interests. It is perhaps for this reason that federations are constantly evolving and, at times, completely reinventing themselves. That was certainly true of the U.S. in 1789 and Switzerland in 1848 by introducing the idea of a central government with its own separate legitimacy so that both orders of government had a set of responsibilities and authorities with respect to the same populations. Similarly, the creation of the EU led to the invention of new institutions and coordination mechanisms, many under the label of multilevel governance, to achieve a degree of integration and policy cohesion that many did not think was possible short of a full-fledged federation. It is quite possible, therefore, that the constant need to adjust, accommodate and, at times, to reinvent institutions and processes, is what has kept federalism alive over the ages.

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# 7

## CONCURRENT SOURCING IN PUBLIC SERVICES

### Theory, Evidence and Future Research

*Simon Porcher*

#### **Introduction**

What is the best governance mode (i.e., hierarchy or the market) to provide public services? The choices of governance modes have been scrutinized by scholars in public management and public administration over the last several decades (Kettl, 1993; Savas, 2000; Sclar, 2000). The question of the governance mode of public service provision is typically treated in either-or terms, namely, ‘making’ or ‘buying’, and favoring one governance mode over another usually depends on the characteristics of the transaction (Williamson, 1975). Recent research in management (Bradach and Eccles, 1989; Puranam et al., 2013; Heide et al., 2014; Krzeminska et al., 2013; Mols, 2010b; Parmigiani, 2007) and in public administration (Hefetz et al., 2014; Miranda and Lerner, 1995; Porcher, 2016; Warner and Hefetz, 2008) has begun to explore the possibility of organizations combining different governance modes to increase knowledge and performance. The strategy consisting of splitting the total volume being sourced across multiple modes is termed concurrent sourcing (Parmigiani, 2007).<sup>1</sup>

This chapter makes sense of the growing literature on the subject to give a clear conceptualization of concurrent sourcing, in the multi-level governance context of local public services. Concurrent sourcing involves different actors which act simultaneously for the provision of public services. Successful concurrent sourcing implies that public – and sometimes non-public – actors at various tiers articulate their concerns in order to produce sound public services and policies. Indeed, concurrent sourcing involves a large range of arrangements like public-private contracting but also contracts between governments to co-produce public services (Hefetz et al., 2014; Porcher, 2016).

The analysis of concurrent sourcing does not differ from the analysis of make-or-buy decisions, which has been largely studied in public administration (Hefetz and Warner, 2012; Levin and Tadelis, 2010). Governments’ choices to contract out the provision of public services can be explained by five different theoretical frameworks: transaction cost economics (Williamson, 1975), the resource-based view (Barney, 1991; Penrose, 1959; Wernerfelt, 1984), the agency theory (Eisenhardt, 1985; Fama, 1980; Jensen and Meckling, 1976), complementarities (Milgrom and Roberts, 1990, 1995) between sourcing modes and constraints in production (Harrigan, 1984). Transaction cost economics stipulate that the governance structure of a given transaction is a function of the relative costs of transacting in markets and organizing procurement within the government (Brown and Potoski, 2003b; Hefetz and Warner, 2012; Sclar, 2000). The resource-based view of the firm insists on government capabilities as a key factor explaining the decision to use

the market rather than hierarchy (Brown and Potoski, 2003a; Levin and Tadelis, 2010). Agency theory (Fama, 1980) focuses on monitoring bilateral relations between the buyer (the agent) and the supplier (the principal). As in transaction cost economics, mitigating information asymmetry is key to decreasing opportunism and inciting the agent to perform in the desired way. Finally, complementarity effects between sourcing modes refer to a situation in which the performance consequences of a choice depend on other choices (Milgrom and Roberts, 1990, 1995). In public service provision, complementarity refers to the condition in which the marginal benefit of procuring a good or a service depends on the level of in-house sourcing, and vice versa (Puranam et al., 2013).

Another question is how concurrent sourcing can impact performance. While research in public administration has shown why concurrent sourcing is adopted, less is known about its performance outcomes (Hefetz and Warner, 2012; Miranda and Lerner, 1995; Mols et al., 2012; Porcher, 2016). Concurrent sourcing can increase the buyer's monitoring power, provide relevant measurement benchmarks and decrease opportunism (Heide et al., 2014; Mols, 2017) by breaking information asymmetry. It might also undermine the effects of relational norms between governments and private suppliers due to a threat of backward integration (Heide et al., 2014; Porter, 1980), and give insurance to public administrations to deal with private suppliers (Adelman, 1949; Hefetz et al., 2014; Porcher, 2016). Because concurrent sourcing in public services supposedly improves monitoring by governments, it enhances transactional performance (Ouchi, 1979). Mols (2010a) summarizes the different expected impacts of concurrent sourcing on performance. However, a thin literature provides empirical tests of how concurrent sourcing might affect performance (Porcher, 2016).

Research on concurrent sourcing opens new avenues for research in the organization of the provision of public services. As Krzeminska et al. (2013) and Heide et al. (2014) note, few research outputs focus on different concurrent sourcing forms, i.e., concurrent sourcing with multiple organizations or concurrent sourcing with more than two governance forms, e.g., making, buying and using hybrid forms at the same time.

The remainder of the chapter is structured as follows. The first part presents theories that have been used to explain concurrent sourcing. The second part reviews some of the most important empirical results in the literature on public management and public administration. The third part introduces avenues for future research.

## **Theory and Evidence from the Literature**

### ***Transaction Cost Economics***

In transaction cost economics, the governance mode of a given transaction is chosen via a comparison of the bureaucratic costs of the hierarchy (in-house production) with the use of the market (external suppliers) for the production of the input. Both governance modes have advantages. The market offers powerful incentives, no administrative control and is efficient for autonomous adaptation (Williamson, 1991). Hierarchy is efficient for cooperative adaptation and provides opportunities for administrative control but offers low-powered incentives. Because of bounded rationality and opportunism (Williamson, 1975), the key problem to be solved to find the right governance mode is determining when the transaction costs of using the market are larger than those of using hierarchy.

According to Williamson (1996), asset specificity is the main driver of transaction costs. Asset specificity means that an asset's value is reduced substantially if a complementary asset that is contracted for is unable to be secured. The general result from the literature is that hierarchy is likely to dominate temporary contracting when either of two agents in a relationship makes relationship-specific investments (Klein et al., 1978; Williamson, 1979). If a buyer makes



investments in assets that are dedicated to a relationship with a particular seller, then there is a scope for opportunistic behavior in short-term contracts. By the same token, it would be costly and difficult for the buyer to replace the supplier if the contract were to be suddenly terminated.

Public services are not characterized by the same level of transaction costs. Brown and Potoski (2005) survey public managers' perceptions of asset specificity for 64 public services. Their findings show that asset specificity is high for services such as electricity utility management, the operation of airports, the operation and management of hospitals, sewage collection and treatment and water treatment. In contrast, vehicle towing and storage, secretarial services and buildings and ground maintenance have low asset specificity. Levin and Tadelis (2010) build an index of contracting difficulties for public services based on three dimensions. They ask public managers to rank 30 public services on the difficulty of measuring and monitoring the provision of quality, how routine or unpredictable the requirements of the service are and the difficulty in replacing contractors due to specificity or lack of competition. They find that the most difficult services to contract out are crime prevention/patrol, inspection/code enforcement and drug/alcohol treatment programs. In contrast, utility meter reading, vehicle storage and street/parking lot cleaning are easy services to contract out.

Transaction cost economics is a powerful theoretical framework for studying make-or-buy decisions. Nevertheless, dual forms, such as concurrent sourcing, have either been excluded from its analytical framework or have been considered to be hybrids (Williamson, 1991), i.e., a governance mode *combining* the characteristics of hierarchy and the market rather than using *two different governance modes* at the same time. Parmigiani (2007, p. 289) argues that 'moderately asset-specific goods will be concurrently sourced'. Authors who have considered governance modes to be continuous, including Dutta et al. (1995) and Heide (2003), conclude that the risk of holdups can be deterred by increasing internal production. Internal production is thus a safeguard used to decrease the level of transaction costs.

### ***The Resource-Based View***

The resource-based view suggests that organizations with different capabilities (what they do well) and resources (what they have) have different production costs. Indeed, organizations may seek to expand or acquire other firms to leverage their internal capabilities or exploit superior management capabilities (Penrose, 1959; Wernerfelt, 1984). According to the resource-based view, organizations develop certain capabilities or know-how that is embodied by managers and employees or in organizational routines. Capabilities are costly to grow internally and difficult to transfer in a market. As a result, organizations tend to directly perform activities in which they have superior capabilities. Jacobides and Winter (2005) distinguish between productive capabilities, i.e., productive efficiency, and capabilities of governance, i.e., the creation of value by linking hierarchy and the market.

Governments with productive capabilities can produce at lower costs (or higher quality) than when they use suppliers will use hierarchy and even supply goods for other governments whose capabilities do not allow them to produce at lower cost. Regarding transaction costs, the literature on capabilities has often considered governance modes as corner solutions (Parmigiani, 2007).

Capabilities of governance are often understudied, but they validate the use of concurrent sourcing. Indeed, organizations can be adept at performing functions because of history and might gradually use concurrent sourcing when they enter or quit any given activities. We interpret capabilities in governance more broadly as capabilities to manage different sourcing modes. An important capability in government contracting is the ability to write and administer contracts (Brown and Potoski, 2003a; van Slyke, 2003). Familiarity and experience in contracting can lower the costs of using contracts for any given service because governments might be able



to better anticipate possible future contingencies that may affect the contractual relationship. Governments with capabilities of designing contracts will be better equipped to adequately safeguard against the contractual hazards that can emerge (Mayer and Salomon, 2006). In his study of concurrent sourcing in water public services, Porcher (2016) finds that municipalities with prior experience in designing and operating complex and incomplete contracts may find such contracts less costly to write, be more skilled at enforcing their requirements and be more accustomed to *ex post* adaptation. These contracting capabilities have a substantial and significant effect on concurrent sourcing, which appears to be a means of decreasing costs when there are gains for trade.

### ***Agency Theory***

Agency theory (Jensen and Meckling, 1976) is a widely used theoretical framework to explain the relationship between two parties, the principal and the agent. The former must determine an efficient contract for governing the relationship with the agent, and the latter is assumed to be opportunistic and difficult to monitor. Because of information asymmetry regarding the motivations of the agent, the principal must find mechanisms to reveal this information or to design incentives to align the interests of the agent with his own interests.

An important problem in sourcing decisions is information availability. Buyers might have access to some information, but using concurrent sourcing gives them much greater know-how. The buyer might know whether poor service quality is due to genuine service provision problems or to supplier cheating. Heide (2003) believes that concurrent sourcing is particularly useful for addressing information asymmetry, especially in situations with large measurement difficulties. The principal can thus obtain some information on the production process before choosing and negotiating with suppliers to avoid adverse selection and can control the performance of the supplier in a more efficient manner to avoid moral hazards, e.g., because it becomes easier to design incentives (Holmstrom and Milgrom, 1994). Concurrent sourcing is thus a way to not only address adverse selection and moral hazards but also provide buyers with performance benchmarks.

Monitoring is also more effective in a concurrent sourcing context because of the potential for volume substitution. The principal can credibly penalize opportunism by shifting externally sourced services in-house. Concurrent sourcing can thus play a disciplinary role (Ouchi, 1979). Heide et al. (2014) argue that monitoring is more effective within concurrent sourcing than within outsourcing because the buyer will be more legitimate at enforcing contracts. The buyer's "corrective suggestions" will be more accepted by the supplier. Legitimacy is an important feature of monitoring because monitoring can offend a party's sense of autonomy and thus may trigger reactance behaviors by the monitored party (Ghoshal and Moran, 1996). This type of reaction is illustrated in a study by Halaby (1986), who describes how engagement in reactance behaviors when a governance practice is at odds with legitimacy beliefs can decrease the value of a relationship. Halaby (1986) calls 'authority costs' the costs that result when the supplier behaves in a manner that increases costs for the buyer, e.g., by cheating on quality.

### ***Complementarities***

Another factor influencing concurrent sourcing is the degree of homogeneity between transactions. More homogeneous transactions decrease the costs of internal control of similar transactions and make concurrent sourcing more likely. Milgrom and Roberts (1990) define complementarities as the marginal value of one variable depending on the value of another variable. In the context of public services, complementarities refer to the systemic gains linked to increased competition between sourcing modes. Concurrent sourcing, by creating implicit or even explicit competition between hierarchy and the market, gives stronger incentives to both internal and

external producers of public services. In the strategy literature, Porter (1980) argues that concurrent sourcing gives the firm the ability to threaten backward integration to their suppliers. In the context of governments' services, governments might use concurrent sourcing not only to threaten backward integration to external suppliers, e.g., private firms, but also to provide a credible threat to its internal unit to avoid poor internal performance.

Complementarities can also create value by means of collaboration between internal and external suppliers to create valuable knowledge for the government and its suppliers (Bradach and Eccles, 1989). Knowledge sharing between internal and external suppliers can be used to generate improvements in processes and enhance efficiency. Knowledge complementarities are particularly stronger in novel production technologies (Puranam et al., 2013), where much remains to be learned about the production process. In governments, knowledge sharing might be even more important because value appropriation is not the key focus (Poulsen and Hansen, 2016); rather, the focus is on value creation for the stakeholders.

### ***Constraints on Production***

There are multiple constraints on production, such as scale or scope economics, volume uncertainty or technological uncertainty. In standard neoclassical economics, constraints on production are often seen as scale or scope economies, which might dictate the use of concurrent sourcing. Scale economies decrease the average cost per unit of the same good or service. Organizations with scale economies will produce at lower costs than external suppliers. Scope economies reduce the costs of producing two different goods because of the simultaneous use of shared inputs. With respect to concurrent sourcing, scope economies could be the result of using two different governance modes of production because they mobilize shared inputs, e.g., capabilities in production, or create complementarities.

Volume uncertainty makes it impossible to accurately predict demand and thus to plan production. Harrigan (1984) suggests that using concurrent sourcing can be a good strategy when demand is uncertain. For example, an organization with little internal capacity has a clear interest in using external suppliers. By using concurrent sourcing, organizations can also strategically control external forces, i.e., reduce dependence on and risk from suppliers and increase flexibility in production.

Porcher (2016) sees concurrent sourcing as a form of insurance to face volume uncertainty. He argues that in water markets, as in many commercial transactions, supply markets are relatively thin due to specific investments or capabilities required to manage contracts; thus, local governments have few potential external suppliers. This situation leads to the trade-off between specific investments required for the concurrent sourcing of a good and capabilities to negotiate with limited suppliers that are approximated with the model of concurrent sourcing. Such a result is connected to the findings of Hefetz et al. (2014), who show that concurrent sourcing in public services is more frequent when local governments want to reduce risks.

Technological uncertainty refers to situations in which it is difficult to identify which potential technology will be valuable and where there is a lack of capabilities in the organization to develop these technologies internally. Concurrent sourcing can be a means of decreasing the impact of technological uncertainty on performance.

## **Empirical Evidence on Concurrent Sourcing in Public Administration**

### ***Measuring Concurrent Sourcing at the Government Level***

Concurrent sourcing is measured in various ways, depending on the characteristics of the studied public services. Many studies examine contexts in which there are multiple public services.

Brown and Potoski (2003c) combined the ICMA dataset “Profile of Local Government Service Delivery Choices” with additional data from the 1997 U.S. Census of Government and a famous survey on asset specificity and measurability conducted by the authors to study sourcing decisions in US local governments. The ICMA survey asked a stratified random sample of municipal and county governments a battery of questions about which of 64 local services they provided and their service production mechanisms. The response rate for the survey was just over 30%; 1,586 municipal and county governments responded in 1997. The authors distinguish among the following approaches: in-house provision; contracting out to private firms; joint contracting, which refers both to public and private provision and complete externalization to several vendors; contracting out to nonprofits; and contracting with other governments. The unit of observation is a public service. Brown and Potoski (2003c) find that services that are more difficult to measure will be more often produced with joint contracting because they endow cities with the capacity to assess the relative quality and performance of a supplier. The limitation of the study is that the authors use dummy variables as the dependent variables and do not have a continuum of the level of concurrent sourcing.

Miranda and Lerner (1995) first noted the importance of “mixed delivery” when analyzing ICMA data from 1982. They argued that mixed delivery could be efficient as a form of benchmarking with the private sector and as a means to promote bureaucratic competition in-house. Building on this work, Warner and Hefetz (2008) use the term “mixed delivery” to reflect the continuing position of the public sector in the delivery process. Mixed delivery refers to the use of both direct public delivery and complete contracting out. The results from the ICMA dataset in 1992, 1997 and 2002 show an increasing use of mixed delivery by local governments (the ratio grows from 18% in 1992 to 24% in 2002). Concurrent sourcing is computed as the ratio of the number of services provided by mixed delivery to the total number of services provided. The authors interpret this trend as the will of public managers to integrate markets with public delivery and give greater attention to citizens’ satisfaction in the service delivery process.

Using the 2007 results of the ICMA survey, Hefetz et al. (2014) investigate plural sourcing in a multiservice setting. The authors complemented the ICMA survey with a survey of 164 city managers asking about their assessment of the following characteristics for each of the 67 services measured by the survey: level of competition in the market, asset specificity of the service, contract management difficulty, and citizen interest in the process of service delivery. An important detail here is that the authors define concurrent sourcing as a form of mixed delivery and distinguish between mixed delivery with for-profit firms and mixed intergovernmental delivery. The authors use a two-step model in which they first explain the sourcing mode and then the selection of the partner (public or private). They find that mixed contracting is more common with for-profit agents and contracting out fully is more common in contracts with other governments. When contracting with for-profit partners, mixed delivery helps reduce risk, promote market complementarities and ensure attention to citizen interests, e.g., high levels of asset specificity or great management difficulties will result in higher levels of concurrent sourcing. One of the limitations of the study by Hefetz et al. (2014) is that they use a measure of concurrent sourcing at the local government level rather than at the service level, and they use a binary item with multiple repeats as a dependent variable, which is constructed as the ratio between the response level (number of times the alternative was chosen) over the number of trials (the number of services provided via contracts).

Mols et al. (2012) studied the use of concurrent sourcing in 98 Danish municipalities. They particularly focus on four areas – school cleaning, road maintenance, IT maintenance and activation of the unemployed. They use questionnaires to measure different aspects of supplier performance such as cost and quality satisfaction, and responsiveness. The results show that combining direct production and external sourcing mitigates the effects of transaction costs, measured as

uncertainty and asset specificity, on supplier performance. Internal production can thus lead to better relationships with external suppliers.

Beuve and Le Squeren (2016) studied the contracting decisions of 156 French municipalities of more than 10,000 inhabitants for seven public services (childhood care, collective catering, parking lots, street lighting, waste collection, water distribution and water treatment). Their dependent variable was the percentage of public services provided in-house. Their paper links this dependent variable, which theoretically ranges from 0 (all public services contracted out) to 1 (all public services managed in-house), with measures of ideology, asset specificity and citizens' sensitivity. The two latter indicators were measured via a survey sent to public managers in each city. Their results show that past ideological factors have a strong impact on governance modes in the long run. The authors argue that the management of public services is path-dependent, i.e., strongly connected to choices made by previous officials. Their paper shows that governance choices realized 30 years ago have a strong impact on the configuration of public services procurement at the local level. They explain this lasting effect as the result of past ideology, which has a stronger ability to explain the make-or-buy decisions today than does the ideology of the current elected governor.

### ***Measuring Concurrent Sourcing at the Service Level***

Most studies examine concurrent sourcing at the government level and interpret concurrent sourcing as the degree to which the delivery of overall public services is "mixed", i.e., shared between direct provision and the use of third parties to deliver them. Few studies have investigated concurrent sourcing for a given service.

Porcher (2016) studies the decision to use concurrent sourcing and its impact on performance in French water public services. Concurrent sourcing is measured at the municipal level as the ratio of water imported from another city to water imported plus water in-house production. Porcher (2016) follows Parmigiani (2007) and considers governance modes to be continuous: concurrent sourcing, measured as the share of the production that is outsourced to an external supplier, can range from 0 (hierarchy) to 1 (pure market). Porcher (2016) combines transaction costs with capabilities and shows that capabilities mitigate the impact of transaction costs, i.e., governments with similar transaction costs tend to use more concurrent sourcing when contracting capabilities are more important. Contracting the capabilities of municipalities is an important driver of concurrent sourcing: municipalities with prior experience in designing and operating complex and incomplete contracts may find such contracts less costly to write, be more skilled at enforcing their requirements and be more accustomed to *ex post* adaptation. However, because transaction costs differ from one municipality to another, contracting experience will have a declining effect when holdup risks are more important. The same effect is observed for production capabilities. Production capabilities foster internal production and hierarchy rather than external sourcing via the market. The effect is stronger when transaction costs decrease. Overall, concurrent sourcing can significantly result from both transaction costs and capabilities.

Le Squeren (2020) studies concurrent sourcing in the management of parking lots in a set of 97 municipalities in 2010. Le Squeren (2020) builds a first set of propositions explaining concurrent sourcing and particularly insists on political motives. She uses a multinomial logit model to compare three distinct alternatives: total internal provision, complete externalization and concurrent sourcing. The results indicate that the likelihood of using concurrent sourcing increases with the level of fiscal stress of local governments. The author interprets the result as a strategic choice, i.e., concurrent sourcing is used to improve the financial accounts of the local government.

## ***Concurrent Sourcing and Performance***

The empirical results of Miranda and Lerner (1995) showed a negative relationship between the percentage of mixed delivery and expenditures. Their results clearly questioned the use of contracting out because they found no significant correlation between the percentage of complete contracts and expenditures. If mixed contracting enhances efficiency, then it is a false dichotomy to choose between markets and government, and it would be better to ask how both markets and governments might be used to improve performance. However, the authors study the impact of concurrent sourcing on expenditures rather than examining indicators of performance at the service level. Le Squeren (2020) follows Miranda and Lerner (1995) in their use of performance indicators that are at the government level rather than at the service level. The author does not study the impact of concurrent sourcing on performance but rather how performance can impact the level of concurrent sourcing. She interprets the negative relationship between concurrent sourcing and the level of fiscal stress of governments as an indication of the willingness of governments to decrease costs. The main limit of the investigations of Miranda and Lerner (1995) and Le Squeren (2020) is that they do not use performance indicators at the service level.

Porcher (2016) specifically relates concurrent sourcing and the performance of public services. Performance is measured in various ways (water quality, price, network performance). The author shows that concurrent sourcing has a significant positive impact on quality performance but results in price premiums, potentially because external procurement demands capabilities to negotiate contracts and to mitigate *ex post* hazards. Such a result is connected to Hefetz et al. (2014), who show that concurrent sourcing in public services is more frequent when local governments want to reduce risks. Porcher (2016) shows that higher quality standards under concurrent sourcing can result from higher market complementarity, improved performance from personnel who would fear competition from the other sourcing units or higher monitoring resources from local governments used to concurrently source. This research sheds light on the cost of this insurance premium highlighted in Hefetz et al. (2014). The final reason is that in water markets, as in many commercial transactions, supply markets are relatively thin due to specific investments or capabilities required to manage contracts; thus, local governments have few potential external suppliers. This issue leads to a trade-off between specific investments required for the concurrent sourcing of a good and the ability to negotiate with limited suppliers that is approximated with the model of concurrent sourcing. Higher-quality standards under concurrent sourcing can result from higher market complementarity, improved performance from personnel who would fear competition from other sourcing units or higher monitoring resources from local governments used to concurrently source.

## **Avenues for Future Research in Public Administration**

### ***Measures of Capabilities, Transaction Costs and Complementarities***

An important issue in concurrent sourcing – and more broadly in the literature on outsourcing – is the measure of not only capabilities and transaction costs but also information asymmetries, complementarities or constraints. Two of the most studied theoretical backgrounds, the resource-based view and transaction costs, are often not well approximated. Capabilities are often measured as resources (financial or human). Managerial skills, know-how or other information are more difficult to measure and remain largely unobservable in the abovementioned empirical studies. Transaction costs are often measured via a proxy of asset specificity (e.g., via surveys of public managers on complexity or the amount of fixed assets invested) or complexity (e.g., via words searched in contracts) but are rarely measured as an incidence of disputes. The latter could be used as an outcome

to study whether concurrent sourcing, or more broadly, governance choices, has an impact on the level of transaction costs. By the same token, good measures of capabilities could be used to quantify the impact of concurrent sourcing on capabilities. Using multiple years is a good way to measure the evolution of transaction costs and capabilities.

Measuring complementarities would require to compare some measures of costs in governments using concurrent sourcing and either hierarchy or the market. The design of such a research item requires good counterfactuals. A major concern is that the choice of concurrent sourcing may not be random, and that differences between governments could be correlated with differences of performance (Porcher, 2012). As the counterfactuals are never observed, researchers could use non-experimental methods that mimic them under reasonable conditions. As for capabilities and transaction costs, complementarities are better measured using time series data.

### ***Considering Multiple Combinations of Sourcing Modes***

Concurrent sourcing is often defined as the combination of two sourcing modes, namely, in-house production and externalization to another (often private) organization. Other combinations are possible, such as make-and-ally or buy-and-ally. Veugelers and Cassiman (1999) found that among innovative Belgian firms using concurrent sourcing, 33% engaged in make-and-buy, 12% in make-and-ally and 55% in all three modes. Krzeminska et al. (2013) identify alternative combinations of governance modes such as buy-and-ally and make-and-ally. They find that buy-and-ally has subsequent advantages, such as accessing knowledge, sharing investments and preserving flexibility, as well as drawbacks, such as diminished incentives for alliance partners. Indeed, in this case, benchmarking is not as effective in make-and-buy because there is a lack of internal knowledge of input characteristics. Buy-and-ally is used when technological volatility is important but assets are not very specific. For example, public administration might use the services of private firms and ally with other governments to share information. Such research would deserve more attention in the scope of multi-level governance.

Another form identified by Krzeminska et al. (2013) is make-and-ally, which allows benchmarking with lower incentives than make-and-buy allows. Moreover, access to external knowledge is enhanced. However, flexibility is lower and requires internal investment in obsolescing assets and bureaucracy. Make-and-ally is particularly interesting when more significant learning is required, e.g., when technological volatility is important and the specificity of assets is high. Such a combination could be used for the development of artificial intelligence in identity checking.

### ***How Much Should Governments Use Concurrent Sourcing?***

The question is then the extent to which a government should use concurrent sourcing to gain knowledge or to have sufficient incentives to control both external and internal suppliers (Poulsen and Hansen, 2016). The situation can be complicated because both external and internal suppliers rarely have the same cost per unit to produce the same good, meaning that concurrent sourcing comes at a higher cost than choosing the most efficient supplier. Concurrent sourcing is considered a costly safeguard, especially in public services where money is scarce (Porcher, 2016).

However, the shape of the impact of concurrent sourcing on performance remains to be discussed. Studies commented in Section 2 are interested in the potential linear impact of concurrent sourcing on performance. Future studies could focus on the nature of the relationship: concurrent sourcing could have an inverted-U shape, i.e., governments using pure concurrent sourcing would tend to over-perform, or a U-shape impact on performance, i.e., concurrent sourcing would be beneficial when it is close to market or hierarchy. There are interesting conjectures to be discussed on the relationship between the degree of concurrent sourcing and public services' performance.



The extent to which governments should use concurrent sourcing depends on the sector, the institutional settings and the performance of private firms. More sectoral studies are required to extend our knowledge of the impact of concurrent sourcing on performance and to understand the determinants of the use of concurrent sourcing.

### Note

- 1 The literature also refers to the combination of difference governance modes to source an input as dual sourcing (Adelman, 1949), partial integration (Porter, 1980), tapered integration (Azoulay, 2004) or plural sourcing (Puranam et al., 2013).

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# 8

## MULTILEVEL NETWORK GOVERNANCE IN EMERGENCY MANAGEMENT

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### **Introduction**

Recent large-scale disasters such as Hurricane Irma, Hurricane Maria, and California Wildfires are a constant reminder that it is crucial for public administrators to understand interorganizational coordination, and to govern complex relations among government agencies at all levels and among organizations from all sectors. In this chapter, we discuss multilevel network governance in the context of emergency management. We first introduce what networks and multilevel networks mean in public policy and administration, and then address why we need to study multilevel networks, and what network governance is. We further discuss the unique governance issues in multilevel networks. Using the multi-mode, multi-link emergency management networks as an example, we identify different types of network nodes within the emergency management context and discuss multiple types of relations among these nodes. We further present new perspectives and approaches to address governance issues in multilevel emergency networks. We conclude with broad implications for network research in other contexts and raise questions for future research.

### **Multilevel Network Governance**

Before we dive into multilevel network governance, it is necessary to introduce a few critical concepts, including interorganizational networks, multilevel governance, and multilevel networks. Over the past few decades, governments' role has gradually shifted from direct service provision to governance, which involves cross-sector collaboration with non-state stakeholders in service provision and delivery (Kettl, 2006; O'Leary & Vaj, 2012). Government agencies work with non-profit organizations, and businesses to address a wide range of "wicked" policy problems and management issues such as human and social service delivery (Milward, Provan, Fish, Isett, & Huang, 2010), regional economic development (Lee, Feiock, & Lee, 2012), natural resource management (Robins, Bates, & Pattison, 2011), and emergency management (Hu, Knox, & Kapucu, 2014). Therefore, interorganizational networks emerge and grow to meet the practical need to address public problems in an effective manner.

### ***Interorganizational Networks***

In a broad sense, interorganizational networks consist of organizations as actors (nodes) and the relations that connect the actors (Borgatti et al., 2013). In the field of public administration, interorganizational networks often refer to "multiorganizational arrangements for solving problems

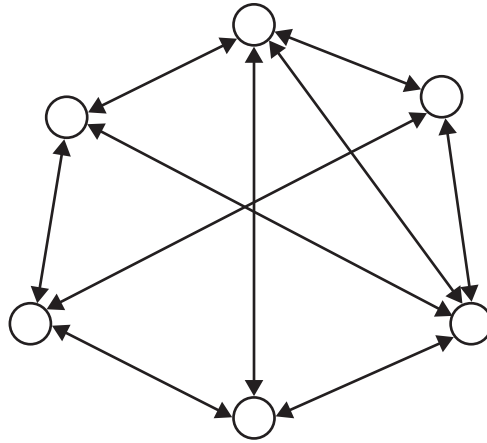


Figure 8.1 A depiction of an interorganizational network

that cannot be achieved, or achieved easily, by single organizations” (Agranoff & McGuire, 2001, p. 296). In other words, interorganizational networks contain organizations and their relations, and these organizations build relations to address some common problems. Figure 8.1 depicts an interorganizational network. Circles represent organizations and lines denote relations among organizations, such as information exchange, flow of financial or other resources, client referrals, and resource competition (Provan, Fish, & Sydow, 2007). The relations can be directional or unidirectional; and the relations can be strong or weak based on the frequency of interactions or the quality of the interactions (Borgatti et al., 2013). The relational patterns can dramatically differ from a traditional hierarchical structure, thereby calling for more research on how to manage or govern networks.

### **Network Governance**

Although network governance and governance share some commonalities, there are some subtle differences. The concept of governance has broader connotations and may embrace network governance. The phrase of multilevel governance originated from the context of the European Union (EU) to describe its decision-making process and political system with the backdrop of the European integration (Bache & Flinders, 2004). According to Hooghe and Marks (2003, 2009), there are type I multilevel governance and type II multilevel governance. Type I multilevel governance refers to the dispersion of power across government jurisdictions at local, regional, national, and international/EU levels for general purpose; and type II multilevel governance focuses on power dispersion across multiple jurisdictions and sectors for specific tasks or functions (Hooghe & Marks, 2003). Type I multilevel governance has its foundation in research on federalism and intergovernmental relations, whereas type II multilevel governance is closely linked with cross-sectional networks that engage organizations from all sectors to serve the public (Marks & Hooghe, 2004). It is type II multilevel governance that shares more similarities with the concept of multilevel network governance discussed in this chapter.

Network governance can be conceptualized as the use of formal and informal institutions, authority, and collaboration to allocate resources and coordinate joint action of diverse stakeholders in an interorganizational network (Bryson, Crosby, & Stone, 2006; Isett & Miranda, 2015; Provan & Kenis, 2008). Network governance focuses on how to manage complex network relations, facilitate joint decision-making, and coordinate action in a network setting. In this chapter, we

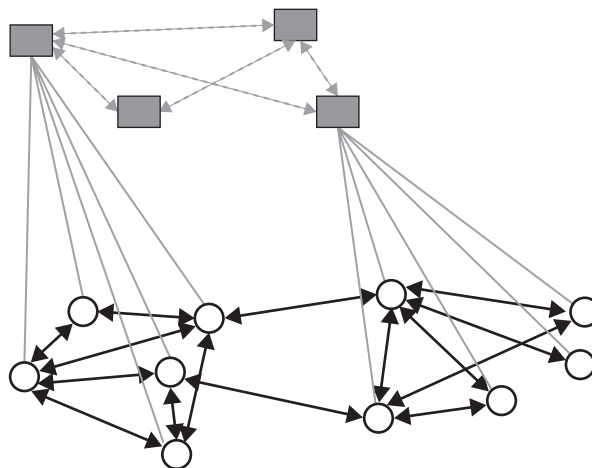
focus on the key elements of governance in multilevel networks, including governance structure, leadership, and management of relationships (Kenis, 2016).

### ***Multilevel Networks***

Network analysis is multilevel in nature, given its focus on relations that involves both the actor level and the dyadic level (Snijders, 2016). Yet, research has been more focused on the single-level network. An example of a single-level network is an interorganizational network that delivers mental illness services to people of need (Milward et al., 2009). Multilevel networks are specifically defined as “distinct types of nodes defined at different multiple levels with ties possible between all nodes, both within and across levels” (Lomi, Robins, & Tranmer, 2016, p. 266). The levels can be at individual level, group level, organizational level, community level, and so on. For instance, Figure 8.2 provides an illustrative example of a multilevel network. The network is composed of both individuals and organizations, and the ties exist among individuals and organizations, and between individuals and organizations.

Multilevel networks are more complex compared with single-level networks. Higher number of organizations in a network and their linkages increase complexity. Multilevel networks contain nodes at different levels such as individual nodes and subunit nodes, organizational nodes and sectoral nodes; and the relations exist within and across different levels of nodes. The relations are intertwined and the structure of relations at one level influences the network structure at the other levels (Lomi et al., 2016; Wang, Robins, Pattison, & Lazega, 2013). As Figure 8.2 suggests, there are different types of nodes: employees and organizations. Employees (represented by circles) have informal friendship ties with one another; organizations (represented by squares) have communication ties through representing employees; and employees have affiliation ties with organizations. Furthermore, the communication ties among organizations, informal friendship ties among employees, and affiliation ties are related.

Despite the ubiquity of multilevel networks, organizational network research has been quite focused on network analysis of single-level networks (Contractor, Wasserman, & Faust, 2006;



*Figure 8.2* A depiction of a multilevel networks

*Note:* Squares denote organizations. Circles denote employees working in organizations. The dashed lines represent the communication ties among the organizations. The solid lines represent the informal friendship (social capital) ties among individual employees in an organization and across organizations. The grey solid lines denote the affiliation relations between employees and organizations.

Zappa & Lomi, 2015), especially in the field of public administration (Kapucu, Hu, & Khosa, 2014). Part of this can be attributed to analytical challenges and methodological limitations (Zappa & Lomi, 2015). Conventional statistical tools are constrained when analyzing how the network structure at one level of organizational networks relates to the network structure at higher or lower levels of organizational network system (Zappa & Lomi, 2015). Recent methodological advances, such as the development of multilevel exponential random graph models (MERGMs), can address the interdependence issues of variables posed by the analysis of multilevel organizational networks (Zappa & Lomi, 2015); yet, the field of public administration still has not seen much research on multilevel networks with advanced methodologies.

### ***Multilevel Network Governance***

Existing literature has suggested that public administrators in a networked environment need to work with and interact with a large number of outside stakeholders (Agranoff, 2007). Furthermore, the decision-making process involves multiple organizations and differs from a traditional top-down management approach (Agranoff, 2007; Meier & O'Toole, 2001). Although managerial tasks such as "Planning, Organizing, Staffing, Directing, Coordinating, Reporting and Budgeting" ("POSDCORB") (Gulick, 1936) remain important, public managers need to engage in four types of activities in a networked environment: "activation," "framing," "mobilizing," and "synthesizing" as suggested by Agranoff and McGuire (2001, pp. 298–300). Managers need to identify network participants and activate resources from the participants (Acting); establish network rules, collaborative goals, or vision (framing); mobilize resources and gain support (mobilizing); build and strengthen strong relationships; and address conflicts (synthesizing) (Agranoff & McGuire, 2001). All these managerial activities will still apply to a multilevel network setting.

Network leadership has received much attention in recent years (Balkundi & Kilduff, 2006; Carter, DeChurch, Braun, & Contractor, 2015). The focus on relations and networks allows researchers to study the emergence of both formal and informal leadership, the impact of network position, connections, and network structure on leadership outcomes at individual, organizational, and network levels (Balkundi & Kilduff, 2006). Yet most existing studies of network leadership have focused on individual or teams as levels of analysis, a network approach to leadership at the organizational level, network level, and especially at multilevels is in need (Yammarino & Mumford., 2012).

Governance structure/form is another important topic when examining networks. Provan and Kenis (2008) proposed three forms of governance structures: "shared governance" (members of the network collectively govern the networks); "lead organization-governed network" (a lead organization in the network coordinate network-level decision-making and major activities), and "network administrative organization (NAO) model" (an external actor coordinates the network-level decision-making) (Provan & Kenis, 2008). The adoption of one form of network governance over others is dependent upon multiple contingency factors, including the level of trust between participants of a network, size of a network, level of goal consensus, and "need for network-level competencies" (Provan & Kenis, 2008, p. 240). For instance, when the goal consensus is low, shared governance is less likely to produce desired collaboration outcomes. In short, the functioning of networks depends on the alignment of governance structure with the attributes and context of multi-level emergency management networks. All are important as emergency management operates in a unique environment, full of uncertainty, changes, and dynamics (Kapucu, 2012). In practice, network governance can have a hybrid form (Popp, MacKean, Casebeer, Milward, & Lindstrom, 2013) and evolve over time (Ansell & Gash, 2008; Provan & Kenis, 2008).

Existing research on network governance, network management and leadership can still be applied to multilevel networks; yet, some additional discussion and analysis is needed to further

understand whether there are unique governance issues in multilevel networks. For instance, in a multilevel network that include multiple lead organizations at different levels, emergency managers may need to dedicate more time and resources as boundary spanners among organizations, establish the common goals, and address potential conflicts for better communication and coordination (Kapucu, 2006). Furthermore, context specific forms of governance structure are in need, as the three forms of governance structures may need to be adapted to work in the multilevel network setting. In the ensuing section, we discuss multilevel networks in the context of emergency management and elaborate on the key elements of multilevel networks, and what the multilevel network means for network management and governance.

### **Governance Issues in Multilevel Emergency Management Networks**

There are several reasons to discuss governance issues in multilevel emergency management networks and further explore its implications for other areas of public administration: First, “emergency management is the quintessential governmental role” (Waugh, 2000, p. 3). As the scope and intensity of both natural and man-made disasters continue to rise, it is important to understand how to coordinate efforts of government agencies at different levels and organizations from other sectors. Public administration researchers and practitioners need to understand and manage such a multilevel, cross-sector, multiorganizational network.

Second, the national emergency management system is complex, comprised of public, private, and nonprofit organizations and individuals in the United States (Waugh, 2000). Traditionally nonprofit organizations and other voluntary associations and individual citizens have played an important role in dealing with emergencies and disasters. Critical infrastructure protection became more important after the September 11 terrorist attacks. As the private sector owns approximately 85% of the critical infrastructure, it has become more crucial to involve the private sector in planning and coordination in preparation to disasters. Recently, emergency management became more international as international organizations such as the United Nations, World Health Organization and NATO have engaged more often in dealing with large-scale disasters and crises (Kapucu, 2009; Kapucu, & Özerdem, 2013). Organizations not only share information and resources, coordinate with one another; and they also compete for resources, visibility, and influence within a network (Kapucu & Van Wart, 2006). The complex network of organizations and individuals provides a good context to understand the wide range of relations and examine governance issues in emergency management.

Lastly, existing emergency management network literature has focused on single-level networks, primarily interorganizational networks (e.g., Kapucu, 2006; Hu et al., 2014). Most of previous research has either focused on identifying the key actors in an emergency response network, describing the structural characteristics of the network, and evaluated the performance of a coordination network (Hu et al., 2014; Kapucu, 2006; Kapucu and Demiroz 2011; Nowell & Steelman, 2015; Nowell, Steelman, Velez, & Yang, 2018; Robinson, Eller, Gall, & Gerber 2013). Among the diverse types of ties organizations can have, communication and coordination activities have received most attention (Kapucu & Hu, 2016). The left figure in Figure 8.3 denotes a single-level emergency management network. Nodes include emergency support functions (represented by parallelograms) and organizations from different sectors (squares, diamonds, triangles); however, the relations have been primarily studied at the inter-organizational level through focusing on the communication, or coordination among organizations, or the affiliation relations between organizations and emergency support functions (ESF) or disaster recovery functions (DRF).

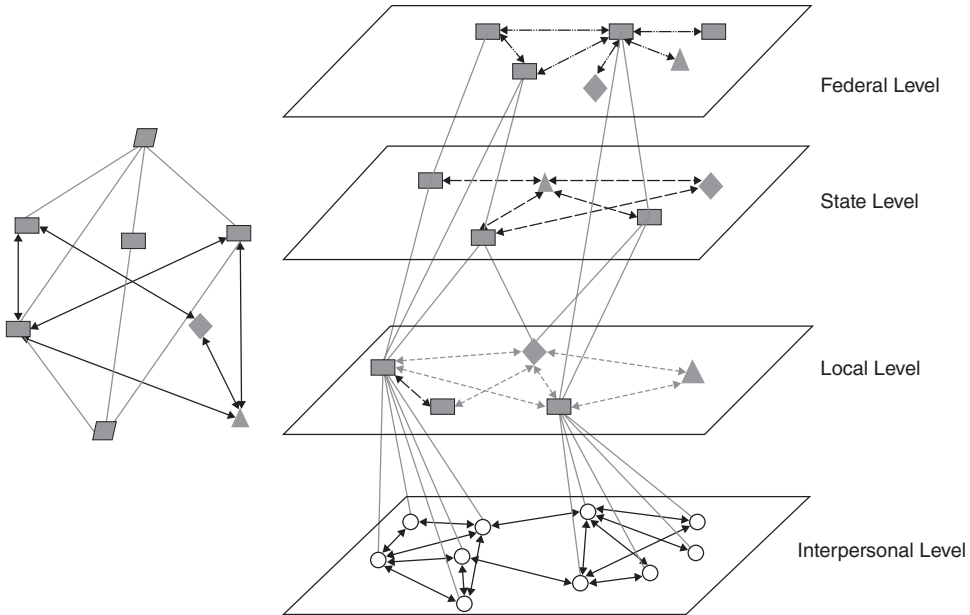


Figure 8.3 A depiction of a single-level emergency management vs. a multilevel emergency management network

Note: The different shapes, circles, squares, diamonds, triangles, and parallelograms represent different types of nodes: employees, public emergency management organizations, nonprofit organizations, businesses, and emergency support functions, respectively. The lines represent different types of interactions among these nodes.

### ***The Multilevel Nature of Emergency Management Systems***

The U.S. emergency management system is multilevel, involving vertical relations among government organizations across local, state, and federal levels as well as horizontal relations among organizations across sectors and jurisdictions (Kapucu & Hu, 2016). Managing emergencies and crises involve governments across all levels. At the federal level, the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS) coordinates efforts with other federal agencies and it established 10 regional offices to coordinate efforts and allocate resources to work with state and local governments (FEMA, 2019). State-level emergency management agencies coordinate resources at the state level and decide whether to request federal assistance to support local communities. Local governments, especially county governments often work closely with other local government agencies, nonprofits, faith-based and for-profit organizations in the context of disaster management (Waugh, 2000).

As shown in Figure 8.3, the inherently interdependent and embedded relationships of organizations within multilevel emergency management systems provide a great context to understand the multiplex relations among different types of nodes in the multilevel emergency network. Emergency management networks consist of a wide range of organizations that work together to prevent, protect, mitigate, respond to, and recover from emergencies and crises. Nodes can be organizations, such as emergency management organizations, other public agencies at different levels and across jurisdictions, nonprofit and private organizations (Comfort & Kapucu, 2006). At the local, state, and federal levels, emergency management organizations not only work with



nonprofit organizations (represented by diamonds), and private organizations (represented by triangles), but also work closely with other emergency management organizations at other levels of government (such as FEMA and its regional offices. For instance, in response to Hurricane Katrina, among the 535 organizations, 305 are public organizations, 84 are nonprofit organizations, and 143 are businesses (Comfort & Hasse, 2006). Coordination activities occurred among 318 organizations to search for victims, and provide health care, and sheltering services (Comfort & Hasse, 2006).

Within a multilevel emergency network, nodes can also be people or individuals working in these organizations or emergency support functions. As shown in the bottom layer of Figure 8.3, at the interpersonal level, network ties exist among employees (represented by circles) working in emergency management organizations. For instance, employees may seek advice from others in fulfilling job-related responsibilities or develop friendship ties for some common interests.

### ***Multi-Mode, Multi-Link Emergency Management Network***

The multilevel perspective allows researchers to address big questions in public administration such as coordination and performance from a new angle and explore new questions on network governance. Multilevel emergency management networks are broader than communication and coordination networks; therefore, we define and propose a multi-mode, multi-link emergency management network framework and use this framework to discuss new perspectives and approaches to address governance issues in multilevel emergency networks.

Multilevel emergency management networks include a more diverse range of nodes and different types of relations of nodes at different levels. Table 8.1 is developed upon Carley's (1999) categorizing of intra-organizational networks and Kapucu's (2005) adaption to interorganizational networks in the emergency management context. This framework is further refined and adapted to focus on agents or individuals, organizations, and emergency support functions. Multilevel emergency management networks include different types of nodes, such as individual employees, organizations, and emergency support functions (ESFs). Relations exist at and across interpersonal, functional, and organizational levels.

*Table 8.1* Multi-mode, Multi-link Emergency Management Network Framework

	<i>Agents (Individuals)</i>	<i>Functions</i>	<i>Organizations</i>
<i>Agents (Individuals)</i>	Interpersonal Network <i>Interactions among people</i>	Assignment Network <i>The organizational representatives responsible for what function</i>	Membership Network <i>What organization people belong to</i>
<i>Emergency Support Functions</i>		Function Coordination Network <i>Coordination of functions</i>	Formal Affiliation Network <i>What organization is responsible for what function</i>
<i>Organization</i>			Interorganizational Network <i>Interactions among organizations</i>

*Source:* Adapted from Carley (1999) and Kapucu (2005).

As Table 8.1 shows, in the context of emergency management, interpersonal networks can be formed among individual employees to build friendship or seek advice in order to prepare for emergencies; assignment networks can be formed between individuals and emergency support functions, linking the organizational representatives responsible for the emergency support functions; membership networks include individuals' affiliation with organizations; function coordination networks specifies the coordination of functions; affiliation networks link organizations with ESFs; interorganizational networks include a diverse range of interactions among organizations. Existing literature has focused on the affiliation networks and interorganizational networks (e.g., Hu et al., 2014); yet, more questions can be addressed at the interpersonal level, and functional level, and across interpersonal level, functional level, and organizational levels. Furthermore, questions need to be answered to address the influence of networks at one level on networks at another level. In other words, research attention is needed not only for studying different types of networks, but also for addressing relationships across the networks at different levels.

For instance, more research is needed to examine how interpersonal networks (one level) can influence the formation and structure of interorganizational networks (yet another level). Both the interorganizational ties and the interpersonal ties are important to the success of multilevel emergency management networks. On the one hand, organizations build formal ties that are defined through hierarchical positions and structures, contracts, agreements, or policies with established goals and expectations (Isett, Mergel., LeRoux, Mischen, & Rethemeyer, 2011). For instance, National Response Frameworks (NRF), along with state and local comprehensive emergency management plans (CEMPs), define the roles and responsibilities of government agencies at all levels and organizations across the sectors. These policy and planning documents also describe coordinating structures in different phases of emergency management. The interactions among these organizations form multilevel emergency management networks. It is within and across the various levels of these networks that the synergistic processes occur.

On the other hand, formal interorganizational connections may originate from interpersonal connections that cross organizational boundaries (Binz-Scharf, Lazer, & Mergel, 2012). Interpersonal connections can play crucial roles in fostering the development of long-term formal emergency management networks. Yet, limited attention has been paid to interpersonal networks and relationships between these networks (Isett et al., 2011; Provan & Lemaire, 2012). Creating and fostering relationships amongst stakeholders is essential during all mission areas of emergency management.

### ***Governing Multilevel Emergency Management Networks***

The nature of emergency situations demands participating organizations to work interdependently with other organizations, which necessitates high-level coordination skills at the network level (Kapucu, 2009). Network governance, in the context of emergency management, can be defined as coordinating processes, mechanisms, and structures that guide the collective effort of stakeholders in preparedness, response to, and recovery from disasters (Drabek & McEntire, 2002; Kapucu, 2006, 2012; Kapucu & Garayev, 2012; Koliba, Meek, & Zia, 2010; Waugh & Streib, 2006). Network governance presents the foundational processes and mechanisms through which emergency management networks collectively govern their activities and share resources to cope with emergencies and crises in an effective manner. The functioning of multilevel emergency management networks depends on the alignment of governance structure with organizational attributes and the disaster context.

The U.S. emergency management utilizes the Emergency Support Function (ESF)-based system and the Incident Command System (ICS) to coordinate core emergency management functions. These documents also provide guidance to state and local governments to structure and plan

their emergency management operations. To enhance cross-sector coordination and intergovernmental coordination, the National Response Framework (NRF) was established in 2008 to define the role and responsibilities of organizations (primary agencies and support agencies) based on 15 ESFs. This system demands collaboration among organization working in these functional areas (Kapucu & Garayev, 2012; Kapucu & Hu, 2016).

Compared with the horizontal approach of the ESF-based system, the ICS-based approach demonstrates a more hierarchical command-and-control structure. The ICS is organized around five functional areas, including command, operations, planning, logistics, and finance/administration (Federal Agency of Emergency Management [FEMA], 2008). Facing an incident, a single incident commander is in charge, with the support from the staff, including a public information officer, a safety officer, and a liaison officer. The ICS approach also involves coordination. When coordination is needed, representatives of agencies make joint decisions to create a unified command (FEMA, 2008). A multilevel emergency management network is formed under the influence of both systems. The current U.S. emergency management system, with its focus on coordination at all levels of government and jurisdictions, makes lead-mode, NAO-mode more appropriate for an effective response and recovery. We also need to emphasize that local-level capacity for timely decentralized decision-making is key for emergency management. The existing forms of governance structures—lead-mode and NAO-mode—need to be adapted in a multilevel emergency management network setting.

Furthermore, the multilevel nature of emergency management may demand a hybrid governance structure. For instance, a lead-mode structure may function well in a single-level emergency management network where the local county emergency management office may serve as the lead agency to coordinate and organize efforts with other government agencies and nonprofit or business. However, as the number and diversity of participating organizations increases when networks at other levels join the network, the original lead mode may not function as expected. A core group of organizations may take the lead. In other words, multiple lead organizations take responsibilities in coordinating resource allocation and decision-making for a multilevel network.

### ***Network Leadership in Multilevel Emergency Management Networks***

Through an empirical study of 500 emergency managers, McGuire and Silvia highlighted the importance of “mobilizing” and “synthesizing” behavior for the effectiveness of emergency networks (2009). In a multilevel emergency management network, it is more important for managers to build a support network, mobilize network resources, address differences between individual organizational goals and network goals, and manage power imbalances and potential conflicts. Next, we will discuss what the network leadership behaviors—“Activating,” “framing,” “mobilizing,” and “synthesizing” mean in the context of a multilevel emergency management network.

Activating behavior becomes more important, as a multilevel emergency management network involves multiple types of nodes and complex relations among the nodes. Emergency managers need to develop a clear picture of all relevant actors or nodes and understand their relations in the network. Identifying all nodes and activating resources at different levels of networks. The resources not only exist in interorganizational networks, but also exist in other types of networks such as interpersonal networks or assignment networks, which have been largely neglected in existing research (Kapucu & Hu, 2016). For instance, understanding the assignment network (the organizational representatives responsible for emergency support function) is important for emergency managers to call for needed resources and joint action when needed in an efficient manner. Building interpersonal relations among emergency managers can also help better link or strengthen relations among organizations.

Emergency managers need to “frame” the issue in a way to be effectively communicated to the network at all levels. The multilevel emergency system involves various levels of government and organizations from different sectors (public, nonprofit, and private). Furthermore, due to the uncertain and urgent nature of most emergencies, emergency managers need to communicate in a timely manner. Hence, emergency managers need to be able to understand the organizational differences and seek common ground for defining roles and responsibilities, establishing rules, and creating collaboration goals. “Mobilizing” resources in a multilevel emergency management network requires managers to serve as boundary spanners who not only mobilize resources at government agencies at all levels, but also tap into resources in the community, businesses, and nonprofit organizations. It is important to mobilize network resources at the interpersonal level, at the organizational level, at the functional unit level, and interorganizational level, and across these levels. It is challenging yet crucial to “synthesizing” different perspectives and priorities in a multilevel network setting. Public, nonprofit, and private organizations may have different operational processes and procedures. When these organizations come together to prepare for or respond to an emergency, leaders need to work on differences, address power imbalances, and coordinate joint actions.

## **Conclusion**

In this chapter, we called for attention to the governance of multilevel networks. Although most of existing network governance research in public administration has focused on the single-level networks due to methodological constraints (Kapucu et al., 2014), networks are multilevel in nature. Multilevel networks include nodes of diverse types and at different levels, and ties that connect nodes within and across levels (Lomi et al., 2016). The complexity of network nodes and relations demands new research on governance structure, network management and leadership.

We used the emergency management as a context to further discuss governance issues in a multilevel emergency management network. Due to the existence of multiple lead organizations in a multilevel network, multiple organizations may take the lead role in coordinating activities and facilitating decision-making. Furthermore, the “acting,” “framing,” “mobilizing,” and “synthesizing” behaviors of network leaders embraces new elements in a multilevel setting.

As multilevel network governance research remains at its emergence stage, this chapter may raise more questions than it has addressed. Moving forward, a wide range of old and new questions need to be addressed through a multilevel network lens. We list a few questions here to invite public administration scholars to join the conversation on governing multilevel networks.

- What nodes are included in a multilevel network? What types of relations are included?  
Our disciplinary focus on interorganizational networks does not and should not exclude research attention to other types of nodes and relations, and interpersonal networks and inter-unit networks. In fact, studying other types of networks help further understand the dynamics of interorganizational networks.
- How does a network at one level influence the formation of ties and the structure of relations at another level?  
While it is important to examine how organizational attributes and prior interactions influence their tie formation, it might be interesting to study the influence of interpersonal networks on the formation of formal relations at the organizational level or vice versa.
- What leadership behaviors are needed most in a multilevel network setting?  
Does the “acting,” “framing,” “mobilizing,” and “synthesizing” behaviors capture all the key activities that a network leader need to do to ensure the functioning of multilevel networks? Does each of the key activity involve new content or element to be effective?

- What type of governance structure is effective in a multilevel network setting?  
As the complexity of network increases, is a formal governance structure a must? Will shared governance, lead organization governance, or NAO governance continue to apply in a multilevel network? If not, what new network structure(s) will work?
- How does context influence the formation, development, function, and structure of multilevel networks?  
Many of existing network studies focus on specific domains. It is worthwhile to explore whether there are common principles that guide the formation and development of multilevel networks across different policy and management contexts. Furthermore, to achieve network effectiveness, it is important to identify how unique contextual factors influence the function and governance modes of multilevel networks.

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# 9

## THE MANY PUBLICS OF GOVERNMENT ORGANIZATIONS

*John Clayton Thomas and John Alford*

### Introduction

This chapter is about “the public” encountered by government organizations—or more specifically, about one part of that public, which will here be called the “consuming” public. It comprises people who derive benefits from public services as customers, clients, consumers, citizens, and the like.

In popular stereotypes, these members of the “consuming public” have tended historically to experience the public sector as inefficient, unresponsive, and wasteful, among many supposed ills. In response, governments starting in the 1980s have introduced many reforms to address these ills by engaging more effectively with the public. This in turn prompted a gathering debate among scholars and practitioners about the merits of the reforms.

Many of those reforms have addressed the “supply” side. They have been designed either to improve the efficiency and effectiveness of existing providers and their staff, notably those employed within public sector organizations (PSOs), or to replace the providers, or subject them to the discipline of market competition, especially in hiring for-profit suppliers. Alongside these commercial providers, many government programs have drawn on not-for-profit organizations to play a role, as part of what is variously labelled the “third sector,” the community sector, the non-profit sector, the voluntary sector, or other terms (see Butcher and Gilchrist 2016; Salamon 2002; Brudney 1990).

This chapter deals with a different, albeit related subject—the consumer or client or customer—and considers three of the recent reform efforts targeted to them. A first is to improve the quality of service by focusing on the *public as customer*. In its private sector version, this means orienting PSOs to better understand and meet the preferences of the public (Normann 2002), with the aim of creating satisfied customers who are willing to pay a premium for services. A second focuses on the *public as partner*, seeking to tap into the public’s capabilities to improve services, especially through *coproduction*: members of the public contribute to the production of public services that they may also “consume” (e.g., Thomas 2012; Alford 2009; Bovaird 2007; Brudney and England 1983; Parks et al. 1981). A third engages the *public as citizen*, deliberating through *public involvement in decision-making* about what services there should be and how they should be run, with the goal again of improving the fit of public services to the needs of the public.

The chapter considers these developments with a threefold purpose:

- 1 to deepen our understanding of who is “the public” in the government sector;
- 2 to assess the usefulness of the three dimensions (customer focus, client coproduction, and citizen participation);
- 3 to consider how government might better engage the public in each of these dimensions.

### Who Is the Public? Deconstructing Dimensions

We begin with the issue of who is the public for public sector organizations. A broad range of answers can be found (e.g., Thomas 2012; Denhardt and Denhardt 2011; Fountain 2001; Osborne and Gaebler 1993; Pollitt 1990). Some of them are generic (for instance, public, citizens, clients, customers, or service-recipients). Others are specific to an industry (passengers, patients, prisoners, tenants), while still others refer to recipients of particular services (again including patients, but also students, pupils, trainees, diners, disabled people).

If we re-phrase the question as “whom do public servants serve?”, the answer might seem obvious: They serve the elected government of the day. After all, in a representative democracy, politicians actually are elected by the voting public, and thereby have a superior claim to represent ordinary citizens than do public servants.

This perspective reflects the classic dichotomy between politics and administration as originally spelled out by Woodrow Wilson.<sup>1</sup> Political decisions, Wilson argued, should be made by politicians rather than appointed administrators, whereas the job of administrators was to implement those decisions (Weber 1946/68; Wilson 1887). This was the prevailing model of the public service prior to the 1970s, a model of a politically neutral and technically competent corps of public administrators whose job was to advise on and implement decisions made by elected governments. This model envisioned relatively little involvement of members of the public, except at election time. While the ultimate recipients of public services were the citizenry, it was seen as not having much say over the design and operation of public services, except retrospectively through elections.

Since then, three developments have suggested alternative answers to the question of who the public is. First, the rise of the *New Public Administration* (NPA) in the late 1960s (see Thomas 2012, 19–22; Denhardt and Denhardt 2011; O’Leary, Van Slyke, and Kim 2010) introduced the idea of the desirability of a more participative managerial style.<sup>2</sup> NPA reforms were only modestly successful, prompting more lip service than actual substantive engagement of the public. But NPA encouraged early experimentation with participatory mechanisms, which resonated with the more active role that organized groups were increasingly playing. It also gave impetus to the idea of the *public as citizen* with a role to play in public administration.

In the second development, which would prove more significant globally, business and conservative political groups in the 1980s propagated a view that government, taxes, and regulation were all too onerous. The public sector, they contended, needed to become more like the private through the adoption of an array of business techniques, including an output focus, performance measurement, incentive pay, competition, outsourcing, and privatization. In this perspective, which came to be known as the *New Public Management* (NPM) (Hood 1991), the public was commonly if not always referred to as *customers*—a term with an implicit emphasis on efficiency (e.g., through market prices) and responsiveness. The characteristic techniques were variously called customer focus, client orientation, individualization of services, and the like. Their essence was that PSOs supposedly needed to orient themselves to providing better service to their “publics.”<sup>3</sup> The idea of the *public as customer* was now in play.

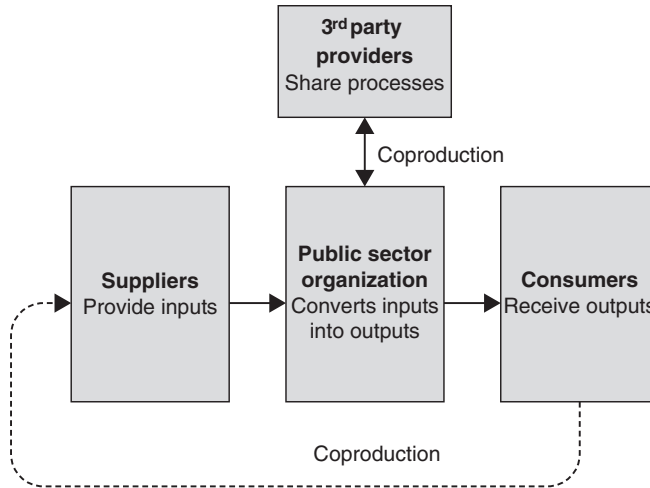


Figure 9.1 Types of actors

In the third and most recent development, scholars and practitioners have argued that government cannot serve as the only provider of public services, that instead service-provision and the broader pursuit of public ends occur mostly through networks of private and nonprofit entities, members of the public, and governments. This phenomenon has become known as “governance” (e.g., Bingham, Nabatchi, and O’Leary 2005), which may have become “the dominant model of public sector management in the post-NPM era” (Alford and Hughes 2008, 137).

Discussions of governance revived interest in “coproduction,” an idea that briefly gained popularity in the US in the 1970s and 1980s (e.g., Brudney and England 1983; Whitaker 1980; Ostrom et al. 1978) before resurfacing outside the US in the late 1990s and receiving growing attention since. Coproduction occurs in either of two circumstances. One is when government finds that its activities are inherently interdependent with non-governmental entities, including members of the public, such that services cannot be produced effectively without the assistance of those actors. In the second, while PSOs may be able to produce on their own, they recognize that cost or quality or both can be enhanced if other entities can be persuaded to join as coproducers. In both cases, segments of the public work in concert with government, illustrating the concept of the *public as partner*.

Having delineated the consumer-like entities from the producer-like ones, we use Moore’s types as a template, to identify three irreducible attributes of any role a member of the public might play in interacting with a PSO, as set out in Figure 9.1.

### Distinguishing Between Citizens and Customers

Clearly, it is not possible to encapsulate these meanings in a single term. Instead, we seek a *series* of terms that together recognize the multi-faceted nature of the public. But as a reference point we start with the “classic private sector customer focus,” a term which turns out to be very appropriate. It is widely used in everyday discourse and relatively amenable to decomposition and therefore to comparison of its elements. Most importantly, it is a term used by many public sector reformers.

However, the customer focus idea has also been the target of criticism by some public administration scholars who counter-pose it to another type of “public”: the citizenry. They argue that

treating relationships between PSOs and their publics as private customer transactions neglects important differences in the public sector.<sup>4</sup> As Pollitt (1990, 129) put it:

...the public service consumer is also (nearly always) a citizen... It is a concept with a strong connotation of *collective* rather than individual action ("Fellow citizens!"). Citizens owe duties to and possess rights of the state. All this is alien to an individualist model where the market is the chief focus of transactions and values...

In this debate, customer-focus proponents have criticized what they saw as a lack of attention to client needs, exemplified by typical terms for bureaucratic performance—inefficient, wasteful, rule-bound, etc.—whereas the citizen-focused administrators accuse the managerialists of neglecting what is truly public (Denhardt and Denhardt 2011).

At its most extreme, the debate became something of a dialogue of the deaf. On the one hand, managerialists asserted that *all* members of the public should be seen as customers (for example, the U.K. civil service under PMs Blair and Brown (Clarke 2006)). On the other hand, some public administration scholars insisted that we are *all* citizens and *only* citizens. As Denhardt and Denhardt argued in their book about "the new public service," administrators should "serve citizens, not customers" (2011, 45). Guy Peters summed up the challenge: "There is a central normative question... as to whether the public sector is better advised thinking about the public as consumers or as citizens" (2010, 318).

We argue for a more encompassing contingent stance. On the question of whether we are citizens or customers, this perspective argues that neither position is valid. We are not *only* customers nor *only* citizens, but *both*, and more besides. From this perspective, terms such as customer and citizen should be seen as *roles*, not *categories*. The mixture of these roles varies from one set of members of the public to another. In other words, rather than try to find out which one of the categories applies in a given case, we should acknowledge the different *roles* they play. This can be most easily achieved by first deconstructing the elements of a given ideal-type, then putting them back together in a few definitive types, each of which on its own represents a role. An important recent example in a hitherto sparse field comes from Moore (1995; 2013), who provides a typology of the relevant roles. Here we describe these roles, then provide a framework setting out how to analyze a given situation (Thomas 2012; Denhardt and Denhardt 2011; Mintzberg 1979).

### ***The Type of Value Received by the Member of the Public***

Perhaps the most significant distinction between "public" and "private" in the literature is the type of value the PSO is responsible for producing. The more "public" a PSO, the more the members of its public deviate from the generic template, in terms of the characteristics of what it produces.

As a first distinction, citizens are quite different from customers, in that they seek services from government which are *collectively* of value to them, in addition to the individual value that customers seek. As Moore (1995) explains, public value is "consumed" collectively by the citizenry, rather than individually by clients. It includes not only public goods (Samuelson 2000; Coase 1960), but also remedies other types of market failures (Hughes 2018; Weimer and Vining 2005). Generally speaking, citizens also value the institutional arrangements which underpin markets and social life, such as the rule of law, maintenance of order, and mechanisms for the protection of property rights and enforcement of contracts.

Citizens don't just value these things because they personally benefit from them. Often they do so for reasons which go beyond personal self-interest to concerns for the society as a whole, such as concern for the weak and vulnerable, fairness, or care for the environment (Moore 1995, 44–48). In the same way as institutional arrangements underlie markets, so too does facilitating

the conditions for deliberation about these collective purposes, such as constitutional arrangements, deliberative mechanisms, educational processes, and cultural norms, enable us to ascertain what is more valuable. This type of service or institution results in what is now widely referred to as public value, by contrast to the *private value* consumed by customers (Moore 2013).

### ***The Dominant Coordination Mechanism***

A second distinction refers to the dominant mechanism by which the actions of one party are aligned with those of the other: any kind of mechanisms, activities, or incentives that induce or enable the members of the public to act consistently with achieving the obligatory task(s) in question. This means that legal compulsion is just as relevant as persuasion, incentives, or others. This is important, since PSOs often possess a monopoly on the use of legal authority to compel people to comply with collectively determined purposes. This is “public power,” which has significant implications for the public and the public service. This feature is at odds with the private sector model’s assumption that the customer’s participation is voluntary. These different concepts have recently assumed increasing prominence both in research and in emerging practitioner strategies (Sparrow 1994; Ayres and Braithwaite 1992).

### ***The Preferences of Both the Organization and the Public***

The third distinction of the preferences of the organization and the public concerns whether the PSO wants whatever contribution, if any, on offer from the client, and whether members of the public want the service that the organization can provide. In the private sector, customer focus is aimed at encouraging the clients’ *willingness to pay* (Breidert et al. 2006). In many programs, it makes sense for PSO managers and staff to encourage the public’s desire for its services, through appealing not only to monetary values, but also to non-material ones such as intrinsic interest in the work, sense of autonomy, or alignment with the organizational mission. But in some services, for instance, those where the “service” on offer entails coercion of the public, this may be difficult. In others the service is free, so that encouraging “willingness to pay” sits oddly with organizational purposes. As discussed below, these situations call for redefining the form in which “payment” is made to the organization.

So far, our analysis has been confined to the basic “citizen/customer” distinction. Moore (2013; 1995) has brought together the different roles in a strategic framework. Applying these dimensions, we distinguish three key roles, as shown in Figure 9.2 below. Moore points out that alongside the (paying) customer role sit at least two others, the mix of which varies from one relationship to another. We draw on his elaborated template to further support his analysis by situating the identified roles in an overall schema.

### **The Service-Recipient Roles**

Service-recipients are the main public sector analogues to the individual private sector customer, but there is more to their role than just consumption (Moore 1995). In fact, there are three main service-recipient roles, corresponding to the different ways they deviate from the classic customer transaction.

One role is that of *paying customer*, as in the private sector—for instance, public transport commuters. Typically, the customer (passenger) in this role pays only part of the cost, the remainder being funded by the government because there are important public benefits to be derived from doing so, like reduced traffic congestion or fewer road accident victims (Kotler and Lee 2007).

A second role is the *beneficiary*, who receives services but does not pay or at least does not pay the full cost of the services. They may desire the services they receive, but do not engage in a direct exchange of money for goods and services. They may pay taxes, but this money goes into consolidated revenue, from there allocated by government to collective programmatic purposes. The items beneficiaries receive could include job training, health insurance, food vouchers, and direct financial assistance. All of those items represent private value for the individual service-recipient, but they also represent public value for those in the collective citizenry who wish to help those in need.

Customers who pay for the public services they receive are the obvious public sector analogues to the private sector customer, but beneficiaries approximate that characterization, too. They are, after all, pursuing discrete goods for their private value, even if they do not pay for them in the strictest sense.

In combination, these two service-recipient roles describe an enormous volume of the public's interactions with government. In the US, for example, more members of the public appear to interact with government as paying customers and/or beneficiaries than in any other role, with large majorities of citizens engaging these interactions at least annually. These interactions occur at all levels of government for issues as varied as crime reports, missed garbage collection, noise complaints, library hours, and registration for recreation programs, to mention just a few.

Finally, some services may by their nature (for example, a prison service or a regulatory action) entail not delighting or even satisfying individual recipients, but rather the opposite: the imposition of obligations on some for the benefit of the citizenry as a whole. These obligations can include either requiring individuals to do things they do not want to do or prohibiting them from doing things they do want to do. Either way, the clients do not want to "receive" these services and may seek to avoid them. Moore (1995) terms those cast in this role *obligatees*.

## The Emergence of Coproduction

The preceding discussion concerns members of the public as *recipients* of services produced by PSOs or their agents. But there are important public services where members of the public join in the *production* as well as the consumption of services. This is the phenomenon of coproduction, which emerged briefly as a scholarly interest in the 1970s, revived in the late 1990s, and has since been shifting and elaborating the way we think about public services.

At the heart of coproduction is an exchange, but one that differs from that of conventional production, where customers provide money and receive goods and services in exchange. In the private sector, the purpose of seeking to delight or even just satisfy customers is to enhance their willingness to pay. But in public services, that purpose is typically irrelevant, for the obvious reason that public sector customers do not pay, or at least do not pay full cost, for the services they receive. With coproduction, that is not the end of the story. While an exchange of money for services may not be feasible, there remains the possibility of the two parties engaging in an exchange of *behaviors*. In this broader type of exchange, the PSO typically provides services and the member of the public provides coproductive time and effort.

This in turn reverses the core strategic question for the PSO. Instead of asking the traditional question of what our customers want from us, the question for the PSO with coproduction becomes: "What do we want from our customers?" Typically, the answers to that question might include some combination of time, effort, information, compliance, and other kinds of assistance—in short, various types of coproduction. This amended focus directs attention to those aspects of the process that might benefit from coproduction, suggesting the need for a relatively hard-headed critical scrutiny of production processes.

Coproduction is sometimes discussed as if it would be a “nice thing” to have. Here a PSO may be able to produce a service on its own, but can do so more efficiently or effectively if other entities can be persuaded to join in the production effort. Coproduction then is desirable but probably optional. Often, though, the government finds that it cannot function without coproduction, and so has no choice but to pursue it. Many activities of PSOs are inherently interdependent with non-governmental entities, including members of the public, and cannot be produced without assistance from those actors.

In either of those two scenarios, coproduction suggests the concept of the *public as partner*. In the partner role, members of the public volunteer or are persuaded to contribute coproductive effort to a PSO’s work.<sup>5</sup> Some are clients of the organization, but many are volunteer partners who are not necessarily service-recipients; instead, they supply time and effort to producing services from which they may or may not benefit. As with the citizen role, individuals who assume the partner role are commonly interested in more than discrete public goods for themselves; they seek to improve the quality of specific public services for many. Often, they do so in conjunction with voluntary organizations who serve as intermediaries in dealing with PSOs.

The reversal of the starting question also raises issues about the “offer” a PSO makes to members of the public to gain their help in coproduction. That offer may broaden well beyond the simple exchange of money for services. PSOs may seek to appeal to values such as intrinsic motivation, social affiliation, and alignment with the mission of the organization or program, in addition to aspects of material self-interest.

The need for coproduction has probably expanded as a consequence of the work of government—and of the private sector—becoming more about services than products. As Edvardson et al. (2005, 117–118) have explained, a service is “a process or performance rather than a thing”; where a “thing” might simply be provided to a recipient, a process implies that the recipient will be involved, necessitating coproduction (Lusch and Vargo 2014). For this and other reasons, across many or most public services and programs, effective production and delivery require partnering with the public.

### **Interactions among the Roles**

We now have the key elements for a framework setting out the multiple roles of members of the public, as shown in Figure 9.2. From this it is clear that a simple “citizen versus customer” choice is inadequate for making sense of the complexities of the role of the public in the public sector. The figure also suggests how significant insights can come from considering how the various roles fit together.

In particular, individual members of the public often assume more than one of these roles at a time. For example, a welfare-recipient who is mainly a beneficiary is also an obligatee, in that s/he has to satisfy procedural obligations such as actively seeking work or reporting changes of address. That individual may be a partner, too, but, interestingly, in the very process of joining actively in the program’s employment training and the eventual job search process (Alford 2009, 117–118), the job-seeker is helping to coproduce the achievement of the PSO’s program objectives. A prisoner who is mainly an obligatee is also a beneficiary, in that she receives accommodation, retraining and rehabilitation. In addition, many people who seek discrete service assistance as paying customers or beneficiaries may also assume roles as partners in coproducing the services or as citizens in deliberating what services should be provided and how.

The *citizen* and *partner* roles in this context differ substantially from any and all of the customer roles. In the citizen role, members of the public deliberate with public managers over larger questions about what services to provide or how to exercise governmental authority. The concerns here are not with specific discrete services for particular individuals, but with broader policy issues



Basic archetype	Customer role (comparator)	Citizen role	Client roles		Partner role
			Beneficiary role	Obligatee role	
Upstream or downstream?	Downstream	Upstream	Upstream and downstream	Upstream and downstream	Upstream
Type of value received	Private	Public	Public and private	Mainly public	Public and private
Dominant coordination mechanism	Economic exchange	Mission alignment	Social exchange	Compulsion	Mission alignment
Parties' preferences for good or service	Voluntary for both	Varies	Voluntary for both	Mostly compulsory for client, voluntary for PSO	Voluntary

Figure 9.2 Analyzing roles as members of the public

potentially affecting many in the public. Those who participate in these kinds of discussions assume arguably their most important role, as citizens in the democratic sense of joining in debates over the direction of government.

### Why Worry about the Publics of Government Organizations?

All of this begs an important question: Why should PSOs concern themselves with working with external parties when those parties don't pay any money to the PSOs? Doesn't that entail spending a lot of time and effort building a positive relationship for not much return? The authors of *Reinventing Government*, the book which popularized NPM, certainly thought so:

*Most public agencies don't get their funds from their customers. Businesses do. If a business pleases its customers, sales increase; if someone else pleases its customers more, sales decline. So businesses in competitive environments learn to pay enormous attention to their customers.*  
(Osborne and Gaebler, 1993, 166–167, emphasis in original)

This argument completely ignores a crucial fact about the public sector: Members of the public can provide *things other than money* to the PSOs with which they interact. In line with social exchange principles, they may contribute something other than material rewards or extrinsic rewards. In particular, they can act or behave in ways which help government organizations to do their jobs. This is most obvious in coproduction at the “grass roots” level: It turns out that a substantial proportion of GDP results from members of the public acting either as volunteers or coproducers. The public also contributes information (to facilitate systems such as tax returns or traffic control) and various forms of support for and compliance with laws and regulations, all of which can make for more effective public policies and programs (Hood 1986).

Interestingly, as also suggested earlier, these efforts are not always or perhaps even mostly about legal compulsion. Increasingly, agencies charged with securing compliance with the law resort to levers other than punitive enforcement, such as responsive regulation, reintegrative shaming, and

devices to make compliance less difficult. Rather than simply being imposed, regulations may be negotiated with the regulatees; compliance may be increased by publicizing evidence that others are complying; and, public education campaigns may also educate the public on how to comply (see Ayres and Braithwaite 1992).

In short, where private businesses may view as crucial encouraging the *willingness to pay*, their public sector cousins may find encouraging a *willingness to coproduce or comply* to be a more effective strategy. PSOs may gain more by working to foster behaviors than to increase revenues. That approach relies on social reciprocity, reflecting that the simple carrots and sticks of private business are inadequate as motivators in the public sector.

### **The Prospects for Engaging with the Public**

So what are the prospects for these customer-related developments? Having discussed PSO interactions with the public as partners in the context of coproduction, we will focus here on the other two types of interactions with the public—as customers and as citizens.

*Interacting with customers.* Public agencies interact extensively with the public as customers, that is, as individuals who are seeking a discrete product or service for its personal value from the government responsible for that good or service. By that definition, more people probably interact with government as customers than in any other capacity. The city of Hampton, Virginia, for example, reported 302,000 calls coming to its centralized customer call center in 2003, more than twice the city's population of 146,000. As well, even larger numbers may take their customer requests to the web. Earlier, pre-311 and pre-internet, studies estimated that 60–70% of U.S. residents contacted their municipal governments in a given year with a customer-like request (see Thomas and Melkers 1999; Coulter 1992, 306).

Recognition of the importance of the customer role has led to several waves of reform and related lines of research. The initial reforms came in the development of citizen satisfaction surveys, which attempt to assess citizen perceptions about services quality. Starting in the late 1960s, increasing numbers of governments adopted these surveys as a regular practice, as with local governments in the US (see, for example, Miller et al. 2008).

A more recent wave of reforms focused on improving the public's ability to get answers from governments about basic public service problems, answers to questions such as: What day is my garbage collected? How can I get a pothole on my street repaired? How can I reserve a park area for a family picnic? In response, many governments have created centralized call centers where individuals can bring requests for non-emergency local service issues. Since their inception, 311 telephone call centers have spread rapidly to many places across the US and Canada, with similar call centers developing in other countries (e.g., Xin 2013). More recently, internet-based contact points have become increasingly popular, offering a richer information base and more ability to explore (e.g., Corker and Eichenenthal 2006, 271). Even more recently, governments have developed applications to facilitate the public seeking assistance through mobile devices (e.g., smart phones). Many governments aspire to something akin to the Amazon online retail model: rather than having a different website for each of its services, having everything under one “digital roof,” making it easier to shop.

Prompted in part by the data these access points can provide, the latest reforms entail the development of customer/citizen relations management (CRM) systems for collecting and analyzing data on issues related to citizens, customers, and governmental performance. In addition to data from call centers and other access points, the best CRM systems incorporate citizen surveys, employee workload records, employee reports on services and problems, and information from third parties (e.g., economic data) (e.g., Walker et al. 2011; National Performance Management Advisory Committee 2010; Swiss and Strauss 2008).

Despite all these reforms, providing high-quality customer service remains a challenge for many governments. Responding to a 311 call typically costs \$3–4 per request, which adds up quickly when the volume of calls reaches the hundreds of thousands or millions. There are also the traditional problems of bureaucracy, with frontline personnel often seeming to “prioritize rule compliance and procedures, rather than a customer focus,” as one city manager discovered in assessing his government’s organizational culture (Hartmann and Khademian 2010, 850). Those personnel may feel “controlled and frustrated by” bureaucratic systems and unable to provide the personalized attention that good customer service entails (Lovell 1992, 396).

*Interacting with citizens.* On occasion, public and non-profit agencies will find it useful to involve the public in administrative decision-making, especially when the potential impact of an agency program on the public suggests the need to ask for the public’s views on what the program should look like. Involving the public in administrative decision-making can offer benefits such as (1) better information, as when citizens contribute ground-level knowledge otherwise unavailable to decision-makers (e.g., Beierle 2002, 746); (2) greater likelihood of the public accepting any decision it helped make, in the process facilitating program implementation; (3) improved agency performance, as documented in such disparate venues as state departments of transportation in the US (Neshkova and Guo 2011) and rural water supply projects in India (Prokopy 2005); and perhaps even (4) increased citizen trust as a result of a rewarding involvement experience. The public can also benefit from (1) a better fit of public policies and programs to community preferences, (2) improved capacity for other joint efforts with government or the nonprofit sector, and, ultimately, (3) a better quality of life in the community.

Experience shows, though, that public involvement can bring problems, too. For one, those who become involved seldom constitute a cross-section of the population, often looking more like an odd lot of “the curious, the fearful, and the available” (McComas et al. 2006, 691–692). Involvement can also be costly by (1) requiring more time of public administrators to work with the public, (2) undermining necessary quality standards, and (3) raising program costs to meet the public’s demands (e.g., Till and Meyer 2001, 377).

Fearing these problems, many public managers historically have sought to avoid public involvement. They would be better advised to view public involvement as a contingent proposition, desirable only under some circumstances, and, when desirable, best pursued with strategies that vary by issue (Thomas 2012; 1995). Research suggests a handful of guidelines that can help in understanding and responding to these contingencies. As a few examples:

- Initiate involvement of the public sooner rather than later. Earlier initiation reduces the potential for the public wondering why their input was not invited before many aspects of an issue have already been decided.
- Encourage participants to come with and maintain an open mind (Barabas 2004, 690). That can decrease the risk of participants coming with fixed ideas about possible solutions.
- Plan for both (1) agency education of citizen participants (McComas 2010, 180) and (2) communication of citizen perspectives to the agency (Beierle and Konisky 2000, 596). Effective involvement of the public requires that the public and PSOs learn from each other.
- Structure opportunities for face-to-face small-group interaction, typically nested within larger involvement mechanisms (Ostrom 1990, 90). Small groups increase the likelihood that everyone can have a say on the issue; their linkage to larger groups provides a route to reaching decisions.
- Use a trained facilitator, preferably a neutral outsider (Baker et al. 2005, 297). Leaders of involvement processes need to be perceived as neutral but also skilled at facilitation.

While public involvement in governmental administrative decision-making has become more widely accepted, ongoing representative involvement has proved difficult to institutionalize.

Brazil's well-known Porto Alegre participatory budgeting appears to have fallen victim to the "politics of clientelism," where benefits go to established groups more than to meeting representative needs (Marquetti et al. 2012), while Washington's Citizen Summits may have lost the representative public engagement that highlighted initial iterations (Martinez 2001). As these examples suggest, while achieving representative involvement is a substantial accomplishment, maintaining that representativeness across time may be even more challenging.

## Conclusion

The last half century has brought a revolution in thinking about the roles the public should play in public service organizations. Scholars and practitioners of public administration and management have proliferated a dizzying array of terms for those roles—starting with customer and citizen, but going on almost endlessly from there to clients, consumers, users, taxpayers, subjects, and partners, to mention only a few. Each of these terms highlights an important element of the relationship between members of the public and PSOs, but no one of them can come close to capturing the full nature of that relationship.

We have argued here against looking for a single inclusive term, preferring the idea of multiple roles that members of the public assume when they interact with public service organizations. For our money, the central roles are three:

- The public as *customer*, coming to PSOs with discrete requests, usually reflective of individual personal needs.
- The public as *partner*, working with PSOs in the joint coproduction of public services.
- The public as *citizen*, joining with PSOs in making decisions on the nature of public policies and programs.

In addition, these roles can be better understood if we also consider their various attributes: whether the role is upstream or downstream in the service process, the type of value received (public or private), the dominant coordination mechanism, and the preferences of the two parties (members of the public and PSOs) for goods and services.

## Notes

- 1 Wilson did not himself call it a dichotomy but rather a separation (see Svava 2001).
- 2 Driving this forward in the late 1960s was the fact that the federal government insisted that the large-scale funding it gave out for social programs should be run through "Maximum Feasible Participation" (Pressman and Wildavsky 1973).
- 3 The literatures of services management and customer service employ several permutations of "customer," "client," "focus," "orientation," and other terms to refer to the phenomenon defined in this paper (see Normann 2002).
- 4 Often this is bolstered by a degree of cultural resistance from scholars, public servants and parts of the public more generally, anxious that talk of "customers" courts tawdry commercialism, with values alien to the concern for the public good (Denhardt and Denhardt 2011). In deference to this sensibility, here-with we substitute the term "client" for customer-like entities that are situated in the public sector.
- 5 For a useful overview, see Brudney (1990).

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# 10

## ENGAGING CITIZENS, CLIENTS, AND COMMUNITIES FOR POLICY AND SERVICE DELIVERY

*Robyn Keast*

### **Introduction**

Civil society and public administration in western democracies have long interacted for the shaping and implementation of public policies and service delivery. A definitive definition of civil society has proven elusive (Lewis, 2002; Van Dyke, 2017) and not without contention (Sommerfeldt, 2013). It is, however, often referred to as an arena or sphere of associational life (Roberts, 2004; Ringeling, 2017), distinct from the family, the state, and the market. Members draw on their social networks (virtual and personal) to engage in the dialogue needed to create the individual and collective intentionality needed to advance goals. Civil society further conceived of as the aggregate of interactions occurring within communities, between citizens, as well as the numerous institutions formed to express and meet personal and public interests and needs (Roberts, 2004; Sommerfeldt, 2013). Accordingly, civil society is not a homogeneous grouping; instead, ‘... it is comprised of multiple discursive arenas, each with their own defining characteristics’ (Hauser, 1998, 32). These arenas can be depicted as autonomous and mutually opposing (Diamond, 1991; White, 2004, 10), characterized by contentious relationships with each other as well as with the state (Anheier, 2005, 2014).

Such a binary view can be misleading as, for the most part, the interactions between the state and civil society have been one of ‘inter-relatedness, not separateness...and therefore are more complex and reciprocal than the state–society dichotomy suggests’ (Beckman, 2001, 55). Brown and Keast (2005) also rejected the notion of a ‘one or the other’ view. These authors advanced an oscillating approach in which the overlapping interactions create spaces for the negotiation and implementation of shared agendas, goals, and actions. The diversity of actors comprising civil society, their differing agendas, and varying degrees of autonomy and power affordances has led to varying levels of interaction and effectiveness both among civil society actors and between civil society and the state. On these differing relations, Ndou Siphwe (2016, 24) notes: ‘some [are] adversarial and conflicting, while others will become more collaborative and collegiate.’ This situation has led to an array of public administration/civil society interaction forms ranging from electoral voting, town hall meetings, participatory budgets, and consultations to protests, with engagement presenting as a more recent and enduring mechanism and objective. While there is often little discrimination between them, two forms of engagement are now in use: one referring to the top–down initiatives contrived by the state to enhance responsiveness, and, the second, a more intense form of engagement involving mutual deliberation (two-way exchanges) as distinct from one–directional information provision, therefore occupying the high–value relational end of a participation continuum (Arnstein, 1969; Cavaye, 2004).



An alignment with collaborative ideals has positioned civic engagement as a widely accepted and almost routine policy or programmatic component, rather than an anomaly or an *ad hoc* add-on (Bingham, Nabatchi, and O’Leary, 2005; Bovaird, 2007; Quick and Bryson, 2016; Almog-Bar, 2018). It is instructive, therefore, to trace the development of civic engagement as such a component of public administration. The following section examines this development in terms of emergence, differentiation, and challenges viewed through the lens of ongoing public service reforms.

### **Reform Transitions and Civic Engagement Approaches**

For the first half of the 20th century, citizens primarily relied on public officials and administrators to make decisions about public policy and its implementation. Under this top-down and centralized arrangement, based on expertise and professionalism, the general public were only a passive role (Lippman, [1925] 1993), indirectly participating in governance via such means as electoral mechanisms or as service recipients. Nonetheless, citizens were occasionally invited into consultation processes through, for example, public planning meetings or hearings (King, Feltey, and Susel, 1998; Cooper, Bryer, and Meeks, 2006), proven ways to efficiently disclose information to large numbers of people.

This centralized format, which is top-down and administratively controlled, was periodically interrupted by calls for greater citizen participation. These changes were driven variously by a need to rebuild social cohesion (Arendt, 1958), overcome citizen apathy and a growing disconnect with the government (Roberts, 2004), as well as to harness the possibilities of an educated citizenry capable of reaching common ground through reasoned debates, and decision-making (Habermas, 1975). Increased yet still controlled, citizen contribution to discussions on public, and especially local issues, was strategically used to engender public support as well as enhance decision-making (King et al., 1998; Cooper et al., 2006). However, as Vigoda (2002, 532) opined: ‘Such attempts were too few, too vague and too slight in their impact...’ Accordingly, citizen engagement remained secondary to well established public administration mechanisms.

The 1960s and 1970s saw a steady rise in the size and scope of the public sector. This was accompanied by a growth in the number and diversity of interest groups dissatisfied with governments’ failure to address social, economic, and political issues, leading inevitably to a period of demonstration, protest, and civil disorder (Cooper et al., 2006; Stewart, 2009). These grassroots social movements were organic, loosely coordinated, highly visible, and overtime increasingly unrestrained in their approach (King et al., 1998, see Alinsky, [1946]1969, for a detailed account of strategies). A critical characteristic of this period, however, was the persistent reliance on one-way communications between public administration and citizens and vice versa, not the shared dialogue and deliberation aspired to by scholars such as Habermas (Roberts, 2004). For many scholars, public administration’s perception of participation as a zero-sum power game, that is, – any gain in citizen power with an accompanying loss of government power, – was seen as a root cause of the failure of genuine citizen participation becoming an embedded practice and routine undertaking (Vigoda, 2002; Cooper et al., 2006).

### ***New Public Management: From Hierarchy to Market***

Charges in the 1980s that the public sector was too large and therefore inefficient, ineffective, and non-responsive to citizens, led to a wave of reforms across many western democratic nations, broadly encapsulated under the rubric of New Public Management (NPM) (Hood, 1991). NPM advocated the application of private-sector principles and tools, especially provider/funder splits, strategic and performance management, and the outsourcing of services via arm’s-length

contractual partnerships (D. Osborne and Gaebler, 1992). New communication technologies emerging in the mid-1990s (around the time of the internet revolution, see Tronco, 2010), also afforded opportunities for governments to improve service efficiencies and citizen interactions (Dunleavy, et al., 2006) through, for example, e-government processes that offered streamlined, one-stop service portals and enhanced information access (OECD, 2003; Roy, 2017).

The intended benefits aside (Davis and Rhodes, 2000; Grimshaw, Vincent, and Willmott, 2002), NPM tenets affected the nature of interactions between public administration and citizens, including interactions with service providers. Although citizens were seemingly empowered through increased information and choice, citizen passiveness was perpetuated by NPM, which repositioned citizens as customers or fee-paying consumers (Ringeling, 2017). In effect, citizens remained dependent on the benevolence of government agents in responding to perceived service shortfalls (Vigoda, 2002, 534), and public participation was limited primarily to complaints regarding poor performance. As Wälti, Küjblera, and Papadopoulos (2003) argue, this narrowing of input risked further excluding pertinent groups from the decision-making process. Moreover, NPM policies pitched citizens into competition with each other for services (Lyons, 2003), resulting in social fragmentation and undermining much of the cooperative capacity of civil society (Mackay, 1993). As summarized succinctly in an OECD report (2004, 4): ‘Modernised governments are more responsive to groups of citizens. But there is a cost in capacity for collective action when the public service is differentiated and fragmented’.

Despite the partnership rhetoric, NPM afforded civil society limited scope for a genuine contribution to policy and service decision-making processes. At the same time, some traditional functions, such as social advocacy and social innovation, were curtailed (Harris, 2018). For service delivery agents, policies grounded in contestability aspects, proof of performance and, the introduction of non-profit providers (Lyons, 2003) paved the way for a more expansive but competitive and fragmented sector (Davis and Rhodes, 2000; Harris, 2018). For practitioners and scholars alike, concerns arose that the reframing of civil society as a quasi-market would undermine the very essence of civil society and its distinctive diversity, and dilute its watch-dog role (Lyons, 2003; Mandell and Keast, 2008), effectively creating a shadow government (see Sutton and Arnove, 2004). By treating civil society relations as a transactional commodity, NPM changed in the way in which civil society members participated and contributed to each other’s and broader sectoral goals, as well as how members related to the state – undermining civil processes (Peters, 1999; Ringeling, 2017). Indeed, Renshaw (1994) observed that a lack of cooperative relationships among civil organizations contributed to a failing civil society, exemplified in a case from the Philippines.

### ***Engagement and Public Value***

To counteract the adverse effects of NPM’s top-down and ‘instrumental’ approach to participation (Roberts, 2004; Stewart 2009; Head, 2011), the notion of civic or community engagement was introduced to public administration in the 1990s and gained global traction (OECD, 2001, 2). Head (2011, 103) described citizen engagement as ‘... a focused series of initiatives supported by a new language of community consultation and stakeholder engagement and responsiveness’. Such a view positioned engagement as primarily an internal public administration tool directed toward improved citizen relations, and as a secondary function acting as a link to the additional sources of knowledge and resources needed to augment policy and services decision-making and implementation. Fung (2015) added a third benefit – that of shoring up the legitimacy of the state.

Eventually, with a growing appreciation that citizens held an ‘inalienable right’ to participate in the shaping of policy and services (Moran, 2010), an additional form of engagement emerged. In contrast to the previous instrumental view of engagement, the extended version actively

encouraged public involvement and, in so doing, restored a level of citizen agency (Acheson, 2014). The role of public administration was likewise to be adjusted to enable, facilitate, and integrate this higher level of public participation in public sector decision-making. Here the term engagement instantiated a stronger, more sustained, and systematic interaction between public administration and its public. That is, one that conceivably better met the collaborative ideals posited in previous forms. Hence, there came to be both practical and normative drivers for civic engagement, encapsulated by the understanding that collaborating with citizens was both the ‘smart’ (Stewart, 2009; Holmes, 2011) and the ‘right thing’ to do (Woolcock and Boorman, 2003; Moran, 2010). Still, as Stewart (2009, 3) reminds, although civic engagement aimed to strengthen participation in decision-making, as primarily an apparatus of public administration it is ‘...clearly an area in which the values of public servants (and their political masters) are of prime importance in determining the extent to which it occurs and the extent to which policy is altered as a result’. Enacting civic engagement strategies, therefore remained dependent on the capacity and disposition of public administration to actively and genuinely engage citizens, especially marginalized groups, in decision-making processes (King et al., 1998; Vigar, 2006; Stewart, 2009; Holmes, 2011); and on the flip side, citizens’ interest, willingness, and capacity to participate and engage (Roberts, 2004; Hugg and LeRoux, 2019).

Another response to the perceived ‘flaws’ of NPM was the promotion of the notion of public value (Moore, 1995). Public Value aims to re-orient public administrators away from the narrow pursuit of efficiency toward the establishment of processes, services, and outcomes that are valued by citizens and other stakeholder groups (Williams and Shearer, 2011). Delivering public value requires public administrators to engage more directly with the myriad of service user groups to identify and craft their various needs and wants into a coherent response, while at the same time optimizing public resources through efficient processes and the use of entrepreneurial spirit to generate innovative solutions (O’Flynn, 2007). Meynhardt (2009) highlights the importance of relationships in creating shared public value, arguing that a normative or superficial approach with any group will lead to sub-par outcomes. While public value frames citizens as active, participative, and responsible contributors (Bryson Crosby, and Bloomberg, 2014), critics argued that it favors the voices of citizens most able and willing to articulate their needs (Bovaird, 2007; Le Grand, 2007; Peters, 2010).

### ***New Public Governance: From Responsiveness to Deeper and Wider Engagement***

New Public Governance (NPG) (S. Osborne, 2006; Koppenjan, 2012) acknowledges the fragmented reality of policy design and service delivery and stresses that these functions are increasingly achieved through multiple networks comprising of public, private, and civil society sectors (Newman, 2004, 71), with their interactions facilitated through processes based on dialogue, negotiation, and deliberation (Sørensen and Torfling, 2005). NPG, therefore, embraces both a plural state (multiple interdependent actors) and pluralist processes (multiple mechanisms) (S. Osborne, 2006, 2010). Koppenjan (2012) explains that the latter is achieved by way of bundling various governance elements to suit specific goals. Additionally, NPG recognizes that, until participatory processes are more firmly institutionally embedded, public agents will retain a dominant role in deciding the shape of public outcomes (Edelenbos, 2005; Alford, 2014; Bartoletti and Faccioli, 2016).

Central to NPG is the renewed emphasis on collaboration. However, as several scholars stress, in this NPG context, genuine collaboration is based on relationships in which risk, reward, and power are shared equally and supported by transparent processes (Skelcher, Smith and Mathur, 2005). These relationships provide the connective tissue to reach across multiple boundaries and

secure agreement on mutually held issues and their solutions (see, for example, Innes and Booher, 2010; S. Osborne, 2010; Salamon and Teopler, 2015). Stressing this relational orientation, Alford and Greves (2017) argue the point is less about the quality of the solutions and more about engaging with the public to identify and forge solutions.

Under NPG, collaboration is envisaged as a deeper form of engagement, transforming hierarchical or transactional relationships toward more interpersonal dealings undertaken as equals and not target groups. With interdependence (contrasted with dependency of previous approaches) as a guiding principle, NPG recast the role of civil society from a contracted ‘provider’ and citizens from customer or beneficiary, to each being partners in a purer sense; sharing expertise, decision-making as well as resources, risks, and rewards (McGregor-Lowndes and Tourner, 2003). In other words, NPG conceives of citizens as co-creators and co-producers, working together with public administration to design and implement policy and services (Ostrom, 1996; Pestoff, 2006; Bovaird, 2007).

Central to securing and maintaining meaningful deeper engagement and collaboration are the reciprocal interpersonal relationships formed between the public administrator and civil society actors (Page et al., 2015; Stout and Love, 2019). Through their daily ‘encounters’ (Bartels, 2013) the actors come to know each other as people, rather than be defined by their roles and positions (Healey, 1996, 214), enabling shared issues to surface and be deliberated, with joint solutions forged. On face value, then, collaboration and co-production take the idea of devolved power (Stewart, 2009; Ringeling, 2017) seriously, with citizens actively empowered to engage in policy and service deliberation issues. Indeed, Bice, Neely, and Einfeld (2019, 293) propose that co-production holds the potential to turn traditional consultation on its head by recalibrating the power between “the engagers” and “the engaged.” The extent to which power is shared, and therefore the overall impact of such initiatives, however, is in large part dependent on the appropriateness and strength of the engagement mechanisms employed. Related to this is the ability and willingness of public administrators to implement the changed approach, especially within a hierarchically dominant domain (Eldenbos, 2005; Bovaid, 2007; Alford, 2009).

However, owing to their continued control of funding allocations and fiscal prudence (McGregor-Lowndes and Tourner, 2003) and role as principal intermediary between the state and civil society (Jeffares and Skelcher, 2011; Nisar and Maroulis, 2017), for the most part public administration has remained the primary orchestrator or manager of these relationships and networks, continuing the asymmetric power relations (Peters, 2010; Harris, 2018). Moreover, there remains the uncomfortable reality that decision-making power is more likely to be shared with well-off communities, owing to their superior access to resources and ability to leverage political influence (Bovaird, 2007). As a result, engagement via partnerships and collaborations, instead of being equal and co-developed or co-produced as espoused, is perceived by some as a new way of co-opting non-profits into a government’s policy agenda (elsewhere described as ‘governmental encroachment’; Harris, 2018), allowing the government to reshape or ‘manufacture’ civil society according to its preferences (Brandsen, Trommel, and Verschuere, 2014). Inevitably these public sector strategies can limit direct participation or shared deliberation and contribute to civil society’s continued role as passive users, not co-producers or partners (S. Moore, 2019). Strokosch and Osborne (2018, 21) conclude that ‘... professionals and public managers control public service design and delivery within a system that is largely closed to the direct involvement of citizens/service users’.

### ***Changes in Civil Society***

The ongoing development of the relationships between civil society and public administration actors has developed past the point of civil society being a passive receptacle for government action, without its agenda and power. With the ‘hollowing out’ of state capacity (Milward and

Provan, 2003), civil society potentially holds a stronger negotiating position that can be leveraged to influence policy directions and service regimes better. And, when combined with a relatively undisruptive sectoral knowledge repository, increasingly civil society is resuming its former role of ‘social innovator’ (Barraket, Keast, and Furneaux, 2016).

This push back against state co-option is also evident in some decisions to forgo state funding and control by entering partnerships with business, with Edwards (2016, 174) citing the *Black Lives Matter* movement as an example of this more robust market engagement. Members of civil societies are also making use of information and communication technology (ICT) developments of the digital age (Riener, Schellhammer, and Meinert, 2019), especially mobile phone and web-based technology, giving rise to an array of new, dispersed forms of individual and networked citizen participation and engagement. ICT-enabled processes are especially prominent among younger citizens and those dissatisfied with government decision-making responses relating to pressing problems such as climate change, wealth distribution, and perceived threats to democracy.

For “digital natives” (Turner, 2015, 104), online communication platforms such as Facebook, Twitter, blogs and wikis have become their public sphere (Fuch, 2014; Gen Z [http://en.wikipedia.org/wiki/generation\\_Z](http://en.wikipedia.org/wiki/generation_Z); see also Isin and Ruppert, 2015), while mobile communication, in particular, social media platforms, enabled decentralized and mass-mobilized forms of activism and protest across multiple sites (Polimedio, 2017; Price, 2019). Examples are the *Arab Spring* and *Yellow Vests* movements, as well as the global progression of women’s rights and climate change marches during 2019. Digital technology mechanisms are rebalancing information and power asymmetries (Lyon, 2014), especially since they can now draw on artificial intelligence and advances in machine learning to craft more relevant services or mine big data sets for activist purposes such as whistleblowing (e.g., Wikileaks). This expansion of the concept and sites of participation has opened the way to new forms of engagement within civil society and between civil society and public administration (Milan and van der Velden, 2016, 57), which can both enhance and challenge existing practices (Bice et al. 2019; Taylor, 2019).

### **Implications for Practice and Research**

Over time, interactions between public administration and civil society have taken many guises, each with distinctive features, drivers, and purposes. These interactions are grouped under the broad heading of engagement, yet, while closely related, they are not always fully aligned with the concept. Two primary types of engagement now arise from the literature and practice: one in which ‘engagement’ with citizens is a public administration tool deployed to enhance policy and service implementation; and a second in which ‘deeper engagement’ relies on genuine collaboration and shared deliberation, leading to the mutual formation of policies and services (Stewart, 2009, Innes and Booher, 2010; Stout and Love, 2019). Such ‘engagement duality’ has led to a proliferation of top-down and bottom-up interaction experiences, where ‘in-person’ approaches are increasingly interwoven with ‘online’ digital mechanisms such as blogs, virtual communities, and mobile communications. The layering of various interactive procedures, and especially the rise of digital technologies with the potential to shift power relations, have important implications for ongoing public administration and civil society engagement relations and practices.

### ***New and Emerging Governance Arrangements***

A growing preference for the closer engagement of citizens in decision-making processes has led to an array of governance arrangements. These are variously labelled as shared governance (Anthony, 2004), network governance (Powell, 1990), social governance (Reddel, 2006), new governance (Jun 2002; Bingham et al., 2005), integrated governance (Stout and Love, 2017, 2019),

collaborative governance (Ansell and Gash, 2008), and interactive governance (Edelenbos, 2005) (see Ansell and Torfing, 2016 for an overview). Advocates argue that relationally dominant governance forms that enhance dialogue and democratic decision-making are better conduits to collaboration within and across sectors.

Understanding and navigating these increasingly complex, dynamic, and emergent governance arrangements (Diamond, 2002; Ndou Spipiwe, 2016) and especially the rise of collaborative and digital governance is a challenge for public administrators and civil society members alike (Moran, 2016; Harris, 2018; Taylor, 2019). The current ‘best practice’ knowledge, methods, and skills honed through prior interaction experiences are no longer adequate or appropriate in this new and often uncertain context, which requires different ways of thinking, behaving, and engaging (Keast and Brown, 2003; Stewart, 2009; Brandsen et al. 2014; Stout and Love, 2019). There are also concerns that, without systemic adjustments, the deeper form of collaboration will not be embedded into procedures and practice (Vigoda, 2002; Roberts, 2004; Stewart, 2009; Stout and Love, 2019). For next practice engagement to be meaningful, both parties, and especially public administrators, since they hold formal intermediary roles (Jeffaries and Skelcher, 2011), must strategically match engagement types to purposes (Stewart, 2009, Fung, 2015; Strokosch and Osborne, 2018). Moreover, new engagement approaches call for greater reflective and deliberative efforts to build the quality relationships necessary to facilitate inclusive yet results-oriented dialogue (Innes and Booher, 2004, 2010; Flynn, 2019) as well as transparent decision-making and sharing of resources and power (van de Land and van Stokkom, 2018; Harris, 2018).

### ***A Focus on Interactions***

Under this stronger relational orientation, engagement interactions are positioned beyond the ‘organizational-public dyad’ (Sommerfeldt and Kent, 2015, 235), directing practice and research attention to the everyday personal encounters and between the public sector and civil society members (Rawlings and Catlaw, 2011; Bartels, 2013; Stout and Love, 2017, 2019). With people and their relationships the ‘unit of study’ (Ledingham, 2006, 467), a growing body of research is now examining how the personal attributes and behaviors of both civil servants and members of the public influence engagement uptake, practices, and results (Hugg and LeRoux, 2019). This research is supported by the emergence of new methodologies capable of isolating the individual or micro drivers behind interaction patterns. These include behavioral research (Grimmelikhuijsen et al., 2016; John, Sanders and Wang, 2019) and narrative research (see Institute for Development Studies, 2018; Dodge, Saz-Carranza, and Ospina, 2020). There is a caveat, however; while the literature is replete with research designed to identify and catalogue the array of management and leadership strategies and tools to facilitate engagement (Bingham, et al., 2005; Edelenbos, Van Burrew and Klijn, 2013), in general, this body of work has tended to privilege the state’s role, limiting the relevance of these studies to civil society and relational forms (Quick and Bryson, 2016; Harris, 2018). Additionally, a growing emphasis on a return on investment and evidence-based working has led to a body of rising research examining the effectiveness and outcomes delivered, including recent empirical impact studies (see, e.g., Yang and Pandey, 2011).

### ***Citizen Engagement – An Enduring Topic of Interest***

Citizen engagement has been the subject of extensive research, providing useful insights into the types of results generated (Yang and Pandey, 2011) and implementation challenges (Fung, 2015). Nonetheless, questions remain as to the scale and impact of engagement initiatives, and especially the newer digital and ITC engagement approaches (Hennan et al., 2020). To better inform understanding and practice, scholars have argued for a more critical approach to examining engagement



processes, including greater use of in-depth analysis to distil nuances in methods, or linkages between engagement modes and participatory regimes (Steen-Johnsen, Eynaud, and Wijkström, 2011; Harris, 2018). Also sought are longitudinal, multi-level analysis, and cross-country comparisons that study the role of context in the formation and operation of diverse engagement arrangements. Studies in the evolution of engagement models in different jurisdictions, or under various conditions are also necessary (Brandsen et al., 2014; Bromley and Meyer, 2017; Almog-Bar, 2018). Technology-enhanced research methodologies, coupled with expanded data instruments and sources, such as scenario modelling and dynamic network analysis, have supported these finer-grained analyses of engagement practices, interactions, and impacts (Mergel, Rethemeyer, and Islette, 2016; Lemaire and Raab, 2020). Koliba et al. (2018, 201) summarize: “As our capacity to undertake data mining of textual or narrative data expands, the opportunity to understand the phenomenological traces of nuanced network interactions intensifies.”

### ***The Rise and Rise of Digital Engagement***

The digital age is generating powerful new instruments for public administration and civil society engagement. However, some have proven to be poor conduits to the deliberations needed for new engagement approaches. Discussing the Black Lives Matters movement Taylor (2019) noted that social media platforms did not create space for debate. They also ‘fuelled animosity and discord between people who had every interest in collaboration and solidarity’ (see also Shearlaw, 2016, Polimedia, 2017). Specifically, virtual or online approaches present as ill-equipped to facilitate healthy and respectful debates (Robertson, 2018), leading to conflict, not cohesion. They tend to privilege the technologically adroit (Mason, O’Brien, and Dane, 2014), prosperous citizens, or those with agendas to push (Bovaird, 2007; Le Grand, 2007). Additionally, such approaches cannot always protect the privacy of contributors (Roy, 2017). A further concern of virtual or online mechanisms for engagement purposes, is their potential bypass the need for citizens to engage with public administrators, limiting opportunity for dialogue and potentially delivering flawed or contentious actions at a time when genuine, engagement between public administration and civil society is most needed.

New sets of principles and practices come into play in the increased use of virtual and online environments, such as openness, collaboration, and peer production, that strain traditional models of governance. Given the challenges the digital age presents for a distributed governance system, research that explores the opportunities and implications of serving and engaging citizens in new ways is essential. There is especially a need for conversations and research that identify new forms of interactive, dynamic citizen initiatives, and their effects (Yang and Pandey, 2011; Linqvist and Huse, 2017). These challenges point to the need for a large scale, systematic program of empirical research on the government’s evolving role in virtual and online interactions, and especially that related to protecting and enhancing the civic benefits of these interactions.

### **Conclusions: Next Practice Engagement**

Active citizenship, consultation, widening participation, and, more recently, engagement (both in-person and online), all reflect a transitioning involvement of citizens and citizen groups in public policy and services. Not only have new means of participation evolved through the governance reforms, so too have goals and mechanisms. As initially deployed, engagement was primarily an instrumental reaction to a need by public administration to demonstrate responsiveness to public issues and shore up legitimacy. The persistence of old and the emergence of new problems, coupled with a keener appreciation of both the right and capability of non-government actors to make useful contributions, have led to the implementation of a deeper form of engagement.



This next-practice engagement is characterized by more considerable attention to deliberative processes, genuine collaboration, and authentic encounters between public administration and its public.

Ongoing ITC advances and the widespread uptake of digital communication and other media platforms have enormous potential in engagement. Online tools can spontaneously create new sites for engagement and exchange and encourage a broader range of participants. At the same time, if left ungoverned digital engagement, and the communication it evokes is open to conflict and can quickly disrupt existing civil relations and processes. Nonetheless, when used in combination with deeper collaboration, and traditional engagement processes, digital engagement will form a significant step for the next stage in engagement practice and, as such, must be carefully crafted and monitored to deliver optimal outcomes.

While a shared obligation, responsibility for creating the conditions conducive for both traditional collaborative and the newer collaboration types represented by digital engagement to thrive and deliver a public good, mainly falls to public administration. To move beyond the normative rhetoric or the symbolic rituals, which too often still shape engagement practices (Bheekie and van Huyssteen, 2015), stronger relationships, new thinking, behaviors, and systems as well as professional and political commitment need to become institutionalized. Engagement and governance experimentations by both sectors will help to drive these changes, as will a research agenda alert to new technologies and platforms for data collection, transfer, mining, and visualization. Through their ongoing efforts to address issues and improve society, public administrators and civil society actors are expanding their engagement repertoires, sites, and accomplishments. Even so, the ever-turning tides of change will continue to present both challenges and opportunities for genuine and productive engagement.

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# Analyzing Public Administration with Complexity Lens



# 11

## COMPLEXITY IN PUBLIC MANAGEMENT

### Perspectives, Institutions, and Practices

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#### **Introduction**

While the field of public administration emerged last century to address great societal challenges, in more recent decades it has begun to focus on the social complexity inherent in the enduring and emerging challenges faced by governments and the societies in which they function. Continuing societal shifts are amplified by emerging technologies, new scientific insights, conflict and wars, and compounded by the effect of environmental deterioration on increasingly urban and diverse populations. Public administrators need to understand the nature of these problems, the authorities distributed across and within levels of government and be able to foster and manage planned and emergent change while fostering innovation in these evolving circumstances (Osborne & Brown, 2005). Ideas about government's role in society, the actors involved in enacting governance, and how governments enhance their capacity to govern and manage change have evolved over the decades to take these social, environmental and technological shifts into account. Early theories were focused on the rational choices and decision-making of elite actors and largely ignored that other factors in the decision-making context were part of the process and the outcome of policy. Partly reflecting these shifts and also in response, new theories have taken hold.

In what follows, we first draw attention to governance theories which focus on multi-actor networks, interorganisational relationships and interactions in bringing about change. More recently a literature on complexity and complex adaptive systems of relevance to public administration, such as understanding wicked problems and the mechanisms at work within multi-actor governance networks and institutional change has become more prominent. This chapter reviews these developments and their implications for public administration theory and practice. We argue that the use of the complexity theory and complexity-informed lenses, both alone and in combination with other compatible theories, allows the identification of new *alternative institutions* for influencing or understanding change. Complexity theory provides a useful addition to, for example, governance networks and institutional theory. We also draw attention to an emerging set of proposals for *alternative practices* for steering or influencing change in Public Administration (PA). These are drawn together in the final section for public administration scholars and practitioners to use when designing and analysing change. The following chapter goes on to provide some examples of their use in practice.

## **Gradual Recognition of Social Complexity and the Agency of Multiple Actors**

Over the last 30 years, theories-in-use in public administration have moved away from dominant rational actor models to focus on the influence of multiple actors on public policy and public management outcomes. We note gradual changes in the actors identified and how the roles of actors are portrayed; and the shifting perception of processes at work in public administration from a linear interpretation of intent to action to an appreciation for more reflexive, interdependent and contingent processes. Precursors of note include Lindblom (1979) and his 'still muddling not yet through' observations which grappled with the limitations of a rational actor to adequately consider all the possibilities in policy analysis, and Herbert Simon (1947; 1982) who drew our attention to the boundedness of rationality and satisficing. Pressman and Wildavsky (1973) and Lipsky (1980) focused on the role of actors outside of central government (frontline workers and others involved in service delivery) in the implementation and outcomes of public administration. These seminal pieces signalled the recognition of a need for new theories about the actors, institutions, information, decisions and more. In the ensuing decades, we saw the development of a range of theories of PA that have at their core an explicit recognition of the dynamic interactions of multiple actors and their roles in agenda setting, decision-making and bringing about change. Figure 11.1 summarises some of the main shifts in public administration theory across a range of relevant systems parameters.

Across the diverse scientific traditions of public policy and public management theories, Raadschelders (2011) attempts to explain how dynamism and nonlinear contingency in planned and emergent change has become an increasingly pertinent concern (Eppel, 2016). Elinor Ostrom, for example, in the 1970s, began focusing on the role of cooperation, trust and collective action in the management of common pool resources (Ostrom, 1990). She recognised the interplay of a range of actors and rules to establish a stable governance system for the management of common pool resources such as forest and water resources. This theorising developed into what has become known as her institutional analysis and development (IAD) framework which is now much more widely applied. IAD specifically acknowledges the complexity of multiple decision-makers operating under various institutional frames, in various self-governing, decision-making action arenas, have on the changes that result (see, for example, Ostrom, 2005).

Theories of policy-making and policy changes have evolved away from single rational actor decision-making perspectives to be seen as something that is subject to various influences which emerge over time. Elements of uncertainty, contingency and influence from actors and events from 'outside' of the traditional government decision-making areas were introduced into thinking about policy processes by Kingdon (1984) – who expanded significantly the scope and dynamism of the context within which public administration needs to be considered to include policy entrepreneurs, the media and external events creating windows of opportunity. Sabatier and Jenkins-Smith (1988) in advancing their advocacy coalition theory to explain policy change argued that a time frame of a decade or more is needed and the focus must be, not on any individual actor but, on the whole policy subsystem involved. Baumgartner and Jones in their work on punctuated equilibrium theory, as well as recognising the role of external events, considered the role of the decision-makers' cognitive capacity and limited attention on emerging issues as factors influencing periods of stability in the outcomes of policy processes, punctuated by relatively sudden shifts in focus by policy actors brought about through changes in perception of and venue for considering information (Baumgartner & Jones, 1993, 2002; Jones & Baumgartner, 2005).

There has also emerged a focus on the ongoing, iterative and nonlinear interaction among social and political actors in organisational networks in the development of Governance Network Theory (Hanf & Scharpf 1993; Kickert et al. 1997; Kooiman, 2003; Klijn & Koppenjan 2004, 2016). Interorganisational networks are a response to information and resource deficits

<i>Public administration parameter of interest</i>	<i>Direction of theory evolution</i>
<b>Actors</b>	Single rational actor; multiple actors of influence; interdependent networks of actors
<b>Policy / Management Processes</b>	Linear transmission from intent to action; Nonlinear pathways of change subject to a range of influences; Negotiation of possible change among actors; dynamic and reflexive process of change
<b>Decision-Making</b>	Rational elite actors; Serendipitous opportunity arising from interactions of actors and context; Distributed decision; making
<b>Power</b>	Concentrated/ centralised; Centralised but bounded and contested; Distributed and shared
<b>Information</b>	Centralised and complete; Bounded; Incomplete, decentralised and ambiguous; Explosion of (big) data; use of data-derived algorithms in decision; making
<b>Values</b>	Singular; Multiple, negotiated; multiple, contested

Figure 11.1 Summary of the direction of theoretical change in public administration

encountered in single organisations when dealing with complex problems (Kickert et al., 1997; Klijn & Koppenjan 2004, 2016). In parallel work, Lewis, Considine and Alexander (2009) and Lewis (2010) drew attention to social networks and social capital of actors in public administration and their contribution to innovation and change which, because of its close relationship for analysing complexity, has become an important area of public administration research. In what follows we examine key elements of contributions of network theory.

The progressive rise in the use of new ICTs in public management since the 1990s has introduced further levels of socio-technological complexity to public administration and has drawn on network theory because of its interdependent, multi-actor nature. Interactions between traditional

public administration systems, technological systems and social systems have led to recognition of socio-technological adaptation and its coevolution with public administration and social systems as a mechanism for bringing about effective public management change (Fountain, 2001; Dunleavy et al., 2006; Reddick & Aikins, 2012; Eppel & Lips, 2016). Digital government and the interaction of technology with traditional public administration to create government on steroids (Lips, 2020) is one of the areas for future research focus we return to in the third chapter in this section (Gerrits, Eppel, Rhodes).

Keast (2014) reviews three main roots of network theory in public administration some of which pay more attention to the agency of actors as well as the institutional structures within which these actors operate. Network theory emphasises that the connections between actors and the nature and type of interactions between them generates changes (Borgatti & Foster, 2003). The network provides the means for information and resources to flow between organisations and also serves as a bond to align and integrate action (Borgatti & Halgin, 2011). Networks enable implementations of complex policies and programmes through assemblages of public and private organisations in which local actors participate alongside central actors and play a key influential role (Keast, 2014). Networks enable linking, co-ordination and facilitation of joint work by interdependent organisations through collaborative network processes (Provan & Milward, 1991). Achieving results through networks requires different management practices relating to the phases of activating, framing, mobilising and synthesising (Agranoff & McGuire, 2001) that attend to the needs of both the policy objective and the relations among network participants.

Governance networks are defined as ‘more or less stable patterns of social relations between interdependent actors, which take shape around policy problems and/or policy programmes’ (Kickert, Klijn & Koppenjan, 1997, p. 6). Managing change through networks and the study of this field has led to significant progress in our understanding of how to manage such multi-actor processes of interdependent decision-making (e.g. Klijn & Koppenjan, 2016). Provan and Kennis (2008), for example, provide evidence for the conditions under which different network governance arrangements are likely to be more successful. Governance networks theory includes understanding the new roles and institutions such as network management and network governance. We are cautioned however that governance networks do not function independently of hierarchical and top-down management arrangements but rather in concert with them ‘as a necessary and decisive component of a more encompassing hybrid assemblage’ (Koppenjan, 2012, p. 32).

In the theories canvassed in the preceding paragraphs we see a variety of attempts to explain the multi-action, interdependent and nonlinear nature of public administration and policy-making. Multiple, interacting and interdependent actors were increasingly recognised as contributors to change, and the change itself was seen increasingly as a dynamic and reflexive process. In the last 20 years – and rising sharply from around 2008 (Gerrits & Marks, 2015) – we have seen increasingly explicit use of complexity theory concepts for explaining the way the public policy/management worlds behave and how we might better design and manage change in these worlds. We now turn our attention to the arguments used for a complexity theory-informed approach and how complexity theory has been used in the public administration field to theorise complexity and change.

### **Complexity Theory and Change**

The use of complex adaptive systems concepts from the early 1990s (e.g. Kiel, 1994) introduced a new set of explanations for the nonlinear and dynamic manifestations of policy change and public management that were challenging existing theories and the limitations of control by governments and other actors (e.g. Hanf & Scharpf, 1978). Dissatisfaction with the limitations of

reductionist and mechanical explanations gradually led to complexity theory informed models which were better at explaining the observed behaviour and change.

Early work drawing on complexity theory (e.g. Prigogine, 1978; Prigogine & Stengers, 1984; Waldrop, 1992; Kauffman, 1993; Stacey, 1992; Holland, 1995; Byrne, 1998; Cilliers, 1998) offered new ontological insights about the nature of the (physical and social) world and the way it behaves. Briefly, there are recursive, ongoing nonlinear interactions between all the elements (the actors, the institutions, the contexts and so on) that make up the public administration whole and these elements continuously adapt to each other in nonlinear ways. Nonlinear interactions among actors and with institutions and contexts create contingency and uncertainty about what the future will become meaning that the whole lacks predictability. Over time new patterns and assemblages of actors occur, create features, characteristics and institutions formerly unknown through the endogenous, reflexive, self-organisation of actors and their nonlinear interactions (Davies, 2003; Eppel, 2012).

To provide alternative theoretical perspectives suited to viewing and understanding complex ongoing dynamic interactions between interdependent actors and institutions, many scholars have argued that it is necessary for public administration to draw on and use complexity theory (e.g. Morcol, 2002, 2012; Sanderson, 2009; Room; 2011). Cairney, 2012, 2013; Cairney & Geyer, 2017 caution us that the looseness with which complexity concepts are sometimes applied could be an impediment but they also see a place for complexity theory as a bridge between academic and policy-maker perspectives in support of pragmatism and insights about how to influence emergent behaviour. The ambiguity and uncertainty arising from a complex adaptive world can be mitigated through the use of an epistemology based on pragmatism and complexity theory (Sanderson, 2009). Byrne and Callaghan (2014) have contributed to our understanding of the methodological implications of complexity for the social sciences generally and specifically for public administration.

Morcol (2012) argues further that complexity theory provides mechanisms and concepts for understanding the macro/micro problems at the heart of public administration. That is, complexity theory provides a micro mechanism for explaining the macro patterns of interest to public policy scholars (Eppel, 2010; Rhodes, Murphy, Muir & Murray, 2011; Koliba, 2014; Carey et al. 2015; Koliba, Gerrits, Rhodes & Meek, 2016; Cairney & Geyer, 2017; Eppel 2017; Eppel & Rhodes, 2017). To better understand the micro/macro dynamics of public policy, Room (2011) suggests a blending of extant theories such as institutionalism with complexity theory. He suggests that there is a complementarity in which complexity theory supplies the micro mechanisms lacking in institutional theory and institutional theory supplies a macro framing specific to public policy which complexity theory lacks.

In addition, the use of the complexity theory and complexity-informed lenses allows the identification of alternative institutions for influencing or understanding change (e.g. Teisman et al., 2009; Rhodes et al., 2011; Room, 2011; Klijn & Koppenjan, 2014; Eppel & Rhodes, 2017). Concepts such as nonlinearity, feedback loops, adaptation, co-evolution and emergence can be used to explain how reflexive micro interactions between actors and institutions influence decision-making in public administration (Rhodes & Murray, 2007; Gerrits, 2010, 2011). The patterns created by these repeated micro interactions over time create attractors and public administration fitness landscapes through the study of which we gain insights into the dynamic processes leading to decision-making (Gerrits & Marks, 2015).

Teisman and colleagues in the Netherlands (Teisman, van Buuren, & Gerrits, 2009), Rhodes and colleagues in Ireland (Rhodes, Murphy, Muir, & Murray, 2011), Koliba and colleagues in the United States (Koliba, Meek, & Zia, 2011) and Eppel and colleagues in New Zealand (Eppel, Turner & Wolf, 2011; Eppel & Lips, 2016) have each employed complexity theory concepts to

better understand the core processes of public management such as agenda setting, policy formation, decision-making and implementation. These authors have more or less independently come to the conclusion that complexity theory and network theory are required and should be linked together to provide an adequate basis on which to develop governance theory and practice guidelines in modern public management contexts. The extent of complementarity between complexity theory and network governance (Klijn & Koppenjan, 2014; Koppenjan & Klijn, 2014) and new public management theories has been examined with the conclusion that complexity theory provides additional explanatory power for how the micro changes in networks occur and can be influenced in ways that lead to a desired trajectory of macro change.

Finally, there is an emerging set of proposals for alternative practices for steering or influencing change in PA (Innes & Booher, 2010; Boulton, Allen & Bowman, 2015; Klijn & Koppenjan, 2016; Room, 2016). These emphasise the importance of drawing on the diversity of institutional perspectives as a means for understanding and working with the multiple ontologies of complex problems. Zia et al. (2014), Zia and Koliba (2017) and Gerrits and Marks (2017) have used modelling based on complexity theory to understand complex decision-making and change processes.

Others have taken aim at how public sector change might be better managed generally by enlisting complexity thinking and concepts to inform processes of designing and generating change (Geyer & Rihani, 2010; Innes & Booher, 2010; Boulton, Allen, & Bowman, 2015). In many instances these have been led from a practice perspective intent on achieving particular complex change results (see, for example, Conklin, 2006; Westley, Zimmerman & Patton, 2007; Kania & Kramer, 2011, 2013; Thaler & Sunstein, 2009). These authors identify common themes such as fundamental uncertainty leading to the impossibility of prediction and therefore the need to adopt more experimental approaches to intervention based on the assumption that there will be new phenomena (unknown unknowns) likely to emerge endogenously as a result of adaptation, co-evolution, self-organisation and emergence arising from the interactions among interdependent institutional actors. What has occurred previously will continue to affect the present (and the future), resulting in changes that are often seen as surprising but should not be if social complexity is taken into account (Eppel, 2012). Murphy, Rhodes, Meek and Denyer (2017) identify key 'enabling' leadership practices that help to manage the tensions inherent in the complex, collaborative and adaptive work in which public managers are engaged.

Any externally applied change will have uncertain effects, some of which will lead to helpful changes in the status quo and some not so. Doing public policy and public management in such a world requires cognisance of the above characteristics – and particularly the dynamics of self-organisation, path-dependency, adaptation and emergence – in how we approach policy and change (Rhodes et al., 2011) and needs to draw on pragmatic multiple perspectives (Sanderson, 2009). We also need a lens capable of seeing the whole while taking into account the relationships between the elements at different levels of scale. Koliba and Zia (2012) talk about the need for complexity friendly methods for modelling the complex governance system. Innes and Booher (2010) built their theory of collaborative rationality for public policy on analysis of the ongoing dialectic interaction between collaboration and praxis as a means for understanding complex change. Narrative and narrative analysis provides another complexity friendly method for seeing the whole and its parts without disassembly which is important since the prime lesson from complexity theory is that the sum of the parts does not represent the whole (Eppel, 2010). Cairney and Geyer (2015) have made a substantial contribution to thinking about the contribution of complexity theory to policy studies and how it might add to understanding of particular policy fields, such as health (Tenbenschel, 2013) or concepts such as power (Room, 2015) as well as complexity friendly methods for research and practice (Voets, Keast & Koliba, 2019).

Room (2016) argues for the public sector management to embrace the adaptive agile approaches of the sailor, testing the wind and sea conditions against their experiences of knowing how this



might change and affect their charted course to destination. Policy-makers and public managers may need indirect approaches and the ability to capture the advantages of an adjacent and known possible as a halfway house to a more ideal and distant policy goal. That is recognise that autonomous agents, across time, move through successive adaptations to more favourable arrangements, in response to their changing environment (Kauffman, 1995, 1999; Snowden and Boone, 2007). These reflexive, self-organising movements are the mechanisms of change. The important lesson for public administration is that change cannot be directed or controlled but can be incentivised and nudged through encouraging connections and feedback loops that amplify the changes wanted and disrupt changes that are going in an unwanted direction.

### **Conclusion: Alternative Theory, Institutions, Methods and Practices**

In this conclusion we draw together the concepts that make up alternative theories with alternative institutions that need to be considered along with alternative practices. We noted the growing explicit recognition in the literature through the rise of several frameworks for analysing governance and public administration systems which in varying ways take up the challenge of recognising different degrees of change at the meso and macro levels, including evolutionary change and disjunctures. We then reviewed explicit theories of complexity which provided us with the concepts not provided for in other theoretical frameworks. We have noted, in particular, the interdependency of actors and their nonlinear interaction, as well as the concepts of adaptation, co-evolution, self-organisation, and emergence which create fitness landscapes and fundamental uncertainty. By the latter we mean that the precise patterns to emerge cannot be planned for and need to allow for new and previously unknown arrangements, patterns and phenomena.

That such a landscape of change shows no signs of abating (for example, think of climate change, populism, technological change, etc.), our analysis highlights the need for new system capabilities and roles to design public policy and administer public administration systems, such as:

- Multi-actor networks
- Public service / policy systems
- Collective decision-making processes
- Network managers
- Systems 'translators' / intermediaries
- Attractors
- Performance 'peaks'
- Adjacent 'possibles'

Finally, public sector practitioners, when aware of the nature of complex adaptive systems and their behaviour within public policy/administration organisations have begun to recognise new practices and competencies to further governance and management in a steadily evolving environments, replete with junctures, and challenges which require working across authorities:

- Boundary spanning
- Boundary critique
- Creation of attractors / peaks / network managers / systems 'translators'
- Nudging actor behaviour
- Existence of / support for 'agile actors'
- Recognition of wicked problems' and 'system perspectives'



The table below creates an overview of the alternative theory, institutions and practices for the management of social complexity discussed in this chapter which will be further exemplified in the chapter which follows, with a focus on several examples of how these theories have been applied in different countries / contexts.

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*Alternative Theory, Institutions and Practices for the Management of Change When Working with Social Complexity in Public Administration*

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	<i>Elements</i>	<i>Examples</i>	<i>Compatible Theories</i>
Alternative concepts	Interdependency and nonlinear interaction Adaptation Coevolution Self-organisation Emergence Fundamental uncertainty Fitness landscapes	Netherlands infrastructure projects (Teisman et al. 2009) Community Housing Reforms (Rhodes et al., 2011) NZ Tertiary Education reform (Eppel, 2010, 2012) Multi-year decision-making in complex multi-jurisdictional infrastructure (Gerrits & Marks, 2017)	IAD Networks Multiples streams (Institutional theory)
Alternative institutions	Multi-actor networks Network managers Systems 'translators'/ intermediaries  Public service/policy systems Collective decision-making Attractors/wells of attraction/Adaptive peaks  Adjacent possibles	Eppel, Turner and Wolf (2011) Castelnuovo and Sorrentino (2018) Eppel and Lips (2016) Zia et al. (2014); Eppel (2017); Meek and Marshall (2018) Eppel (2010, 2012)  Gerrits and Marks (2017)  Hazy, Goldstein and Lichtenstein (2007) Gerrits and Marks (2017)  Zia et al. (2014) Kauffman (1993)	Policy implementation Digital government Water governance   Transport infrastructure development Transport infrastructure development  Socio-ecological systems
Alternative practices	Boundary spanning Boundary critique Creation of attractors Nudging Agile actors Allowing for self-organisation and emergence Complexity Leadership	Williams (2002, 2013) Midgley (2000) Midgley, Munlo and Brown (1998) Snowden and Boone (2007) Thaler and Sunstein (2009) Room (2016) Innes and Booher (2010); Conklin (2006) Boulton et al. (2010) Uhl-Bien, Marion & McKelvey (2007); Hazy, Goldstein and Lichtenstein (2007)	

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# 12

## HOW COMPLEXITY INFORMS PUBLIC POLICY AND ADMINISTRATIVE PRACTICE

### Selected International Cases

*Mary Lee Rhodes, Lasse Gerrits, and Elizabeth Anne Eppel*

#### **Introduction**

This chapter will present examples of how complexity and network (C&N) theory has influenced policy and practice around the world and identify the elements that appear using the list of C&N core elements from the previous chapter. In doing so we do not propose to present a comprehensive analysis of the application of complexity and network theory, but instead provide scholars and practitioners with some insights as to how these theories play out in practice and what opportunities and challenges await those who follow this path in public administration (PA).

One of the first challenges that presented itself in selecting examples was the selection criteria to be used. A key objective was to include examples from countries with quite different contexts, both geographically and administratively. We were somewhat successful in this, but a truly representative sample will have to wait for a more comprehensive analysis. Furthermore, many of our examples are very recent – suggesting that the application of complexity and network theory to practice is still in its infancy and limiting the extent to which conclusions about the processes and outcomes can be drawn. There are many examples of retrospective application of C&N theories to public management policies and projects (see references in previous chapter linked to each of the C&N core elements) and our analysis draws from these where appropriate. We found the recent publication on “Systems Approaches to Public Sector Challenges: Working with Change” (OECD 2017) to be a good source of case studies. We also drew from the authors’ own research and practice to identify examples that had not already been published in order to add to the growing list.

The second challenge was to choose or develop an analytic framework that would provide the structure for the case descriptions, and also a link to existing frameworks for studying systemic change in public administration. For this purpose, we drew on key elements of the framework of Pollitt and Bouckaert (2017 – 4th ed.) for understanding public sector reform processes and practice, specifically their classification of ‘ideal types’ of government models. The structure of this analysis and the chapter owes a debt to the excellent work and thorough explanations of these scholars.

Subsequent research into the use of network and complexity theory in public administration practice will likely explore alternative ways of selecting and analysing examples, and we encourage discussion and debate on these points. One aspect that we believe is essential to the analysis, however, is the explicit acknowledgement of the use of relevant theories by those involved in the administrative activity being analysed. The reason for this is that we are aiming to answer the

question: “How and under what circumstances do C&N theories translate into change to the processes and/or the outcomes of public administration?”. If the theories are not being used explicitly by practitioners, then it is difficult to imagine how any meaningful and actionable conclusions can be drawn. This proved rather difficult to clarify in many of the cases we initially considered and, indeed, we ‘skate on the edge’ of this requirement for some of the cases presented here. We would hope that, as the application of the ideas arising from C&N theories becomes more explicit, scholars would find this less challenging than we did.

### Overview and Description of Four Selected Cases

In this section we provide a short description of each of the cases selected for this chapter and the government ‘ideal-type’ models into which they appear to fit – based on Pollitt and Bouckaert (2017). We also note the core theories that are being used in the case and the extent to which these have been explicitly acknowledged by the participants. Table 12.1 provides a summary of this information for ease of reference.

Table 12.1 Overview of Selected Cases

<i>Country/Govt Lvl</i>	<i>Model (P&amp;B)</i>	<i>Case Description</i>	<i>Core Theory</i>
Canada/Local	NPG	Transport Regulation (Taxis v. Uber)	Complexity
Ireland/Regional	NWS	Homeless Service Provision	Networks
Singapore/National	NWS	Whole-of-Government Reform	Complexity
New Zealand/Regional	NPM	Regional Water Management	Networks/IAD

Before getting to the cases, readers may wish to consult Appendix X, for the short description of the ‘big models’ of government from Pollitt and Bouckaert (2017) referenced in the cases and in Table 12.1. We note that two of the cases selected (Canada and New Zealand) are in countries that are included in the 12 government comparison published by these authors and two are not (Ireland and Singapore). We have used the description found on p. 22 and again on pp. 120–126 of the Pollitt and Bouckaert book to inform our classification of these latter two as ‘neo-Weberian’ States (NWS) given the types of reforms implemented in these countries. In addition, we contend that one of the countries in the Pollitt & Bouckaert analysis aligns with the ‘New Public Governance’ (NPG) model in spite of the authors’ reluctance to accord a model status to this combination of features. In *Public Administration Reform* (4e), the authors state that “Canada established something of an international reputation in forms of ‘integrated public governance’ (p. 258)” and elsewhere that “Canada is rather an ‘awkward customer’ from the point of view of our typologies... (p. 118)”. In our view the core reliance of the New Public Governance model on networks among heterogenous stakeholders with the twin goals of efficiency and legitimacy is a good description of the Canadian public management aspirational model.

#### ***Case 1: Canada: Regulating the ‘Sharing Economy’ in Toronto (2012–2016)***

Disruptive technological change and the emergence of the platform economy – specifically the sharing economy – is at the core of this case study.

*(OECD 2017: 108)*

In 2012 Uber began to operate in Canada, initially as a tech company dispatching rides but later as a direct competitor to licensed taxis – leading to dissatisfaction among taxi drivers and concerns



regarding regulation and safety among public managers. There was no significant national or local regulation that applied to Uber drivers at that time, although “the sharing economy became a key topic in the Canadian public sector in the early 2010s” (OECD, 2017, p. 106). In late 2015 there were various government reports addressing issues relating to the sharing economy, but these “had only minimal impact, in part because the principal lead, the Deputy Minister for Innovation, did not have direct authority over the issues in question” (p. 107).

In 2014 the issue came to a head in Toronto as the taxi-drivers were incensed at what they saw as unfair competition and threat to their livelihood given the lack of regulatory requirements on Uber drivers. Councillors in Toronto demanded better and more equal regulations, while the Mayor publicly expressed support for Uber. Citizens were confused and public officials came under significant pressure to figure out a way forward. However, the issue was not one with which municipal authorities had significant experience, and even more challenging was the fact that they didn’t know what questions to ask in order to develop useful policy / processes. Rather than engage the big consultancies – as was their normal procedure – they turned to a local innovation lab, the ‘MaRS Solutions Lab’, for assistance in figuring out how best to define the problem(s), as well as the solution(s). This lab had been funded by a cross-(Provincial) government group, ‘Open for Business’ that had been set up to lead Ontario’s reform and modernisation efforts.

MaRS Solutions Labs’ ability to work with different kinds of methods and approaches was especially helpful, because regulators were unclear about the exact nature of the question they were trying to answer.

*(ibid., p. 112)*

The MaRS lab had developed a working methodology for systemic change called the “Periodic Table of Systems Change” which incorporated concepts and processes linked to systems theory and systemic change.

The essential premise of this methodology is a merger between design thinking and systems thinking. ... The method acknowledges that for systems to change, it is not enough to tackle policies and provide solutions; to ensure a successful process, systems thinking must also build the capacities of different stakeholders.

*(ibid., p. 111)*

Using their methodology, the MaRS lab started work in the middle of 2015 and through to first quarter of 2016 they facilitated a series of workshops among stakeholders to identify the issues from different perspectives and to map the ‘regulatory journeys’ of the two key groups: taxi-drivers and Uber drivers. In parallel, the city officials initiated their own consultation process with stakeholders and also worked with insurance companies and the province of Ontario to facilitate the development of insurance products for Uber drivers. The latter activity was facilitated by the findings arising from the MaRS workshops helping to identify where the main risks were in the ride-sharing business. Furthermore, Toronto city officials felt that the MaRS Lab work was helping them to see things from outside their ‘bubble’.

The final report from the MaRS Lab was issued at the end of March 2016 and was “easily ‘digestible’ and pragmatic, offering practical, balanced recommendations, which set the stage for the City Council’s regulatory decisions on the taxi industry and car-sharing. [It was also] widely perceived as representing the interests of citizens (ibid., p. 115)”. Followed closely by the city council’s own report in early April, these reports and the process of engagement that went on before resulted in a political process that took only two months to pass new car-sharing and taxi regulation. The OECD report states that: “During this process the political support of the Mayor

was essential. He took the issue up personally and returned parts of the regulation to the council floor, making it a key political issue of his mandate (ibid., p. 116)".

Uber got to operate legally in Toronto and the regulatory approach taken is expected to influence the rest of Canada, however the OECD is silent on whether or not the systems change approach to developing this regulation has gained any further traction. Taxi drivers appear to have been pacified, but also have expressed their disappointment in the outcome. Particularly given that the market price of a taxi medallion "dropped from \$300,000 Canadian dollars to \$50,000, although it is hard to discern how much of that drop in value was due to the regulation (ibid., p. 116)". In spite of some reduction in the regulatory requirements for taxi-drivers, the process left them feeling like "a level playing field never really happened (ibid., p. 116)" and their trust in government appears to have decreased. Nevertheless, there has been no return to the earlier protests and violence arising from the taxi industry's dissatisfaction with the entry of Uber.

Although the process facilitated by MaRS gave the taxi industry a chance to be heard, they seem to have lost trust in government as a result. ... As one member of the taxi industry said, "it left a bad taste in my mouth; we felt foolish that we followed the law.

(ibid. p. 117)

### ***Case 2: Ireland: Homeless Services Network in the Dublin Region (1988–2006)***

As a result of a combination of the influence of the corporatist approach to social and economic policy development in Ireland in the late 1980s, the popularity of the 'steering not rowing' (Osborne & Gaebler 1992) approach to governance, and the prior existence of a network of voluntary homeless service providers, the provision of homeless services in Dublin, along with the facilitating policy instruments, are multi-agent oriented.

(Norris et al. 2008, p. 1)

In 1988, a new Housing Act was passed in Ireland that sought to resolve issues surrounding the definition, service provision for and measuring of homelessness in Ireland. Interviewees for the case study undertaken by the authors of the above agreed that the legislation was the result of sustained lobbying by private, non-profit agencies in the State that had formed a network in 1987 which they called, 'The National Campaign for the Homeless'. The purpose of this network was to advocate on behalf of homeless households and individuals to policy-makers and government agencies. In spite of the fact that funding for homeless services had expanded significantly under Section 10 of the Act, by the early 1990s there was "a widespread consensus among most statutory and voluntary groups involved in addressing homelessness, including the National Campaign for the Homeless (1992), that its homelessness provisions had been largely ineffective" (ibid., p. 8). Drawing on Koppenjan and Klijn (2004), the authors of the case characterised the period from 1988–1995 as the beginning of the 'policy game' in which actors involved pursued their objectives without much in the way of explicit network management, but still with significant interdependencies arising from the role of government agencies as funders and policy-makers, if not as service providers – and the information exchange through the National Campaign for the Homeless. It is worth noting that at this time, funding was not exclusively or even mainly from government:

During this period this sector was heavily dominated by agencies originally established by religious (in practice mainly Roman Catholic church) organisations or individuals such as the Simon Community, Focus Ireland, the St Vincent de Paul and the Salvation Army. These

agencies were staffed mainly by volunteers rather than paid staff and funded principally by private bequests and fund raising rather than by government.

*(ibid., p. 7)*

Homelessness continued to grow over the period, no doubt exacerbated by the economic challenges in Ireland at the time, and by the mid-1990s the problem was most acute in Dublin – Ireland’s capital city. In 1995 a ‘Review of Service Provision for the Homeless in the Dublin Region’ was undertaken jointly by the two main government agencies responsible (Dublin Corporation and the Eastern Regional Health Board) which highlighted two principal problems with the homeless service system: (1) a lack of clarity around the ‘division of responsibility’ between these two agencies and (2) the independent and somewhat incoherent operation of the range of public and non-profit organisations in providing services to homeless individuals and families.

The Review recommended the establishment of a ‘Homeless Initiative’ that would involve all of the local homeless service providers in order to improve the effectiveness of homeless services in the region. This was established in 1996 and a Director was hired using funding from central government and “operationalized principally by means of networking (*ibid.*, p. 10)”:

The Initiative was managed by a committee made up of senior officials from the local authority and health authority, its work programme was directed by a consultative board consisting of equal numbers of representatives from the non-profit and statutory sectors which was tasked with ‘the promotion of partnership working’ in order to ensure:

...more effective delivery of services, efficient use of resources, [address] shortfalls in the provision of services, development of performance indicators, planning and co-ordination of placement, settlement and outreach services, development and implementation of operating procedures, and organisation of regular research.

*(Homeless Initiative, 1997: 8, as quoted in ibid., p. 10)*

The authors of the case concluded that, based on documentary evidence and interviews with the principal stakeholders that “the Initiative had significant success in achieving its mandate” (Norris et al. 2008: 16), with significant improvement in the interaction and awareness among service providers and an increase in awareness of the diversity of needs among the homeless population. However, the reporting of numbers of homeless individuals and households told a different story as homeless households actually increased by 123% between 1991 and 2002. The result of the ‘entangling strategy and network learning’ phase of network management was better service delivery and coordination, but also a significant increase in the numbers of citizens accessing those services. It is also worth noting that Ireland entered a period of significant economic expansion – referred to as the ‘Celtic Tiger’ period – in 1995, which continued through to the global financial collapse in 2008, interrupted only briefly in 2000/2001 by the dot.com bubble bursting. So the increase in homelessness during the period 1995–2002 could not be attributed to economic factors.

The period from 2001–2006 was characterised as ‘disentangling and active game management’ by the case writers. It was in this period that a new government policy was implemented – largely drawn from the experience of and recommendations by participants in the Homeless Initiative. “Homelessness – an Integrated Strategy” was published by the Department of the Environment and Local Government in 2000 and it set up a new entity, the Homeless Agency. This agency was responsible for coordinating and, crucially, funding the public and non-profit service providers in the Dublin region and for ensuring that ‘homeless fora’ were set up in every local authority involving representatives from the relevant public and non-profit organisations who would develop homeless action plans for their respective areas.

Over this period the control of service provision shifted significantly towards the government agencies and, in the Dublin Region, to the Homeless Agency. This was partly due to the massive increase in government funding<sup>1</sup> that was aimed at ‘ending homelessness’ and which overtook private funding as the main source of funding for many non-profits, but was also due to the way the network entities were configured. The local authorities were charged with setting up and running the homeless fora in their area and the Homeless Agency was responsible for funnelling central government funds to non-profits. The Board of the Homeless Agency was made up of ten representatives from public agencies and five from the non-profits.

The result of the network strategies (and the increase in service funding) was a 33% decrease in ‘rough sleeping’ in Dublin and slightly smaller decrease in the number of people classified as homeless over the period 1999–2005. In addition, there was a major expansion in the evaluation and performance measurement activities across network participants – so much so that Rhodes and Brooke (2010) writing about the same case concluded that

an evaluation ‘industry’ can spring up around a policy domain that ... may lead to evidence and evaluation fatigue. Policy-makers and practitioners may be bombarded with different perspectives and recommendations which they cannot absorb nor react to before the next evaluation rolls around.

*(Rhodes & Brooke 2010, pp. 25–26)*

At the end of the day, while the network strategies adopted by the core government agencies resulted in a much more tightly connected and coordinated range of services, the overall impact was minimal in terms of the number of people experiencing homelessness. In fact, following the financial crisis, cutbacks in government funding, the collapse of the construction industry and five years of no new housing, homelessness rapidly increased to levels not seen since data began to be collected.

### ***Case 3: Singapore: Whole of Government Approach (2003 – Ongoing)***

Understanding complexity has changed the way we manage the policy development process in Singapore...When dealing with complex issues, however, the right answers cannot be derived a priori. Agencies must be willing to probe and observe how the system will respond to interventions. The right approaches will then emerge through a discovery process involving relevant stakeholders and not just experts.

*(Chap 1, p. 3)*

At the beginning of the 21st century, Singapore was hit with a number of ‘black swan’ events that demanded much from government, industry and citizens alike. These included the dot.com crash beginning in 2000, the September 2001 terrorist attacks in the USA, Jemaah Islamiah attacks in Bali in 2002 and the Asian SARS outbreak in 2003. None of these were created by Singaporean policies or actions, but they required rapid adjustment and response from what was up until then a fairly rigid, hierarchical public service with minimal (perceived) interdependencies with non-governmental actors. Following the SARS outbreak, the government of Singapore began to explore new ways of anticipating and adapting to unplanned events, ultimately introducing a range of perspectives, tools and practices to the public sector informed by complexity theory and related policy-making practices.

First, in the period following the SARS outbreak, the Singaporean national scenario planning process was revamped to incorporate more complexity-friendly tools including Snowden and

Boone's (2007) Cynefin Framework for classifying the 'domain' in which events and/or interventions might occur. This framework helps policy-makers understand better the ordered/unordered dynamics of issues and the type of interventions that might be best suited to "increase the likelihood of positive outcomes" (ibid., p. 5). In addition, they incorporated a 'sense-making' stage into the scenario process that incorporates Inayatullah's (1998) 'Causal Layer Analysis' to "unravel the deeper ideological assumptions that underpin the cause (worldview) ... and help uncover unconscious emotive attitudes leading to that worldview (myth/metaphor) (Chap 2, p. 8)". Causal Layer Analysis was developed by Inayatullah as a futures research method based on post-structuralism with the objective "not of predicting the future but [rather] creating transformative spaces for the creation of alternative futures (Inayatullah 1998, p. 815)". The point being that considering possible futures is not simply about gathering and forecasting, but also shaping and identifying adjacent possibilities (Kauffman 1995).

Agent-Based Modelling (ABM) based on complex systems theory is used in Singapore not only to gather and generate data for informing policy development, but also for engaging citizens in the policy process through models that involve 'tangible user interfaces' (TUIs). These are technologies that allow people to interact with physical models that change the parameters of the virtual model and reveal in real-time the impact of different user patterns and how these support or challenge assumptions built into the model. A prototype of this type of model was built by the Singaporean Redevelopment Authority and MIT to study the location of amenities in the Jurong Gateway (western Singapore) in 2016.

ABM allows policymakers to build a world from bottom up and observe how local interactions of heterogeneous agents impact the larger ecosystem. It can be used to test novel policy solutions, answer interdisciplinary policy questions, and examine hypotheses that may be too expensive or politically risky to experiment in real life. It can provide policymakers with a range of plausible scenarios using different policy options and improve public sector risk management.

*(Chap 3, p. 6)*

Nevertheless, according to *Ho and Pakir* (2019), "At the point of writing, the use of empirical, data-driven ABM in policy deliberation is still nascent in Singapore."

Beyond the complexity-friendly scenario planning and modelling tools that are used to forecast events and agent behaviour, Singapore has also introduced specific approaches to policy development that aim to incorporate a broader range of perspectives and solutions into the process. In the book (Ho & Pakir, 2019), two such approaches are highlighted: design thinking and collaborative governance.

**Design thinking** focuses on the unique ways in which humans interact with their environment. Before even defining the problem, design thinking first takes the perspective of empathizing with the users of any given product, drawing on ethnographic, qualitative, and user-centric research to understand users' environment and context. Only after such observation do they proceed to define the problem.

*(Chap 4, p. 3)*

This approach was used in 2011 to develop new ways of dealing with under-capacity in hospital beds. The Khoo Teck Puat Hospital (KTPH) had just been opened and demand for the subsidised beds immediately 'shot up' to 120% of availability. Instead of simply proposing funding for additional beds, hospital management and staff engaged with repeat patients and their care givers as 'partners' to better understand the reasons for repeat admissions. Community nurses from KTPH

were selected to be on the design team based not on their medical expertise, but on their “ability to connect with people, out of a recognition that patients and caregivers ultimately needed to be comfortable for the interventions to work” (*ibid.*, p. 6). The nurses were also given broad discretion as to the way they interacted and encouraged to consider social and environmental issues as well as medical/care issues. The recommendations for ‘Aging in Place’ (AIP) put forward by the nurses, patients and caregivers, were applied to a pilot group of 40 repeat patients over a six-month period and re-admission rates dropped by nearly two-thirds. Based on this pilot project, some ‘tweaking’ of the AIP programme was made and then it was rolled out to all existing repeat patients (400 in total) with a similar result and a savings of nearly 5,000 hospital bed-days for other patients.

In Singapore, collaborative governance is a rather new and largely local phenomenon in which citizens are encouraged to partner with local government to “provide a public service (co-delivering), or design a policy intervention (co-creating)” (*ibid.*, p. 3). The example provided in the book is from 2005 and relates to the development of small community gardens in an area called ‘Mayfair Park Estate’ linked to a national programme under the heading “Community in Bloom” (CIB). The National Parks Board of Singapore decided to pursue this programme in which communities would take the lead through neighbourhood committees to develop more gardens and green space in cities. In Mayfair Park Estate, the programme was particularly successful due to an ‘enthusiastic group of residents’ (p. 6). The case writer notes:

The CIB team resisted the urge to take the lead and make plans for the residents. Instead, it allowed the community to make their own decisions, such as the kind of plants they wanted to grow and how to allocate the space for the garden. The CIB team did, however, play three roles: first, they helped facilitate the formation of the network, bringing gardening enthusiasts together; second, they helped the network to navigate bureaucratic barriers, including funding, accountability and permission for using public space; third, they steered the network through influential leaders instead of directly.

(*ibid.*, p. 7)

While the CIB programme appears to have been successful – with over 1,000 CIB gardens established since the launch in 2005 – it is less clear whether the collaborative governance approach has been deployed pervasively. The authors seem to suggest otherwise when they conclude that:

In collaborative governance, giving partners discretion is critical, as it builds trust and allows for innovation, but this does result in some trade-offs. Partners may abuse their discretion or unfairly allocate benefits (for instance, if community gardeners decided to plant gardens only near the homes of a few influential residents). Accountability may also be an issue: who should bear responsibility when things go wrong in a repeat patient’s home? These trade-offs should be weighed, but ultimately should not prevent policymakers from considering collaborative governance solutions to policy problems altogether.

(p. 8)

Typical budget cycles and an emphasis on standard key performance indicators (KPIs) may not be able to provide the resources needed for complexity-based approaches.

(p. 8)

Current government structures may also impede the ability of organisations to build or intervene in networks, as doing so requires public officers who are managing these networks to have a significant amount of discretion. A culture where officers constantly require

permission or ‘clearance’ from senior management on most decisions makes it very difficult to manage networks.

(p. 9)

Nevertheless, the application of complexity-friendly tools and practices into Singaporean government is being embedded into the system through extensive training of government employees through the Singaporean Civil Service College – which offers over 400 courses to government employees as well as consulting for government agencies on organisational development and human resources and training. Overall, this ‘Whole-of-Government’ initiative “provides a way of thinking rather than a set of immutable policy prescriptions; a mental process to help us tease our way through dynamic and emergent puzzles, rather than neatly packaged solutions” (Chap 5).

It is a change in perspective that required a fundamental shift in the ‘style’ of Singapore public administration as described by Lam (2010). Leong suggests that up until the 1990s, Singapore public servants were trained and operated under a more simplistic view of the world in which traditional planning and implementation approaches emphasising analysis and control were prevalent and the context for policy changed slowly. The realisation that many issues faced by Singapore were inherently uncertain, could change rapidly and were difficult to predict drove the move to a complexity-based understanding of the world and the need to change to new management approaches involving innovation, interaction, experimentation, risk management and boundary-setting (and spanning). However, this is a slow process and in spite of the apparent success of the new perspective – if one judges from the progress of Singapore overall – there are still significant intellectual and cultural hurdles to overcome.

#### ***Case 4: New Zealand: Freshwater Management in Canterbury (2001–2016)***

The right way is as much what we all agree to do. There are tests as to whether what we are doing is working or not. But if we are agreed to do it this way, then does it really matter that Australia does it this way or America does it slightly differently. Our approach might reflect our different culture or it might reflect circumstances or it might just reflect that this is the bargain that we struck here. Which is also why I am untroubled by the thought that at a zone level we end up with outcomes/bargains that are different in different zones, if they are agreed. A good example might be that having set a particular nutrient limit, a particular zone might agree to allocate it/divide it up in a way that reflected historic usage more than another approach would. Another zone might be more concerned with current land use. Another area again might be happy with a minimum for everyone and only allocating above a certain level. If you end up with different bargains in different areas, does that really matter, if the local people are comfortable with their bargain? That is what I took from Elinor Ostrom’s work: the diversity, and the absence of common patterns other than the requirement for buy-in.

*Interview, David Caygill, ECan Commissioner,  
10 December, 2014 (Eppel, 2015)*

Water management is a challenging policy domain in many countries, and New Zealand is no exception. Legislation in this domain – the New Zealand Resource Management Act – was passed in by government in 1991, but detailed policy and regulation did not immediately follow. In 2011 government finally promulgated its first National Policy Statement for Freshwater Management to provide national guidance on the environmental standards to be protected by the Act.

Throughout this drawn out policy process, water rights in the Canterbury region were allocated to applicants on a first come, first served basis by the Canterbury Regional Council,<sup>2</sup> referred to generally as ‘Environment Canterbury’ or ‘ECan’. ECan was established in 1989



following local government reforms in New Zealand and is one of 16 regional councils in New Zealand. Over time, dissatisfaction with ECan's piecemeal (and inefficient) approach to resource consents grew but ECan was not able to get sufficient support for a regional water management plan. As a different approach, in 2000 the Council initiated the Canterbury Strategic Water Study in collaboration with two relevant Ministries (Industry and Environment) and the local district mayors to try and improve strategic thinking and support for a regional water plan. Indeed, one of the foremost issues for the region is the quality and availability of water and degradation of water quality arising from increased irrigation and land-use conversion from forestry and sheep-farming to intensive dairy farming.

Led by the Ecan CEO (Jenkins), who was familiar with Ostrom's approach to environmental governance, this process involved a wider range of stakeholders than in the past, including Ngai Tahu as tangata whenua,<sup>3</sup> farmers, irrigators, anglers, recreationists, and environmentalists. Eppel (2016) describes the outcome of this process as:

The study appears to have had an educative effect, by raising community knowledge about the complexity inherent in water management and enlisting community support for a different approach. An evaluation of the second phase of the study was done by a reference group of people from across Canterbury with a wide range of interests: Ngai Tahu as tangata whenua, farmers, irrigators, anglers, recreationists, and environmentalists. This led to the formulation of the Canterbury Water Management Strategy (CWMS) launched in 2009 and owned by the Canterbury Mayoral Forum, a body consisting of the mayors of the ten territorial areas in the Canterbury region (one of which is Christchurch City) and the Chair of ECan, and strongly supported by Ngai Tahu.

*(ibid., p. 4)*

In summary, following eight years of consultations among stakeholders in and studies of the Canterbury regional water network, the Canterbury Water Management Strategy (CWMS) was launched with ownership and support from the Mayoral Forum. However, the lack of a strategic plan for the past 20 years had left a legacy of granted rights that were inconsistent with the goal of CWMS to protect water quality.

In addition, ongoing divisions in ECan – largely between rural and urban councillors – led to conflicts and delays in CWMS implementation. This led the mayors in the region to appeal to the Minister to dismiss the elected ECan councillors due to the lack of progress, a hitherto unprecedented request. After a review panel agreed with the perspective of the mayors:

Special legislation was enacted to enable Ministers to appoint Commissioners to carry out the functions of ECan. Ministers went further and, while encouraging continuation of the collaborative approach begun by the Mayoral Forum and CWMS, legislated to give ECan exemptions from some of the requirements of the RMA 'to provide the Council with certain powers that it does not otherwise have to address issues relevant to the efficient, effective and sustainable management of fresh water in the Canterbury region' (Temporary Commissioners and Improved Water Management Act, 2010).

*(ibid., p. 4)*

'Ownership' of the CWMS by relevant stakeholders in the 'Canterbury Mayoral Forum' structure represents significant local political support for the strategy and the process as well as an 'entangling' phase in the policy game (Koppenjan & Klijn 2004). Furthermore, once adopted into the Canterbury Regional Plan (2009–2016), the CWMS became an agreed basis for decision-making by ECan. ECan then established ten local zone committees, one for each catchment area,

consisting of people with a deep and diverse understanding of water needs, values and uses to devise and propose detailed plans and set of rules for the catchment that could then be incorporated as a sub-regional chapter of the plan.

The Zone committees continue to operate and have provided a way for local values and valuing of water to be recognised in water allocation decisions. The collaborative processes through which the CWMS was created helped to garner local commitment and educate about water management issues seen from diverse perspectives and values. Similarly, the Zone committees in each catchment through their processes of community engagement on each catchment plan's detail have built understanding, consensus and laid the ground for behavioural changes, remediation work where needed, and improved farming practices. Under the ongoing development of the CWMS, targets have been set for 2015, 2020 and 2040 to provide a set of long-term environmental, social, economic and cultural outcomes reflecting a sustainable development approach to achieve the goals. In 2015, ECan produced its first report against the CWMS targets showing a lot of activity underway but little impact so far in improving water quality.

Unfortunately, addressing the effects of previous ad-hoc and unsustainable decision-making is proving to be quite challenging, even with the above approach. Water management in Canterbury continues to be contested because of the adverse effects of irrigation approvals given under the pre-CWMS (absence of) rules which have led to unprecedented high cow stocking levels and resultant diffuse source pollution of waterways. Thus any advantages and potential achievements that could have come from the CWMS collaborative process might yet be overtaken because of political action by those opposed to the impacts of ad hoc past decision-making.

### **Observations on Complexity & Networks Practice**

The four cases described above are by no means fully representative of the various application of complexity and network concepts, institutions and practices in public management around the world, but they have been selected to provide readers with some rich empirical details of same – and the context in which they occur. In Table 12.2 we provide an overview of the concepts, institutions and practices that we observed, with the caveat that in only two of the cases do the authors have personal experience of the people, policies and evolving processes to draw upon. Even in those cases (Ireland and New Zealand), we would not suggest that we have provided a comprehensive picture of all of the interacting parts and outcomes. Nevertheless, there is much here to suggest that complexity and network theory has percolated into the systems of public management in significant ways – with many variations but also some patterns that are worth looking into more closely.

The first observation revealed in the table is that the application of C&N theory and practice appears to operate on a sectoral, regional or local, rather than national, or whole of government level – apart from the Singapore case. While we must reiterate that these cases are not meant to be representative globally, we can say that most of the examples we reviewed for inclusion in this chapter would have been at a lower level than national government. This would be consistent with the relatively early stage of complexity and network theories as governments experiment with new approaches locally before trying to introduce them more comprehensively. The Singapore case is interesting for its comprehensiveness and raises the question about why this occurred there. The classification of Singapore as a 'neo-Weberian' state in the Pollitt and Bouckaert reform typology does not make it unique and further investigation will be required to identify what factors might have led to this.

We can also observe that the use of C&N theory/practice in public administration appears to be compatible with each of the three 'big models' of public management reform in Pollitt and Bouckaert (2017) and this is somewhat counter-intuitive as we would have expected examples to

Table 12.2 Application of Complexity & Network Theory & Practice

<i>Location/Level/Policy Domain</i>	<i>New Theory</i>	<i>New Institutions</i>	<i>New Practices/Tools</i>
Canada / Local / Transport Regulation (Taxis v. Uber) (2012–2016)	Complexity: Self-organisation & Adaptation	<ul style="list-style-type: none"> <li>- Cross-departmental group to lead reform efforts: “Open for Business”</li> <li>- Innovation Lab (MaRS)</li> <li>- car-sharing / taxi regulation</li> </ul>	<ul style="list-style-type: none"> <li>- Design thinking and systems thinking (MaRS ‘Periodic table of Systems Change’)</li> <li>- Stakeholder workshops to map participant ‘journeys’</li> <li>- Boundary-spanning</li> <li>- Nudging (via workshops and ‘pragmatic’ recommendations)</li> </ul>
Ireland / Regional / Homeless Service Provision (1988–2006)	Networks: Network managers; ‘Game Management’	<ul style="list-style-type: none"> <li>- Cross-agency joint projects</li> <li>- Consultative fora of statutory &amp; non-statutory agencies</li> <li>- Network management agency (Housing Initiative &amp; Housing Agency)</li> </ul>	<ul style="list-style-type: none"> <li>- New funding models (consolidated funding streams to service providers through network manager)</li> <li>- Regular evaluation of processes and outcomes</li> </ul>
Singapore / National / Whole-of-Government shift to Complexity perspectives (2003 ongoing)	Complexity: Interdependency; non-linearity; adaptation; self-organisation; emergence	<ul style="list-style-type: none"> <li>- Whole of government Smart Nation and Digital Government initiatives: - Ministerial oversight committee</li> <li>- Multi agency and multi-layered groups working on shared goals</li> </ul>	<ul style="list-style-type: none"> <li>- Training programs for civil service in complexity perspective(s)</li> <li>- Cynefin Framework analysis</li> <li>- Causal Layer Analysis</li> <li>- Agent-Based Modelling (with stakeholder interaction)</li> <li>- Design thinking</li> <li>- Collaborative Governance</li> <li>- Citizen ‘conversations’</li> <li>- Boundary definition / critique</li> </ul>
NZ / Regional / Water Policy (2001–2016)	Networks: IAD; Path-dependency	<ul style="list-style-type: none"> <li>- Collective decision-making process: Canterbury Mayoral Forum</li> <li>- Canterbury Water Management Strategy (CWMS) 2009</li> <li>- Ten zone committees consisting of local stakeholders advising on local rules.</li> <li>- Freshwater targets for 2015, 2020, 2040</li> </ul>	<ul style="list-style-type: none"> <li>- Identification of freshwater values</li> <li>- Boundary definition / critique (Nat’l / Reg’l strategy)</li> <li>- Stakeholder consultation</li> <li>- Elimination of ‘blockers’ (see Murphy et al. (2017) on leadership in complex systems) Govt dismissed elected ECan Councillors and replaced them with appointed Commissioners; Government also limited the opportunities and grounds for review of decisions through legislative changes.</li> </ul>

be more readily observed in New Public Governance (NPG) states. Again, however, we cannot make a claim that the examples here form any sort of pattern, so alignment (or not) with the major trajectories of reform will have to wait for subsequent researchers to assess.

Although not evident from the table, the case narratives do contain evidence that the introduction of one or more of the practices associated with C&N theory is often in response to a perceived crisis, whether social, economic, political or technical. Homelessness in Dublin, the arrival of Uber in Toronto, water rights battles in Canterbury and multiple ‘black swan’ events in Singapore give us a sense of the range of issues that can drive C&N interventions, but these events happen elsewhere without such change. What we see in the examples above is that there is also the presence of a ‘champion’ or core group of C&N enthusiasts that are in a position to introduce new institutions and sustain interest in the new practices.

In terms of institutions, the need for cross-departmental, multi-actor collaborative fora with some level of input to and/or authority over the decisions to be made and the subsequent implementation of same was evident. In Singapore this took the form of a multi-agency groups and cross-departmental initiatives. In Ireland, it was formal networks of statutory and non-profit organisations. In New Zealand, we saw the important roles of the mayors forum and zone committees made up of farming, community, indigenous and environmental interests. And in Toronto, the competing interests of Uber drivers and taxi-drivers were incorporated into policy through direct engagement with the interested parties. We would also draw attention to the unusual example in Canterbury of the exclusion of actors when they appear to be ‘blocking’ progress – i.e., the removal of elected councillors from ECan and their replacement with appointed commissioners. This is representative of an ‘enabling’ practice in complexity leadership as identified by Murphy et al. (2017) and is the opposing ‘dualism’ to the introduction of new actors into a decision-making process.

In relation to the practices identified across the four cases, it is not possible to identify any clear patterns – which would be questionable anyway given the small number of cases involved. However, boundary-spanning and boundary definition / critique do appear in three out of the four cases and suggests to us that Gerald Midgley’s work on the theory and implications of boundary critique as part of critical systems thinking (Midgley et al. 1998; Midgley & Pinzon 2011) is relevant to the introduction of new C&N theory and practice.

## **Conclusion**

The cases and the discussion above provide only a flavour of the range of applications of complexity and network theory in public administration. We have left out many examples which can be found in the references listed in this and the two linked chapters of this handbook. We would particularly note the omission of examples of agent-based modelling for policy development (apart from the brief mention in the Singapore case) as these are being used in numerous jurisdictions and we would recommend Kiel (2005), Tsai et al. (2015), Voets et al. (2019) for readers interested in these.

What we conclude from these cases and our own related research is that Complexity and Network Theory is ‘percolating’ through public policy processes and administration practices. This is often in response to a crisis of some kind and when an influential actor successfully introduces the concepts and can facilitate the rollout of new institutions and practices. Furthermore, the C&N concepts and practices are compatible with each of the three ‘big models’ of public administration identified in Pollitt and Bouckaert (2017) – not just with New Public Governance – and they seem to be more likely to appear in sub-national levels (Singapore appears to be an exception) of government. Finally, the use of multi-actor networks and boundary spanning practices appear to be fundamental features of these approaches – suggesting that untangling network theory from complexity theory is difficult and perhaps impossible in practice.

## Appendix X

### **'Big Models' of Public Administration Reform (Pollitt & Bouckaert 2017)**

In the 4th edition (2017) of "Public Management Reform" by Pollitt and Bouckaert, the authors further develop their framework for comparing the different 'trajectories' of public administration reform efforts and deal with the impact of austerity in 11 countries and in the European Union itself. In previous editions, the authors had identified four trajectories (the '4 Ms') of reform in relation to the range of interventions that are generally associated with 'New Public Management' (NPM). The most extreme version of this reform model they termed: 'Minimise' – which represented a belief that the best government was the least government, typified by large scale privatisation and "incessant attacks on 'red tape' and new procedures ... to deter officials from creating more new regulations (Pollitt & Bouckaert 2017, p. 115)". However, apart from rhetoric in the USA this trajectory was hard to find among the selected countries. The least active reformers were deemed to be 'Maintain' countries – doing very little to pursue a reform agenda, apart from lip service, and just working around the edges to 'fix' problems in existing structures and policies. In earlier editions there were a few countries in Pollitt and Bouckaert's selection that seemed to fit into the 'Maintain' trajectory, but over time these have moved into one or the other of the remaining two trajectories.

In the latest edition, the authors have shifted their focus to what they term the 'Big Models' of public administration that appear to be informing the trajectories of reforms selected by the countries they examine. In this shift, the two remaining trajectories of 'Modernise' and 'Marketise' appear to morph into patterns of reform leading to one of these 'Big Models'. Specifically, 'Modernise' trajectories are linked to an 'omega' (desired) state aligning with the Big Model of the 'Neo-Weberian State' and those countries on a 'Marketise' trajectory appear to align with the 'New Public Management' model. The model of the 'neo-Weberian State' is one that Pollitt and Bouckaert have defined drawing largely from their analysis over the past 20 years.

In the latest edition, the authors introduce a third 'Big Model' that embraces network theories and practices and changes the focus from the institutions of government to the processes of governing. While they refer to this model throughout the book as 'New Public Governance' (referencing Osborne 2010 among others), they decline to fully ascribe to it the status of a coherent model for public administration. They conclude that: "While the NPG model may at present appear to be rather vague and idealistic, it is nevertheless focused on some core contemporary features of politics and society... It may yet be developed into something more theoretically precise and operational (ibid., p. 126)".

The basic features of each model are provided below.

**Neo-Weberian State:** Authority for policy-making and public service remains in the government and is generally hierarchical in nature. The overall aim is to undertake government activities as efficiently and effectively as possible, along with being more responsive to citizens. "Business-like methods may have a subsidiary role in this ... (ibid., p. 22)".

**New Public Management:** Outsourcing, managerialism, performance management and marketisation (either through arms-length contracts or internal 'quasi-markets') are the mechanisms through which the 'business of government' gets done. This has a similar objective to NWS (efficiency and responsive to consumers), but the role of the state is considerably diminished, particularly in relation to service provision.

**New Public Governance:** Working through networks and including diverse perspectives into processes of policy-making and service definition/delivery feature in this model. Achieving efficiency and effectiveness are important goals, but added to these are a concern for 'legitimacy' and trust in government. The state may take a greater or lesser role in any given service domain.

## Notes

- 1 Annual government expenditure on Homelessness prevention / services grew from €33 million in 2000 to €90 million in 2006.
- 2 Canterbury Regional Council is responsible for a wide variety of functions including public passenger transport, regional biosecurity, river engineering, environmental monitoring and investigations, regional policy and planning and for considering applications for certain resource consents – land use consents (including beds of waterbodies), coastal permits, water permits, and discharge permits. Canterbury Regional Council has strategic responsibilities for air, water and transport (Wikipedia – accessed 27 Aug 2019).
- 3 The name of a native Maori people in the area.

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# 13

## THE ENMESHMENT OF THE MACHINE IN COMPLEX GOVERNANCE PROCESSES AND NETWORKS

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### **Introduction**

Chapters 11 and 12 in this collection provided an overview of the state of governance theories and its blending with complexity theory, as well as empirical examples of innovations such as alternative governance arrangements. This chapter provides an outlook on the challenges of this hybrid field of inquiry, focusing on the attempts of both Public Administration as a discipline and public administration as a sector to uncover the complexity of governance as described in the previous chapters.

Central to this search will be the tension between an-ever increased awareness of the complexity inside and outside government on the one hand, and a near-universal, inevitable desire for simplicity on the other hand. The advent of the digital age – in the shape of algorithms and software running on increasingly powerful computers and that process many types of societal data to deliver the information upon which decisions are made – accelerates the evolution of the networks governmental and non-governmental actors are entangled in. The idea that the computer can be a machine actor in enmeshed in a network of actors is nothing new of course; Actor-Network Theory had that covered decades ago (Latour, 2009). What has changed, however, is that this digital machine, its hardware and software, has gained more autonomy, which is intimately connected with the tension between complexity and simplicity mentioned above.

What follows will first reflect on the intellectual development in our field to highlight that the theoretical and conceptual development is not necessarily one of continuous improvement in an absolute sense. Instead, it demonstrates a moving back and forth between relatively simple theories and concepts broadly applicable and those more finely grained with more explanatory value for a smaller universe. Next, this will be related to the advent of digital technology, such as big data, machine learning, and the use of algorithms. The remainder of the chapter explores how these relate to public administration as a sector and a discipline. As it stands, the field has only started to scratch the surface of this novel societal development. Using insights from various other fields, this chapter provides ample ideas for future research.

### **Evolution of Governance Network Theories**

Public Administration has been through an intellectual evolution that started with the borrowing of simple explanatory models from other disciplines and has arrived in a place where its models are arguably internal to the discipline, as Eppel et al.'s discussion in Chapter 11 shows. The arrival



of governance network theories and the ways in which they are captured in explanatory concepts and models have been instrumental in cementing Public Administration as a full-fledged discipline. The models became increasingly detailed and granular as more research uncovered more factors to account for and explain. Comparing, for example, iron triangles with current iterations of network models (Klijn & Koppenjan, 2014, 2015; Klijn & Snellen, 2009) shows how far the discipline has come with regard to the level of detail that those models can render.

The history of thought about governance networks has been told so often that there is no need to repeat it. Does this intellectual development signal an improved understanding of the world? It is tempting to equate the evolution of those models and concepts with knowledge accumulation of what makes governments tick. In other words: to believe that those more detailed models and concepts are a sign of an increasingly detailed understanding of the object of interest. The actual picture is more complicated. Two factors need to be considered. First, politicians and administrators change their operations in the face of societal dynamics, so the object of interest resembles something of a moving target. Second, there is an important difference between the appearances of governance and underlying mechanisms. For example, the ongoing liberalization of the European market for public transportation (EC directives 91/440/EEC and 2012/34/EU) resulted in new governance networks at the European level, e.g. in the shape of working groups (Egeberg & Trondal, 2017; Gilardi, 2002; Majone, 1997), but the mechanisms underneath liberalization are well-known: devolution of tasks, establishing of principal-agent relationships, introducing key performance indicators and the use of specific contract forms, etc. (Schipper & Gerrits, 2018). Thus, models and concepts that explain liberalization in the European railway market because of EU policies tap into a different layer of reality than models and concepts that map and explain the basic mechanisms underneath this particular manifestation of liberalization.

The relationship between these two factors on the one hand, and concepts and models of governance on the other, is mediated through the movement between conceptual *intension* (the attributes an object must feature to fit the concept) and *extension* (the class of objects referred to; Toshkov, 2016). If the concept of governance networks has been given the attributes ‘multi-actor’ and ‘lack of hierarchy’, it would cover a wide range of cases with these properties but would also ignore some finer-grained differences between such cases. Conversely, if one changes the intension by adding more attributes accounting for those differences, the range of cases covered will be more limited. It would allow one to generate more precise empirical statements, but the statements derived hold true for a smaller set of cases. The more abstract the concept, the greater its extension (Goertz, 2005; Toshkov, 2016). The intellectual development of concepts and models of governance and complexity is therefore not necessarily a linear path from a crude understanding of reality towards better explanations and of knowledge accumulation, but rather a movement across a spectrum between simple models and concepts fitting a wide range of cases, and complex models and concepts fitting fewer cases (Boisot, 1998).

The rapid diffusion and use of the governance networks in scholarly research thrive on its broad intension, i.e. its ability to cover many instances. As such, it can be deployed in a wide range of settings such as the analysis of Dutch social housing policy (Klijn, 1996) and the analysis of regional planning processes in the United States (Koliba, Meek, & Zia, 2010), despite major differences between the two topics and the surrounding context. The same goes for applications of complexity theory, as recounted in this Domain of the book. Many aspects of complexity theory seem general enough to fit a wide range of realities.

The trade-off between intension and extension is particularly important for understanding what the entire set of concepts and models of governance and complexity does in intellectual and practical terms. While some concepts and models are broad, others can be very specific indeed. This increases their appeal but also creates considerable confusion about the object of interest – it is not hard to imagine scholars talking past each other if the conceptual intensions is broad enough. For

example, the bibliometric study on the use of the concept of self-organization and self-governance in urban and spatial planning shows that there are at least five main conceptualizations in use that are at least partially mutually exclusive (de Bruijn & Gerrits, 2018). When applied to 38 different topics, there is little resemblance among them. Authors do refer to each other's work but it is often unclear if they understand the concept in the same way as others (ibid.). There are some indications that they talk from different plains.

The study by de Bruijn and Gerrits (2018) illustrates what has happened in the realm of governance network and complexity theories: wide adoption and popularity, but a very amorphous field of inquiry. The ongoing development in Public Administration thrives on the ways in which scholars negate the tension between complexity and simplicity: to have access to concepts and models simple and convenient to use, but which also address the complexity inherent to social reality. There is not necessarily a 'next' in the sense of an entirely new and *better* theory or model for governance and complexity (all the basic mechanisms have been covered), but rather, further refinement of existing concepts, models, theories and methods to better probe into how those mechanisms interact with specific contexts, and how certain outcomes come about.<sup>1</sup>

### Further Unboxing

Some have argued that the world has become an increasingly complex one that requires specific approaches that account for that complexity (Gerrits, 2012; Morcol, 2002, 2012; Sharkansky, 2002). The world may not be more complex in an absolute sense – for example, figuring out how to contain the Black Death in medieval Eurasia must have been a very complex challenge – but we have become better at uncovering social complexities. The more we see, the more we realize all that we do not know yet. A major factor affecting the experience of increased complexity comes in the shape of digitization – a novel societal dynamic. Digitization of data and methods simultaneously offers an unprecedented access to information to guide governmental action and make sense of a daunting overabundance of data. Big data, algorithms and machine learning seem to offer administrators a way out of the social complexity, but also add to it by introducing new technologies.

For scholars in our field, digitization promises a similar push. It may give them an overview and insight otherwise not possible. For example, scholars can now download, structure and transverse the entire corpus of policy papers concerning deregulations as issued by the European Union. Taken at face value, digitization indeed offers new ways of doing things and of understanding complexity, but it should not be taken at face value. The inner workings of the machine should be understood before we consider their usefulness for decision-making and for the analysing how governance networks shape decisions under complex conditions. We should move beyond the interface through which data and knowledge is presented (Burkholder, 1992). The next section dissects the machine to understand how it operates and the ways in which it is gaining agency in governance theory and practice and in research.

### Digitization

Digitization is a broad term that captures a wide range of techniques for data processing and representation. What we are particularly interested in are the current and future technologies geared towards sorting, relating and predicting social complexity. After all, this may be the avenue worth pursuing for policy-makers and scholars in the field. To this end, we will need to discuss the main properties of big data, algorithms, and machine learning. In practice, there appears to be some confusion (and some hype) about what these three are and how they relate (boyd & Crawford, 2012; Manovich, 2012). Of the three, big data may be the most loosely defined.

In general, big data concerns data characterized by its unsorted diversity as well as granular diversity. While traditional research may focus on key data as selected based on prior theory or knowledge and as defined in variables, this differentiation is missing from big data. In such large, diverse and unstructured data sets, each utterance is, each bit of information forms a variable (Mackenzie, 2015). The key to work with this daunting abundance of information is categorization, i.e. the sorting and labelling of every bit of data such that those bits can be related in one way or the other. Since every bit of data is a variable, the entire data set forms a very-high dimensional space where countless bits of data are related to other countless bits of data. The data set can be dynamic, too: new data may enter or leave the set continuously. How these data as variables relate will emerge once sufficient data have been collected and labelled – which is why such data sets tend to be enormous.<sup>2</sup> Naturally, it is considered impossible to sort those data manually and to discern patterns that matter.

This is where algorithms and machine learning come into play. Some machines sort data based on predefined criteria. However, machine learning enables the machine to develop categories and labels on its own, as such actively sorting and relating data without much instruction as how this should be done exactly. The basic principle of machine learning constitutes a positive feedback loop. The data are labelled and related, and the outcomes are then tested to see if the sorting has made sense. If not, the data will be related repeatedly until it starts to approach reality. Once the resulting predictions are confirmed, the machine will be better able to sort new data sets. In other words: the more a machine knows, the more it can know, i.e. generalization through mobilization (Mackenzie, 2015). Feeding more data will improve the capacity of the machine to learn and to get better at sorting data and predicting outcomes.

Machine learning runs on a collection of known and tested statistical techniques to do the labelling and sorting. The apparent magic derives from the speed with which these enormous amounts of data are labelled, sorted, tested, and resorted and relabelled until they produce meaningful output. Even then, it is usually still impossible for human operators to track and trace how the machine traversed the highly dimensional data set and comes up with a given output (Latour, Jensen, Venturini, Grauwin, & Boullier, 2012; Mackenzie, 2015; Mittelstadt, Allo, Taddeo, Wachter, & Floridi, 2016). The best way of telling that the machine has learned is by looking at its ability to generalize (Burrell, 2016). The central issues with generalization are two-fold. First, the resulting model may adapt itself too closely to the current data set and subsequently fails to generalize (excessive fit) or may not be complex enough, subsequently representing too little and performing poorly in generalization (underfit). Second, the learning works well as long as the object it is learning about remains more or less static. A static object allows the machine to fine-tune its model and become increasingly good at predicting the output. However, every change in the object of interest requires a new iteration and a change of model. By implication, machine learning has a hard time keeping up with the complexity of social reality because it is often more changeable than not (Mackenzie, 2017).

Algorithms are nothing but if-then rules – there is no magic at play – but there can be many, and they can be combined. Many decisions in non-digitized research can be considered algorithmic, too, for example, when all instances having a set of attributes are considered to fall under the scope of a particular concept. When it comes to digital algorithms, a principal distinction can be made between reactive systems, i.e. algorithms that trigger an automated response; and pre-emptive systems, i.e. algorithms that utilize historic data to infer predictions about future behaviour (Yeung, 2018). An example of the first would be a speed camera monitoring car drivers. Once someone drives faster than the pre-set limit, it will register that driver as an offender. An example of the second would be machine learning. Combinations of algorithms drive machine learning. Those algorithms can be relatively simple but stacked together they can render powerful

outputs (Mackenzie, 2017). For example, a simple algorithm can be to label all instances of a particular word in communications as a possible indicator for social security fraud, and another one to check if those words correspond with actual fraud. Pitching this against other algorithms that label and sort the data in a different way and check their predictions against outcomes, the learning can be improved by keeping the best-performing algorithm and discarding the others (Salcedo-Sanz, Del Ser, Landa-Torres, Gil-López, & Portilla-Figuera, 2014). In the realm of public administration, this could be the algorithm that performs the best in predicting fraud, crime or recidivism. More far-reaching cases, with real consequences, can be observed in, e.g. China. The Chinese state-run, 'Situation Aware Public Security Evaluation (SAPE) platform records and maintains profiles of numerous individuals in an attempt to predict certain undesirable behaviours. In short, machine learning relies on algorithms. It actively selects and shapes the algorithms that work the best, i.e. it is capable of enhancing its own learning capacities.

### **Digitization and Its Consequences for Public Administration**

The machine has already become a partner in decision-making. This is not just a reconceptualization in the vein of Latour and colleagues (Latour, 1991, 2005; Venturini, Jacomy, Meunier, & Latour, 2017) in which one reframes the role of technology in social systems.<sup>3</sup> Indeed, machines have previously taken on such an important role that policies are based on them. Early roles for the machine concerned the computing of input given by human operators, e.g. calculating the possible effects of a certain policy measure. This is the well-known role of computational decision support systems and is primarily in the hands of administrators and experts. The machine can be also be used to make improve the accessibility of its output, e.g. through visualizations, which then impact actual decision-making when presented to a wider public (Gerrits & Moody, 2011).

In the cases as described above, the role of the machine can be seen as essentially passive – it produces outputs exactly as it was told to produce. Algorithms are in place – otherwise there would be nothing to compute with – but machine learning and big data sets are not. Those two factors make the difference between a machine that produces a complicated, but essentially traceable output, and a machine that produces outputs not directly traceable for human operators. One could argue that such machines have obtained a higher degree of agency in the network because of their inner workings and because of the ways in which administrators and others rely on their output (see, e.g. Yeung, 2018; for an overview of applications). The effects of such machines are real. For example, the iterations in machine learning towards increased fit, so essential for the machine to work in the first place, may lead to a normalization of a situation because people act upon the recommendations, as such confirming the machine that the algorithm is indeed correct in its recommendations (Coglianese & Lehr, 2017). Ultimately, all machine learning is geared towards ordering, transforming, and shaping unstructured data in such a way that it can detect patterns that would neither be visible to the naked eye nor accessible through conventional statistical methods used in isolation with more limited data sets (Mackenzie, 2015). Some of the obvious errors can be corrected (e.g. prohibiting the machine to use the label 'ethnicity' when traversing crime statistics), provided that the human operator can be vigilant enough.

The keyword, then, is traceability (alternatively: followability; being intelligible). One can, and should, ask how machines arrive at their recommendation (Coglianese & Lehr, 2017) but this may be extremely complicated. The weak spot may not rest with the machine itself but how humans interact with machines. Even if the machine could share the reasons for its decision, there is no guarantee that human operators would understand. The problem is two-fold. First, we deal with machines that do not know how to print an intelligible, followable output suitable for the person requiring that information (Norman, 1989). This is already an issue when the machine relies on a crisp database (Beierle, Kern-Isberner, Bibel, & Kruse, 2003; Clancey, 1983; Puppe, Gappa,

Poeck, & Bamberger, 2013) but becomes even more complicated when the database is ambiguous and the information needs not clearly defined a priori (Mast, Falomir, & Wolter, 2016). In any case, the ex-post explanation is still an aggregate of various algorithms so humans are unlikely to observe the machine working through each bit of data. Second, there is ample evidence that humans perform poorly in the role of monitor. Getting the machine in the loop has the advantage of analysing heaps of unstructured data that cannot be processed by humans alone. The disadvantage is that it induces passivity because humans will no longer actively be involved in structuring data and creating outputs. Such passivity impacts awareness to such an extent that humans won't comprehend the output even if it was produced in a comprehensible way (Dixon & Wickens, 2006; Endsley, 1995, 1996) and, subsequently, the use of the output. Moreover, information is irretrievably lost if no initial attention is paid (Peterson, 1985) and humans poorly processing complex information, regardless of how it is produced and presented (Gerrits, 2012).

In short, traceability is less effective if it pushes humans into a passive role. Both the machine and the human alone, as well as in interaction with each other, may introduce weaknesses in the decision-making process. While the machine has already become an actor in the governance network because of its autonomy in developing solutions from unsorted data, we are still a long way off building a seamless mesh of humans and machines (Pantic, Pentland, Nijholt, & Huang, 2006).

### **Digitization and Its Consequences for Our Field**

The possibilities and limitations – such as traceability and vigilance – described in the previous section apply equally to the role of the machine in researching complexity and governance. Some scholars have announced the end of theory now that big data has arrived: if machine learners can sort and relate unstructured data sets, the analysis will not require any prior theories to make sense of the data. Essentially, the data will make sense of itself (Anderson, 2008), a thought echoed in our field (see e.g. Keast, Koliba, & Voets, 2019). However, this thinking requires some more in-depth investigation. To some extent, digitization in general, and machine learning in particular, can help identify patterns in the blink of an eye. Machines can process data volumes that individual researchers could not. Of course, there are operational concerns (e.g. data availability, data preparation, how to set up the machine, etc.) and ethical concerns (e.g. how to deal with consent).

Underneath those issues, however, are more fundamental concerns about the idea that big data will render theory obsolete. First, the premise is that available data fits the questions being asked. This is not necessarily the case. Any researcher will relate to the experience that good quality data is hard to come by. Second, it presumes that volume constitutes objectivity and will make up for potential lack of accuracy. This, again, is not the case. Big data are not necessarily better data, and bigger data sets do not necessarily constitute complete data sets (boyd & Crawford, 2012; for a critical discussion using an example of network reconstructions on the basis of incomplete data harvested from Twitter). Third, data, of any type, loses its meaning and explanatory value without contextual information (Gerrits & Verweij, 2013; Jopke & Gerrits, 2019). This abiding argument in social science research methods also applies to big data (boyd & Crawford, 2012). Big data and machine learning must deal with the same movement between intension and extension as discussed above, just as any other type of research has. Its reliance on sheer volume (broad intension) may render it less competent in the face of complex and detailed data – should that data be available and ready in the first place.

This now takes us back to the role and future of theories, models and concepts of governance networks and complexity. Big data and machine learning will neither render our prior knowledge obsolete nor herald the end of theories. Indeed, all those are pivotal for developing a better

understanding of what makes government tick. Contemporary big data and machine learning does not take place at the level of mechanisms, where it would have to identify causes and consequences. It is not said that (theoretically) it would be unable to do that but at the very least it would need guidance from the established theories in our field. Of course, if appearances are all that are needed, this can be a great addition to the methodological toolkit.

This brings us back to how big data and machine learning cater to the desire for simplification. For fuller understanding of the complexity of governance networks, we may want to push in different directions. Both avenues have value; they just tap into different aspects of knowledge production. It offers new tools that shape not only the data, as discussed above, but also the questions we ask and the way we look at the world (boyd & Crawford, 2012). The positive feedback loop central to machine learning and the normalization of situations when machine learning is enacted in actual decision-making means that scholars are looking at a reality partially generated by the machine itself.

## **Conclusions and Reflections**

This chapter started with the observation that the intellectual evolution in our field is not necessarily one of steady knowledge accumulation with more recent insights being better than older insights. Rather, it signifies a movement between conceptual intension and extension as researchers try to mediate the tension between the simple and the complex. The question is not which theory or method will follow after governance network theories but instead how researchers will negotiate the granularity inherent to any complex system. We then focused on the advent of big data and machine learning as they become enmeshed in both actual governance networks and in research practices. The desire to use big data and machine learning to comprehend complex issues may stem from the desire for simplicity.

While there certainly is merit in this argument, there are also real limitations, as outlined above. As such, we would caution scholars about the possible hype that is digitization – indeed, some authors in our field appear too uncritical when it comes to what digitization may promise. Likewise, scholars should be aware of what the increased use of interventions based on these tools might have for the outcomes. The unboxing of complex governance networks is still very much in the hands of researchers. Specifically we see the following questions across a range of disciplines as having significant potential to carry governance research and practice in productive new areas:

Questions in the domain of information systems and machine learning, which could be studied in public administration contexts:

- How data gets transformed when processed by the machine and how decisions are rendered;
- How that transformation compares to the way in which humans process data when making decisions;
- How the machine can be taught to understand concepts, conceptual intension and extension in order to offset the theoretical void that machine learning (still) has.

Questions in the domain of public administration, but which will require significant drawing from information systems and data processing theory:

- What are the key drivers leading to adoption of big data, algorithms and machine learning in public administration and in what areas are these technologies likely to be found;
- To what extent does deploying of these technologies change (or not) the human / institutional processes of government.



## Notes

- 1 This is a realist viewpoint (Archer, 1998; Bhaskar, 2008; Elder-Vass, 2004, 2005; Gerrits & Verweij, 2018). In this ontology, reality is stratified in three layers: the real, the actual and the empirical (Bhaskar, 2008). The real concerns all the mechanisms in society, the actual concerns those mechanisms that are activated or actualized because of certain conditions that trigger it, and the empirical concerns the personal experience of observing that actualized reality (Gerrits, 2021). The quest is to uncover under what conditions certain mechanisms are actualized (Gerrits & Verweij, 2013; Pawson, 2006). At the very least, scholars should be clear about the level at which their work takes place. This is often left out of discussions.
- 2 Mackenzie also pays attention to the transformation that data undergoes when digitized: it becomes encoded in bits. This encoding is essential for the operation of the machine but it does dichotomize data at a micro level. Boisot points at a similar problem in public administration where the complexity of real problems is broken down into dichotomies that are easier to handle bureaucratically, but also violate the actual complexity of those issues (Boisot, 2000, 2006; Boisot & Child, 1988).
- 3 Although it is entirely relevant and should be acknowledged more often in literature on complexity and governance.

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**PART 2**

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**MONEY, PEOPLE, POLICY**

# Budgeting and Performance Monitoring for More Complex Environments

# 14

## FROM THEORIES TO PRACTICE

### The Ongoing Search for Control, Efficiency, Transparency and Results in Government

*Katherine G. Willoughby*

#### **Introduction**

Modern public budgeting and financial management processes are messy and confusing, time constrained yet fast-paced, surprising, ever changing, and fascinating. The broad expansion of risk assumed by modern governments, the exceptional intricacies of operations and systems for managing public finances, and the interconnectedness of the individual component choices involved in these systems further contribute to an inability to put forth a comprehensive theory about how “it” works. This precludes ability to accurately predict outcomes of real-world processes, to expose how to manage these crafts efficiently and effectively, and to definitively compare budget and financial management results across governmental entities. In the public arena, constitutions, laws, court decisions, standards and administrative rules and regulations layer on top of one another, placing real constraints on processes, practices, and systems, heightening a contextual quality that is counter to development of any unifying theme. As Allen Schick (2013, 21) reflects on decades of public financial management (PFM) reforms, efforts to improve information, innovate processes, and advance results from the conduct of PFM requires effective institutionalization by governments. But, this may or may not come about because any given reform may not address the problems of the particular government, can fail to square with extant PFM institutions, and/or the will to engage the reform is half-hearted or really “not embraced” at all.

In this chapter, the complex, chaotic, yet captivating aspects of public budgeting and financial management are discussed, first via review of multiple theories put forth to explain these systems. Next, a multitude of data sources and organizations that support the study of public budgeting and financial management worldwide are highlighted. Then, descriptions of systems in Greece, Indonesia, and United States are provided to highlight current and disparate practices. What challenges and successes are evidenced by these governments? How has each chosen to address problems and have any such efforts realized positive results? Can theory explain results? The conclusion considers the relationship among theory, reforms, and practice—recognizing pitfalls and peaks. No matter what, “good” budgeting and financial management requires tremendous discipline, consistently applied, to choices on the part of elected officials, operational staff, and the public. Often, these choices must be made in a fiscally stressed setting nested in an environment with ever growing resource demands.

## **Theories, Frameworks, Models and Reforms**

While there is no overarching paradigm that explains or predicts how public budgeting and financial management works, numerous frameworks exist that model component parts of these systems. These frameworks concern individual and collective choice, institutions, and processes characterizing choice context, and information accessed in choice “situations”. Foundations for these theories draw from multiple disciplines—economics, political science, legal studies, management, engineering, sociology, psychology, and decision sciences, among others. Paradigms consider various roles of decision actors, decision schedules (timing), and choice arenas, for example, those at the macro- (overarching broad policy choices such as the determination of tax policy) or micro- (spending choices given tax receipts) levels.

Economists James Buchanan and Richard Musgrave (1999) spar about the reasons and rationales of government expenditure growth and their theories provide a good starting point to understanding subsequent models of public budgeting and financial management. These scholars argue about the goodness of collective action, possible constraints on such action, and the appropriate size of the public sector. Buchanan is highly suspicious of the Leviathan, arguing for constitutional limits on political authority to constrain what he considers to be inevitable government overreach through expenditure. Musgrave, on the other hand, views government as necessary and responsible for solving social and economic problems. He considers a public fiscal system complimentary to the private market. Buchanan considers justice attainable via an efficient market and tightly constrained government while Musgrave considers government expenditure as the solution to market failure and inequality. Both the public choice (Buchanan) and public finance (Musgrave) theories focus on efficiency—public choice theory reaches efficiency by constraining government growth and public finance theory by acknowledging the need for government spending.<sup>1</sup>

A focus on the economic value of efficiency in public finance has difficulty explaining every choice behavior well (Burkhead and Minor 1971). That is, classic economic man makes choices having clear and ordered preferences, perfect information, and yielding no externalities. But applying these assumptions to human behavior “in real time” is unrealistic. Organizational process models serve as alternatives to economic ones. Herbert Simon (1997) examines decision-making within organizations and finds that managers (bureaucrats) engage a “bounded rationality” in which attention, information, and stress (context) compromise any given choice endeavor; managers must “satisfice” when making decisions. In real administrative circumstances, managers do not have unlimited time to devote to the analysis of the benefits and costs associated with innumerable possible choices. Information must be sifted through as efficiently as possible and a decision must be made—the choice made being the most satisfactory, given the circumstances. Simon’s “satisficing” squares well with traditional public budgeting behavior and theoretical perspective that has decision-makers “anchoring” on current budget base in order to deliberate future spending.

Such research spawned conceptions of organizations as organic entities rather than mechanistic ones. Systems theory presents organizations as complex, with dynamic, intertwining, and interconnected elements (inputs, processes, outputs). Organizations generate internal and external feedback loops from which learning occurs that then flavors elements going forward. Norbert Wiener (1948) wrote extensively about communication, feedback, and learning, considering organizations as adaptive systems. Cybernetics regards how information flows through an organization and characterizes its control and communication systems. This brought to bear the study of managing toward goals and furthered understanding organizations as living entities that must be managed through life phases. Organizations that generate and interpret feedback well have the chance to “redefine” themselves effectively to support longevity. Organizations where feedback



is nonexistent, incomplete, cloudy, or faulty, will have a more difficult time learning and then adapting to survive and thrive.

Normative consideration of public budgeting and financial management as science (at the task level) and economic in results and organizational process models noted above give way to descriptive consideration of a highly political (and satisficing) budgeting model. Aaron Wildavsky's (1984) tenets of incrementalism include a regularity of relationships, simple decision rules, and an insularity of the budgeting process; past budget choices inform current ones. This theory simplifies decision-making and reduces conflict inherent to the messy politics typical of public budget negotiations. The theory considers slow budget growth as the result of successive limited consideration at the margins—the most important determinant of next year's budget is this year's budget (the base). In the mid-20th century, growing revenues, a routine budget cycle, and consistent roles among budget actors allowed Wildavsky's theory to catch fire.<sup>2</sup>

Michael Cohen, James March, and Johan Olsen (1972) present a theory of organized anarchy (Garbage Can, GC) that refines an incrementalist approach to decision-making to model public budgeting and financial management. In this case, the decision context is described by problematic preferences, unclear technology, and fluid participation, all which contribute to a randomness of process. Problems, solutions, choice opportunities, and participants make up the parts of this model. Choice opportunity is a garbage can into which problems and solutions are tossed by participants. Policy choice is determined by the mix of garbage cans available, alternatives considered, garbage produced, and the timing with which garbage cans are filled and removed from the mix. Unlike incrementalism, which rests on routine and linearity of problem-solving, this theory is not linear in that solutions may troll for problems. Also, many decisions are simply not made—flight or oversight may occur and so problems may not be addressed or solved.

Frank Baumgartner and Bryan Jones (1993; 1991) conceive of a policy development theory, punctuated equilibrium (PE), to address stasis and change over time in the U.S. federal budget that incrementalism cannot explain. James True (1995) then engages this theory to study U.S. finances and finds budget authority controllable through policy change. Then, Jones, Baumgartner and True (1998) study annual percentage change in U.S. federal budget authority for domestic spending across three periods—the end of World War II to 1956 (neither budget growth or decline); 1956 to 1974 (dramatic budget growth); and (3) since 1976 (slow budget growth). Unlike incrementalism, punctuated equilibrium allows for shifting agendas that can effect notable policy and budget changes. This research also attests to the intense data needs required to study budgetary change among multiple variables that are interconnected in complex ways.

John Kingdon's (1984) policy-making model draws from GC theory and further informs public budgeting and financial management. This theory describes multiple decision streams, visible and invisible clusters of decision actors, and decision opportunities. Decisions about problems, policy alternatives, and politics must converge for policy change to occur. Windows of opportunity present themselves, may close quickly or not, must be recognized by decision actors, and convergence must occur for change to happen. Kingdon (1995) describes a "policy primeval soup" into which solutions and problems are commingled. Solutions to problems must meet technical, political, and budgetary feasibilities. There are predictable (an annual budget process) and unpredictable (a natural disaster event) windows of opportunity to which actors respond, but the decision streams must come together and meet feasibility criteria in order to generate new or changed policy.

Irene Rubin's (2005) real time budgeting (RTB) folds many of the above perspectives into a model of public budgeting that recognizes time and timing of budget outcomes resulting from multiple intersecting streams—revenues, process, expenditures, balance, and implementation. RTB presents budgeting as non-sequential, with overlapping streams, each with its own timing, budget actors, and context. Each stream produces decisions that impact other streams. Budgets

result from stream intersections and flow. This theory details specific choices, distinctive actors, and external factors that characterize each stream—the fluidity yet possible interruptions of stream flow can divert attention of actors along the way, heightening “messiness” of the process. Rubin (2005, 283) explains that streams may flow separately or together at various times. Budget actors in any stream may have to scan other streams to assess information needed to make choices.

Gerald Miller (1991) distinguishes orthodox, prevailing, and ambiguity theories of organizations and then applies components of public financial management to the ambiguity framework. Unlike orthodox and prevailing theories that address level of certainty in various contexts, ambiguity theory “centers attention on uncertainty. Theory is built on the various shades of uncertainty—more and more or less and less rather than on a special case” (Miller 1991, 80). This scholar recognizes the vitality of public finance officers and managers to take on uncertainty when engaged in financial strategy, creating meaning to make decisions.

Financial strategy refers to a body of concepts purporting to enable managers to analyze the larger organization environment to detect patterns and trends and gain insight that helps them to predict opportunities for the reduction of risk in managing cash, using debt wisely, and generally making more productive use of scarce tax and revenue resources.

*(Miller 1991, 85)*

Financial managers must create reality within their organizations in order to cope with critical budgeting and financial management problems. Miller (1991) applies ambiguity theory to model state government budget reform, debt management, capital financing, management information systems, and forecasting.

For example, regarding budget reform, a governor, as chief financial manager, creates a new reality, consolidating executive budget power, and bending agencies to recognize and accept a new budget conversation (language) from traditional “fair share” ideas about budget need to cost control, priority setting, and early warning of budget trouble (Miller 1991, 112). Regarding debt management, Miller finds finance officers engage coping strategies when making choices about the issuance and management of municipal securities. Unlike his budget reform example, these managers “participate with others in constructing a reality”—the issuance of debt, its insurance and management involves a network of internal and external actors. This network creates a reality “to cope with an ambiguous environment outside of the organization” and allows for the creation of stabilizing innovations that allow financial managers to better manage investment risk exposure (Miller 1991, 135–147). Related to cash management, Miller finds that as certainty grows, risk aversion behavior of financial managers is reduced (Miller 1991, 165). Miller engages cybernetic modeling of the U.S. intergovernmental grant system and finds that the communication flow and feedback system involved creates contrary incentives. These incentives lead to randomness of the grant applications review process and little attention and resources applied to clearinghouse activity, which provides a major feedback loop in the system (Miller 1991, 189–191). The system he describes seems more GC than cybernetics, though.

John Bartle and Jun Ma (2004) discuss the usefulness of a transactions cost model of public financial management, applying the framework to tax collection. They propose applications for debt, cash and risk management, and capital budgeting—essentially, where contractual arrangements can be assessed. This model requires tallying costs and determination of incentives of relevant decision-makers, which can be murky business and certainly more so for budgeting than financial management. “Managing cash, debt, investments, pensions, risk, and purchasing are ‘housekeeping’ functions of government that most citizens and administrators want to do as efficiently as possible” (Bartle and Ma 2001, 176). Because of this, Bartle and Ma consider that financial management rather than budgeting may be more accommodating to the transactions cost model.

Winnowing down to micro-level choices opens up an extensive literature that engages experiments. For example, scholars use experimental designs to understand individual behaviors of government budget analysts, part of the “hidden cluster” of actors making decisions that feed into macro-level ones (Goodman and Clynych 2004; McCue 1999; Thurmaier 1992 and 1995; Willoughby 1993a and 1993b; Willoughby and Finn 1996). All these studies tease out a “rationality” of analysts engaged in routine budgetary decision-making, with results converging. Katherine Willoughby (1993a and 1993b) finds most state executive budget analysts anchor onto a mix of political and technical cues when making spending choices; of those depending on just one cue when making spending decisions, most weigh political factors the heaviest. This research indicates that younger analysts and those in less fiscally stable environments heavily weigh rational factors when making spending decisions. Willoughby speculates that younger analysts may be more familiar than older ones with technical or analytical tools for making budget calculations or younger analysts are simply not as seasoned as older ones regarding the politics of the budgetary process.

Kurt Thurmaier (1992 and 1995) conducts a similar experiment but focuses on local budgeting. He (1995, 454–455) finds that subjects’ consideration of economic factors is “overridden” with the introduction of politics, indicating that economics is not an “exclusive analytical basis” for decision-making by these subjects. Like Willoughby, he finds seasoned practitioners respond differently to changes in information than do students, his proxies for novice budgeters. Students are more likely than practitioners to change their choices with the introduction of new information while practitioners consider politics early in the choice process and are less likely to change their choice going forward. Clifford McCue (1999) studies local budget analysts, measuring their objectivist and empathetic rationalities when making spending choices. McCue finds that those scoring higher on empathy have different spending preferences from those scoring higher on objectivism—“empathetic” analysts weigh helping and prosocial criteria most heavily while “objective” analysts weigh quantifiable, cost-benefit data most heavily. Doug Goodman and Edward Clynych (2004) study state executive and legislative budget analysts in 13 western states and their results confirm the existence of a “budget rationality” by decision-makers, as well.

Thurmaier and Willoughby’s (2001) multiple rationalities model (MR) of micro-budgeting taps into GC theory, Kingdon’s policy agenda setting model, RTB and incrementalism. Central budget offices are characterized as the “vortex” of policies (governor) and budgets (agencies). The scholars describe social, political, legal, economic, and technical rationalities that state budget analysts engage in the routine task of assessing agency budget requests. Budget office orientations may tilt heavily to control, planning, management, and/or policy endeavors. Analysts in strong policy offices indicate as highly cognizant of politics and freer in their provision of spending options to the governor while “making things happen” for the agency; these analysts are likely to take on multiple roles throughout the budget process. Analysts in strong control-oriented offices are more likely to engage a technical rationality, concerned with checking numbers and monitoring functions thus remaining confined to an “accountant” role.

Behavioral economics and game theory effectively model management of common pool and scarce resources and have been adapted to the study of public budgeting and financial management, too. For example, the Institutional Analysis and Development (IAD) framework presented by Elinor Ostrom, Roy Gardner, and James Walker (1994) is engaged by Brian Collins and Aman Khan (2004) to categorize the “discrete decisions” as well as interactions of financial markets, public agencies, and politics of the events leading to the 1994 Orange County, California bankruptcy. By mapping key decisions, outcomes, rules in use, and monitoring and sanctioning at the operational, collective, and constitutional levels (that make up the IAD framework) as they unfolded in this case, the scholars spotlight constraints and influences on choice behaviors of relevant actors (notably, Robert Citron, the elected county treasurer at the time). Collins and Khan determine that lack of sanctions in the collective choice arena allowed Citron to continue faulty

investing, not in keeping with objectives of mandatory participants in the pool. A run by investors on the fund (outcome at the operational level) resulted in bankruptcy (outcome at the collective choice level) that resulted in the state changing public investment laws related to general law counties (outcome at the constitutional level) (Collins and Khan 2004, 45). The scholars end their analysis by providing an avenue for IAD applicability to public finance, more generally, that can be accommodated to many other components of public financial management.

The application of market principles to public management, via New Public Management (NPM), influences ascendancy of engagement of accrual accounting and budgeting as well as modern performance budgeting, contracting, and reporting by governments worldwide. The model's requirement for the development of metrics available for choice situations is considered essential for improving government accountability, transparency, and efficiency. Importantly, NPM reorients public budgeting and financial management theories to focus on program outputs, results, and return on investment rather than the inputs or activities of governments. The model supports contracting out, privatization and fostering competition to get public work done. NPM applicability to public budgeting and financial management brings together theories of public choice, market efficiency, gaming (inherent in the principal-agent model), managerialism, and network management where "the opportunity costs of alternative ways of organizing teams depends on the evolution of society and technological change. Hierarchies are not the most efficient forms of organization in a postmodern society where information is easily accessible and storable" (Lane 2005, 10).

### ***Ubiquitous Reform: Modern Performance Budgeting***

Performance budgeting as evolved over the last three decades is a pervasive reform evidenced in governments around the world and at all levels that has fed off of various theories noted above (Curristine 2007a, 2007b; Lu and Willoughby 2018; Robinson 2007; Williams 2004). The reform is defined here as a system that engages government performance measurement and reporting throughout the budgeting process, as opposed to a strict focus on metrics associated with program input and activity. Application can offer government improved strategic planning by way of examining metrics, focusing on "what works," and driving future policy and spending. The reform can serve as an early warning of public program and service problems, support a long-term view of government operations and capacity, and/or advance transparency. However, performance budgeting rarely impacts funding (certainly in the short term) although research indicates its application can promote policy change that may lead to future budget change (Lu and Willoughby 2018, 149–155). Certainly, no two systems are identical. Most governments have legal foundations for implementation of the reform and much scholarship indicates that such laws and/or amendments to past ones, impact practices positively by framing process structure and assigning responsible parties (Lu and Willoughby 2018; Robinson 2007). Still, governments without such laws may have executive mandates and/or administrative policies, guidelines, and protocols to support engaging performance budgeting. Research indicates "results convergence" (Pollitt 2002, 477–478) regarding performance budgeting—that is, moving from discursive (governments talking about reform), to decisional (governments adopting reform), to practice (governments work in similar ways engaging reform), and ultimately as "reforms produce their intended (and unintended effects) so that the outputs and outcomes of public sector activity begin to converge."

Teresa Curristine (2007a) presents research about the execution of performance budgeting in eight Organisation for Economic Co-Operation and Development (OECD) countries. She finds that context matters for practice. Countries vary on strategy, coverage, and timescale of reform implementation. Performance budgeting may be established from the top-down versus bottom-up (strategy); may be comprehensively or partially applied (coverage); and/or may be

engaged immediately (“big bang”) versus incrementally (timescale). Each strategy yields benefits and challenges. For example, a top-down strategy supports standardization of message and practice yet can constrain flexibility in accommodating unique agency functions and services. The role of the ministry of finance—who can help broker linkages of performance with the budget (and funding)—may or may not be significant to system operations, which again impacts use of performance budgeting. Curristine finds the linkage of performance information with the budget occurs in several ways—via changing the budget structure to require the information, incorporating the data into budget negotiations between central finance and spending ministries and/or between ministries and their agencies. Still, even if such linkages are made, funding may not be linked with performance in any substantive way.

Of the governments examined, Curristine (2007a and 2007b) finds use of performance budgeting for funding decisions is engaged in just a few and only for functional areas like education and health. She determines use of performance information to apply funding rewards and penalties among OECD countries to be difficult and rare, emphasizing, “Designing government-wide systems that automatically link performance results to resource allocation should be avoided, because such systems may distort incentives. Also, it is difficult to design systems that take account of the underlying causes of poor performance” (Curristine 2007a, 12). She notes that most governments do not eliminate programs if performance targets are not met. Rather, the most frequent consequence for ministries not meeting targets is more focused monitoring of their programs and activities in the future and/or resources may be held constant during such attention. These results are similar to those of Richard Allen and Yugo Koshima (2019) regarding the nature of sanctions for improving compliance with public finance laws and regulations in developing countries. They determine that a mix of “hard” and “soft” sanctions should be developed, and each should be appropriate to severity of financial infraction to keep governments on task in the financial management arena. Like virtually every part of public budgeting and financial management, governments must tailor a “sanctions regime” to context—adopting penalties to best address the most egregious problems and engaging a “step-by-step” approach in building a sustainable compliance structure (Allen and Koshima 2019, 92).

In their framework of factors influencing use of performance budgeting in U.S. states, Elaine Lu and Katherine Willoughby (2015) examine effects of legal, managerial, political, economic, and demographic variables on reform engagement. Their results show that states with performance budgeting laws indicate stronger execution than those with no law. Also, a performance management culture (government simultaneously conducts performance management), organizational capacity (government trains staff to conduct performance budgeting), and measurement maturity (government conducts reviews and reports on performance regularly) all positively relate to strength of practice. Such research equates with other scholarship that recognizes boosts to use of performance budgeting that occurs with concurrent use of accrual budgeting and given evidence of a strong performance culture and organizational capacity (Ball 2019; Caridad 2013; Curristine 2007a and 2007b; Kroll and Moynihan 2015; Moynihan 2008; Schick 2007).<sup>3</sup>

### ***Data Gathering, Analysis, Evaluation and Comparison***

Innumerable public agencies, professional associations, foundations, and other organizations gather relevant data and provide guidelines, standards, and consultations to governments around the world regarding good budgeting and financial management practices. The collection of data, development of metrics, and analyses of such information has become pervasive for enhancing control, efficiency, transparency and results of public budgeting and financial management. The U.S. Agency for International Development (USAID), the UK Department for International Development (DFID), the OECD, The World Bank (WB), The International Monetary Fund (IMF),

the International Public Sector Accounting Standards Board (IPSASB), the Open Budget Survey (OBS) of the International Budget Partnership (IBP), Transparency International (TI), the Public Expenditure and Financial Accountability (PEFA), and the World Justice Project (WJP) are just a few of the organizations that provide a wealth of data (often interactive), research, reports, presentations, blogs, and trainings about public budgeting and financial management processes and results. Several examples below point to modern foci for advancing systems and practices.

Efforts to measure, analyze and compare governance indices by the WB provide a good entrée into those more specific to public budgeting and financial management. The Bank's (2019) Worldwide Governance Indicators (WGI) is an interactive dataset resulting from surveys of governments, nonprofits, businesses, citizens, and experts in industrialized and developing countries as well as secondary data from numerous other research entities. Data collected regards public voice and accountability, political stability, government effectiveness, regulatory control, rule of law, and control of corruption. WB (2019) makes clear that these measures offer broad cross-country comparisons and trends, recognizing that,

They are often too blunt a tool to be useful in formulating specific governance reforms in particular country contexts. Such reforms, and evaluation of their progress, need to be informed by much more detailed and country-specific diagnostic data that can identify the relevant constraints on governance in particular country circumstances.

Still, evaluations of multiple development projects conducted by the WB, trend data from the WGI, and studies of effects of development aid, more generally, coalesce around several principles relevant to budgeting and financial management systems (Andrews 2013; Beschel and Ahem 2012; Boyce and O'Donnell 2007; Guess 2019; Savage 2013; Schick 1998). First, while governments continue to implement reforms, "success" often lacks luster, is unrealized, incomplete, and/or opaque, and can produce perverse incentives. George Guess (2019, 7) warns of a second principle that, "aid must fit the institutional context and political culture [... and be] targeted to problems of corruption and lack of strong institutional systems and processes that impede project implementation and diminish results." James Savage (2013) highlights such warning when discussing efforts to reform budgeting and financial management in Iraq following the downfall of Saddam Hussein. He explains the debacle of the BearingPoint Contract awarded by USAID to implement a FMIS in the early 2000's as symbolic of problematic state-building. In 2009, the USAID Inspector General audit of the project concluded, "after 4 years and \$192 million in incurred costs, fewer than half of originally planned 398 tasks had been performed. The Iraq FMIS was behind schedule and the system was not yet fully operational" (Savage 2013, 123). Savage finds numerous problems with the project that reflect challenges to war torn countries. These include: (1) management conflicts between Iraqi ministry chiefs, the contractor and USAID officials; (2) selection of off the shelf software rather than custom accommodation to legacy systems; (3) highly compromised security (BearingPoint's \$900,000 budget for security ballooned to \$37 million in the first year of the contract!); and (4) lack of ownership by Iraq of reform efforts (Savage 2013, 131–134).<sup>4</sup>

The OBS produced by the IBP (2018) examines transparency of government finances as well as relationships of citizens with their governments, budgets, and budgeting processes. The most recent survey continues to add and hone metrics, now including assessment of independent fiscal institutions that oversee government budget and finance numbers, especially macroeconomic forecasts and estimates of policy costs, checking for reliability and validity. Also, the survey had evolved to measure government efforts to engage new methods of public participation in budgetary decision-making such as "deliberative polling, citizen assemblies, and crowd-sourcing" (International Budget Partnership 2018a, 2).



The 2017 OBS reports results that are “particularly disappointing” given that the march by governments to continuously improve transparency “stalled, declining modestly for the first time” and that most countries are “not sufficiently transparent to ensure budgets are allocated in accordance with public priorities or monitored adequately during implementation to deliver on government promises” (International Budget Partnership 2018a, 3). The assessment points to formal participation in the budget process as the frailest link in such systems; budget accountability systems are “extremely weak” in 19% of 115 countries examined. Many countries are inconsistent in the production and accessibility of budget documentation (International Budget Partnership 2018a, 34 and 45). The OBS calls on multiple groups—government insiders, donors, the private sector, and think tanks as well as civil society—to continue to pressure governments to advance transparency and accountability through budget access, which is necessary to generate and sustain a clear public budgeting and financing dialogue.

PEFA (2019) offers measurement and scoring of the budgeting and financial management performance of governments around the world. A partnership of multiple international organizations developed a public financial management (PFM) diagnostic tool applied to governments to measure budget reliability, transparency of public finances, management of assets and liabilities, fiscal strategies and budgeting, predictability and control in budget execution, accounting, reporting, external scrutiny, and audit practices. By 2015, PEFA conducted over 500 PFM assessments covering 149 countries. The initial diagnostic, built in 2005, was upgraded in 2016, adding new metrics, expanding and refining others, and recalibrating baselines of good performance in select areas (PEFA 2019). PEFA seeks to develop highly reliable and valid measures of budgeting and financial management components and promote periodic assessment of governments to support consideration of trends and track progress. It is important to recognize that governments “take ownership” of their systems by submitting to a PFM assessment. Governments that have a track record of assessments benefit from trend data that can expose trouble spots as well as areas of strength.

Efforts to measure government budgeting and finances at the subnational level include the Government Performance Project (GPP), a ten-year effort to periodically grade U.S. states in management areas, including: information and IT systems, human capital, infrastructure, and budgeting and financial management (The Pew Charitable Trusts 2019). The GPP set the stage for the more recent Volcker Alliance, an annual accounting of budgeting and financial performance of the states. The Alliance’s annularity boosts comparability across years on the dimensions measured, including budget forecasting and maneuvers, legacy costs, reserve funds, and transparency. Like PEFA on an international scale, consistent measurement and comparison allows for the surfacing of trends that can serve as “early warning” of trouble areas in states. For example, the most recent report about state efforts related to reporting on infrastructure (one metric of transparency) finds that except for four states, none disclose deferred infrastructure replacement costs. According to the report (The Volcker Alliance 2017, 32),

While many states show accumulated depreciation on assets in their annual reports, the scope and method of calculating the data can differ from state to state. [M]ost fail to provide replacement costs to keep roads, bridges, and buildings in good working order. Declaring a budget balanced while omitting the long-term costs of maintaining infrastructure is not unlike a failure to fund promised pensions. Unless a state ends up closing its roads and bridges, it eventually will be forced to come up with the money to maintain its assets.

Chris Hamel (2019) rankles at these results, highlighting how interconnected parts of budgeting and financial management are, and relevance to overall government fiscal health and performance. He (2019) explains a domino effect, “...this lack of transparency relates to ratings, security



offerings, and the reality of ‘balanced budgets.’ These processes and conclusions cannot be sound without accurate data regarding a state’s plan for its infrastructure future.” Problems in reporting the true condition of infrastructure means problems planning for projects, budgeting for them, and following through with build. Essentially, beginning at a disadvantage means projects cannot possibly be brought in “on time and on budget” that would square with best practice for capital budgeting.

The Mercatus Institute at George Mason University in Virginia has produced a periodic analysis of state government finances, measuring short- and long-term fiscal solvencies (Norcross and Gonzalez 2018). The most recent report finds state finances have stabilized since the Great Recession, though not enough to crest prerecession levels. Unfunded liabilities are a greater part of state obligations, which the report reminds may be given Government Accounting Standards Board (GASB) rules requiring states to report unfunded pension obligations on balance sheets. While the GASB push for greater transparency of long-term liabilities may be working, such results show states, generally, to be in a worse position than in the past. Many with relatively large unfunded liabilities also indicate poor cash solvency, contributing to chronic budget imbalances. Results from these reports of budgeting and financial management at the subnational level coincide with that related to countries around the world—states present a mixed bag, with “strong” states remaining strong and “weak” states unable to crawl out from heavy debt.

### ***Budgeting and Financial Management on National Fronts***

This section provides examples of current public budgeting and financial management systems as conducted in selected governments around the world. While no government correlates clearly and completely with any one model or theory and across all components of any one reform, there are distinctive aspects of each that can be framed closely to insights by scholars who have spent many years studying such systems.

#### *Greece*

Greece provides an informative case of out-of-control public budgeting and poor financial management and evidencing half-hearted attempts at reform. Greece’s public debt to GDP ratio stands at 180%, its unemployment rate is around 22% and it suffers from anemic growth (U.S. Central Intelligence Agency 2018a). The country has experienced financial crisis for decades and has numerous problems with its budget process, including “lack of clarity, absence of a program structure and the lack of a multi-year perspective” (Caruana 2016; Cohen and Karatzimas 2014, 625; Hawkesworth et al. 2009). Internally, the country’s financial management system is weighted down by a bureaucratic culture that is old, ineffective, wasteful, and often corrupt. Externally, pressures ebb and flow from entities such as the European Union (EU), creditors and others while public demands simply escalate. Especially over the last decade, the government has bucked, then acquiesced to EU mandated austerity measures established to help the country dig out of its deep fiscal hole. By 2015, Greece had benefited from several bailouts yet remained weighed down in part because of one of its most egregious budget problems—the pension system. The anemically funded, unsustainable promise to government workers created “a clear conflict between the economics, society and the politics, the immediate versus the long term. And there is no single solution that can immediately satisfy all three conundrums simultaneously” (Nardelli 2015).

Efforts to push Greece toward a program budgeting system, to incorporate evaluation into the budget process, and to strengthen accounting practices have failed, with some of these efforts “abandoned at the time that it was most needed” (Cohen and Karatzimas 2014, 632). Information asymmetry as measured in “the poor diffusion of the new accounting philosophy” was one culprit

in lack of reform to Greece's fiscal systems (Cohen and Karatzimas 2014, 619). Vraniali (2010, 13) articulates the many budgeting and financial management problems in Greece,<sup>5</sup> especially lack of a long-range view of revenues and expenditures, given adherence to an annual budget process, and free rein budget development in which no fiscal imperative constrains ministry funding requests. Law is not "harmonized" with practices as they have evolved, "rendering the system opaque and ambiguous as to the rights and obligations of all actors participating and more complex regarding the transition process" (Vraniali 2010, 15). Also, the Greek Parliament is weak "in terms of legislative scrutiny and expertise as reflected also in the lack of parliamentary documentation and reports on government policies" (Vraniali 2010, 32).

Greece did not participate in the 2017 OBS and researchers (International Budget Partnership, 2018b) with the project examining budget transparency in Greece indicate that:

- Awareness on budget issues is generally very low even among scientists, politicians, journalists, active citizens, and civic society.
- The Ministry of Finance website is not user-friendly and budget documents are not in machine-readable formats.
- A citizens' budget is not produced.
- Very few people in the country understand the need for budget transparency.

Sandra Cohen and Sotirios Karatzimas (2016) study budgeting and financial management reform in Greece through the lens of the GC model of decision-making in which organizations operate as organized anarchies, decision-making is unplanned and somewhat chaotic, though decisions are made. These scholars look at Greek efforts to introduce accrual accounting into the central government and to develop accounting standards to better meet international ones. The reform was overseen by a "Troika," the European Commission, International Monetary Fund (IMF) and European Central Bank. But a number of factors contribute to Greek bureaucrats simply dumping existing solutions into the central government accounting reform garbage can. These factors include: (1) a disillusioned public, fed up with a weak and ineffective parliament; (2) legislators uninterested in the reform "given poor or nonexistent accounting backgrounds and/or a lack of understanding of changes needed"; (3) the reprioritization by the Troika from accounting to budgeting reforms; and (4) high information asymmetry between bureaucrats and consultants regarding capacity and process for reforms (Cohen and Karatzimas 2016, 176). Regarding the last factor, "technical consultants took an overly theoretical stance and did not acknowledge practical implementation difficulties of accounting reforms...external consultants promoted best practice ideas, while bureaucrats wanted to continue with their established routines" (Cohen and Karatzimas 2016, 176–177). In Greece, custom and culture, the intransigence of the bureaucracy, incomplete reforms, political uncertainty, and a public with its head in the sand, seem to stifle any ability to change.

### *Indonesia*

On the other hand, Indonesia, Southeast Asia's largest economy, is looking strategically to be a major economic player behind China, India, and the United States by developing key budget and financial management policies to strengthen its position. This unitary government is considered a "decentralized democracy" given the strength of authority and responsibility of its local governments (Guess 2019, 41–42). The U.S. Central Intelligence Agency's (2018b) World Factbook indicates that the country's efforts have resulted in a credit rating upgrade from Standard & Poor's in May 2017. Compared with Greece, Indonesia's debt to GDP ratio is 28% and its' unemployment rate is 5.6% (U.S. CIA 2018b). To date, Indonesia has (1) passed a number of laws to provide

for a legal framework for budgeting, (2) pushed for a more comprehensive budget, and (3) instigated significant decentralization to strengthen regional government autonomy (Blöndal et al. 2009). These laws in conjunction with certain characteristics of Indonesia’s budget and accounting processes—such as a significant planning component, efforts to implement an accrual-based accounting system, and a continuing commitment to some form of performance budgeting—have helped advance budget accountability and transparency (Blöndal et al. 2009). “Roadmap” actions by the government include moving toward 20% budget allocation for education and 5% for health, to include stronger housing programs, and strengthen fiscal decentralization. According to the 2017 OBS, Indonesia was one of just 11 out of 115 countries worldwide that publishes eight of eight key budget documents indicated as useful for advancing greater transparency. The country earned a score of 64 on the overall OBS index which equates with “substantial” transparency (International Budget Partnership 2018a).

Indonesia is an example of a government working consistently to improve budgeting and financial management practices through introspection and analysis, taking NPM principles to heart to advance. The country has subjected itself to the PEFA assessment in 2007, 2012, and 2017. The most recent assessment engages the reformed PEFA framework discussed earlier. Results across the seven pillars of PFM performance indicate that Indonesia has moved forward, stumbled a bit, and backtracked. The government performs most poorly in pillars 1, *Budget reliability* (receiving a D for revenue outturn) and 7, *External scrutiny and audit* (receiving a D+ for legislative oversight of audit reports). Another D+ grade is received for Public investment management, one of four metrics measuring pillar 3, *Management of assets and liabilities*. On the other hand, Indonesia (PEFA 2018, 8) indicates meeting or exceeding international standards on most metrics assessing the following four pillars:

Pillar 2: Transparency of public finances

- Receiving an A for: Budget classification
- Government operations outside financial reports
- Public access to fiscal information

Pillar 4: Policy-based fiscal strategy and budgeting

- Receiving an A for: Budget preparation process
- Parliamentary scrutiny of budgets

Pillar 5: Predictability and control in budget execution

- Receiving an A for: Accounting for revenue
- Predictability of in-year resource allocation
- Internal controls on non-salary expenditure

Pillar 6: Accounting and reporting

- Receiving an A for: Financial data integrity

Indonesia has developed its FMIS not only to provide online transaction capabilities, data analytics and warehousing capacities, but also to enhance transparency of finances and support interactive queries from internal and external users. The 2017 PEFA assessment finds that Indonesia’s work has paid off, with “significant improvements” in treasury and cash management and for supporting “performance linked to the fiscal strategy and policy-based budgeting...with improvements in fiscal sustainability and the debt management strategy” (PEFA 2018, 5). More work on IT integration is necessary, however, to better link payroll and procurement platforms. Also, there are components of risk management, tax compliance improvement strategies, competitive procurement,

and performance reporting, as well as transparency and oversight of audit results that “still lack effectiveness” (PEFA 2018, 6). The central government is using this most recent assessment to set future goals that focus on improving tax policy and revenue administration and strengthening planning and budgeting institutions.

Indonesia has been successful in achieving some economic growth and better quality of life, if not higher government effectiveness, for its citizens through decentralization. In this country,

low per capita income still has allowed governmental quasi-federal fiscal decentralization initiatives to improve regional and local quality of life, keep inflation and unemployment down, and maintain fiscal discipline. The low governmental effectiveness rating so far has not impeded these macro-economic and quality of life results.

*(Guess 2019, 76)*

Indonesia has made great strides through public budgeting and accounting laws and policies, implemented via decentralization and by subjecting its institutions and processes to the PEFA assessment. Assessment results provide clear tracking of progress and supply “early warning” to the government of gaps in best practices. Attention to NPM seems to pay off. Nonetheless, this country is consistently tested in its efforts to realize a stable upward economic trajectory and full ascription to international budgeting and financial management standards of practice, in part, because of its geography and the propensity of natural disasters like tsunamis and their aftereffects, that disrupt the course of reform and require high government (and other) interventions.

### *United States*

The United States federal government provides a great example of an industrialized country with relatively high resources yet stumbling budgetary practices and mixed results related to financial management practices. The U.S. Central Intelligence Agency’s (2018c) World Factbook indicates this government’s debt to GDP ratio of 78% and an unemployment rate of 4.4% in 2017. The fiscal year 2019 U.S. federal deficit is on a path to reach \$1 trillion (\$985 billion) (Amadeo 2019). Tax cuts and increased spending for Social Security, Medicare and especially Defense, supported by President Trump and Congress, have contributed to an unchanged fiscal scenario of budgetary imbalance in which revenues cannot keep pace with expenditures (Crutsinger 2018). The U.S. Congressional Budget Office (2018) confirms that this fiscal year, federal revenues are 1% higher and expenditures are 4% higher than in the previous fiscal year.

The most recent OBS indicates that the United States dropped in scores related to public engagement in the budgeting process and “falls short” regarding the provision of formal feedback structures for citizens to know how their input is used (International Budget Partnership 2018a, 41). The most recent TI (2018) places the United States on its “watch list” as a country experiencing difficulties in combating corruption, possibly compromising democratic institutions. Jesse Burkhead (1949, 289) is prescient in his outlook on the U.S. federal budget 70 years describing the “tortured” relationship between the then administration and Congress and the routine actions by both to “dodge responsibility” related to budget-making. More recently, a report on the 2017 Concurrent Budget Resolution drafted by the House Budget Committee (U.S. House of Representatives 2016) highlights a number of problems with budgeting by the federal government that contribute to the country’s poor fiscal shape, including: explosive debt, consistent budget imbalance, expansive automatic spending, reversed federalism and “an unraveling of budget discipline”. The report presents a call to arms to “restore Congressional Budgeting” by quoting Aaron Wildavsky and Naomi Caiden (1997),

...[the] failure to pass a budget on time or at all has become a sign of inability to govern [and] testifies to the overriding importance of budgeting. Nowadays, the State of the Union and the state of the budget have become essentially equivalent.

*(U.S. House of Representatives 2016, 15)*

Scholars and practitioners, alike, pound nails in the coffin of budget reform by the U.S. federal government with testimony in 2016, emphasizing that a feckless Congress has let its constitutional power of the purse slip through its fingers. Federal budget expert Philip Joyce states, “Before you search for new budget procedures to “fix” the current process, actually give the current process a try...follow the current process and rules before you decide that a new process or rule will somehow do the trick” (U. S. House Committee on the Budget 2016). Another expert, Stan Collender, chastises that, “You will accomplish nothing by changing the congressional budget process unless what you’re trying to do is to fool voters into thinking that you’re actually accomplishing something” (U. S. House Committee on the Budget 2016). Law professor Lily Batchelder pushes for “bipartisan dialogue, compromise, and tough policy choices” to address the deficit problem while Harry Stein of the Center for American Progress blamed “political polarization, not the budget process as the chief reason for fiscal policy impasse” (U.S. House Committee on the Budget 2016).<sup>6</sup>

Timely budgeting is a best practice imperative. Roy Meyers (1997, 35) writes on the frequency, causes, consequences, and remedies of late appropriations and government shutdowns, noting that “long gone are the days when leaders from both parties, some of whom acted as the president’s representatives, would gather in Sam Rayburn’s legendary “Board Room” to cut deals.” Such horse trading was possible behind closed doors, among mostly men, drinking bourbon and smoking cigars. The routines of the budgetary process were adhered to by a club of experienced political logrollers. Modern legislatures are much more diverse than in the past, bringing to bear multiple views about the role of government, public policies, and spending. Often, new members have no political experience, entering elected office for the first time, and have little time to learn about the routines of a working Congress and how to effectively navigate the budget process. In today’s circumstances, it is difficult to know if new members can ever gain knowledge about a system that in Rubin’s (2007) words, has “unraveled”.

In spite of the fact that Congress seems unable to flex its true budgetary strength, it is its’ power vis-à-vis the president in the U.S. budgetary process that heightens likelihood of stalemate. James Madison’s separation of powers is different from parliamentary systems that provide strong roles of finance ministers, executive cabinet members and prime ministers for budget development, execution of a draft budget if parliament fails to adopt the budget by the start of the fiscal year, or even parliament being dissolved for not passing the budget on time. Holger Gleich (2003) studies budget institutions and fiscal performance in ten Central and Eastern European countries and determines that strictures in place early in the budget process with agreements on targets for budget aggregates and discipline in sticking with such targets correlates with stronger government fiscal performance (lower deficits, lower debt). Schick (2013), too, regards that parliamentary systems can provide a centralizing “early agreement” feature that can tamp down on disagreement, reduce uncertainty and “keep the routine” that is necessary of a well-run budget process and financial management system.

Rubin (2007) discusses other components of the U.S. federal budget process that have fallen by the wayside, leading to chronic deficits and budget impasse. Notably, the lapsing of the Budget Enforcement Act in 2002 that held Congress to “the norm of balance by increasing the expectation that increases in one area had to be offset by decreases somewhere else” (Rubin 2007, 609). To this loss of discipline, she adds the rise in tax expenditures, reduced transparency, gimmicks, the “black budget”, expansive contracting, constant rebudgeting, and uncertainty due to consistent

use of continuing resolutions, supplementals, reprogrammings, earmarks and pork, all combined with the ideological divide in Congress as reasons that the federal budget has become unworkable. She (2007, 616) points out, though, that empowering the executive vis-à-vis Congress is not the answer—“if executive power over the budget is taken to extremes, it can no longer be justified as a reform: It creates a constitutional crisis.” Rubin calls for intermittent refreshment of congressional budget rules to generate consensus and enforcement—envisioning the initiation of greater discipline on the part of Congress to develop a budget and pass appropriations through periodic budget process change.

While the U.S. federal budget process seemingly continues to unravel, federal laws present an evolution of performance budgeting that lurches practice forward in some positive ways, if not perfectly. Passage of the Government Performance and Results Act (GPRA) in 1993 initiated performance budgeting by requiring strategic planning and the development and reporting of performance information by federal agencies (U.S. Government Accountability Office [GAO] 1997). This began to circle the conversation around a long-term view. During the George W. Bush administration, evaluation of agency program progress and results began with application of the Program Assessment Rating Tool (PART). PART boosted agency performance transparency and performance-related communications among stakeholders. According to the U.S. GAO (2004),

PART provides an opportunity to more efficiently use scarce analytic resources, to focus decision makers’ attention on the most pressing policy issues, and to consider comparisons and trade-offs among related programs by more strategically targeting PART assessments based on such factors as the relative priorities, costs, and risks associated with related clusters of programs and activities.

Like most reforms, PART provided some good insight, but weak to nonexistent budget change based on performance (Gilmour and Lewis 2006). Carolyn Heinrich (2012) studies programs that underwent PART review in the U.S. Department of Health and Human Services, for example. She finds that programs scored lower if unable to provide quantitative, rather than qualitative evidence of results, used short-term versus long-term measures, did not recognize targets, or were independently evaluated. Also, while program funding does not appear to be impacted by results of performance reviews, PART assessments recognize the importance of the quality of evidence provided serving as “a positive step forward to base policy decisions on more rigorous evidence” (Heinrich 2012, 124–125). At the conclusion of the George W. Bush Administration, over 1,000 programs had undergone a PART review. Later, during the Obama Administration, cross-agency priorities (CAP), the institutionalization of a performance culture via quarterly reporting, creation of a Chief Performance Officer, and the use of performance information when dealing with congressional committees, all were efforts that extended a performance approach well beyond the executive branch. The U.S. GAO (2011) reports that the GPRA Modernization Act of 2010 affords opportunities to help address performance challenges via reducing waste and improving management.

Regarding financial management, the U.S. federal government yields wins and losses as well. On the downside, Marvin Phaup (2019) discusses decision avoidance related to accounting for federal mandatory spending that sends the country down the unsustainability road. Mandatory spending includes Social Security, Medicare, Medicaid, federal civilian and military pensions, other post-employment benefits, and some safety net and insurance programs.

For policymakers, those [reasons for decision avoidance] include complexity of choice, absence of salient relevant information, and immediate cost for future benefit. For beneficiaries,



inaction may be preferred to near-term losses of sums already credited to beneficiaries' mental accounts, even if the change offers seemingly greater present value.

(Phaup 2019, 26)

Current accounting for mandatory spending entails “deferring recognition of all costs until payment is made and the cost is known” (Phaup 2019, 34). The scholar calls for improved accounting of these obligations by making transfers from Treasury to appropriate fund accounts,

fully funding estimated accrued obligations; including fund balances in ‘debt owed the public’; re-classifying Fund accounts as non-budgetary; outlay annual, actuarial normal costs for mandatory programs from on-budget accounts to non-budgetary fund accounts; and re-estimating accrued benefits and rebalancing fund accounts annually.

(Phaup 2019, 36–37)

Much of the information needed to do better already exists—it is produced in annual financial reports of the U.S. government or generated by the Congressional Budget Office. Policymakers would be presented with “existing information in a highly salient form to make informed decisions cognitively *easier*” (Italicized by Phaup 2019, 37).

On the upside, the U.S. federal government has manifested enhanced accountability of its financial management system given the success of the Chief Financial Officers Act (CFO) of 1990. The audited financial statements required by this Act have been and remain vital to identifying management inefficiencies and weaknesses and highlighting gaps in safeguarding the government's assets and possible illegal acts. The Treasury (2018) explains that CFO Act financial audits have identified actual and potential savings of hundreds of millions of dollars and that significant progress has been made in improving federal financial management since our government began preparing consolidated financial statements. This report (U.S. Department of Treasury 2018) about U.S. government finances notes that for fiscal year 2017, 21 of 24 CFO Act agencies received unmodified opinions (Agriculture was unmodified/Not Audited). Just Defense (DOD) and Housing and Urban Development (HUD) received disclaimers, with audit results for Energy still pending at the time of the report's publication. According to the report, “An increasing number of federal agencies have adopted and maintained disciplined financial reporting operations, implemented effective internal controls over financial reporting, and integrated transaction processing with accounting records.” (U.S. Department of Treasury 2018, 27).

### **Conclusion: Advancing Control, Efficiency, Transparency, and Results in Government**

While there is no applicable theory, law, or reform that will do away with corruption, active attention to the most egregious problems at hand in budgeting and financial management systems is vital to improving control, supporting efficiency and transparency, and advancing the results of government. Given the vital aspects of these processes and tasks to healthy government functioning, it is not surprising then that tremendous work has been poured into advancing public budgeting and financial management systems all over the world through model-building, code development, and reform. The multiplicity of effort via entities that provide budgeting, financial management and accounting guidelines, standards, and best practices, as well as professional associations, foundations, aid organizations and academic institutions that fund and conduct research and consulting to governments, as well as those that erupt from within governments themselves is truly vast.



On the downside regarding the sense-making of theories and applicability of reforms regards incongruences between them and “the real world”. Certainly, many reform efforts do not adequately recognize government context and state culture, capacity, or public will for change. Inclusion and engagement of a reform by all participants, especially appropriating bodies, can be especially problematic. Time and again, blasé or dismissive attitudes of politicians to reforms, perhaps given little understanding of concepts (accounting) or an entrenched short-term view (elections) cuts off any long-range strategic consideration of enhancements of systems for greater accountability and transparency. At the other end of reform processes, results are frequently incomplete or ineffective (especially in the short-term) and thus prove “disappointing,” challenging the discipline and commitment to continuous improvement that is necessary to realize change. Advancing public budgeting and financial management systems requires significant time for results to “sink in” yet this often conflicts with the rapid pace of innovations upon which reform may be based (e.g., information technology). The publicness of government budgeting and financial management processes dissuades a nimbleness of decision-making that is required to accommodate real time innovation of systems. Finally, results from reformed practices may not be noticeable for years or decades.

Still, there is much to celebrate. Transparency and accessibility to public budgeting and financial management research, “best practices”, training, and other information worldwide has never been greater. Also, hundreds of thousands of governments globally develop their budgets, pass appropriations, pay for public programs and services, and evaluate their financial performance fairly well and with little fanfare. Further, budget reforms and practices that are zeitgeist usually hone in on aspects of systems that have bubbled up as problematic by a critical mass of governments. As noted earlier, many public budgeting and financial management reforms have progressed along Christopher Pollitt’s (2002) continuum to realize results convergence. Today, many governments are pursuing accrual budgeting and/or accounting, many have instituted some sort of performance budgeting system, and many are opening up processes to citizen access and review. Modern budget reform has even extended into “human rights budget work” that focuses on the results of government spending in the long-term. Ann Blyberg (2009) defines human rights budget work as research that connects government spending to the support of human rights, particularly related to those most vulnerable in society. Human rights budget work has evolved because of democratization among countries globally, decentralization by governments to concentrate on local needs, good governance initiatives that promote transparency and accountability, support of civil society organizations by donors, legislative interest in advancing human rights through appropriations, and information technology advancements that allow governments to provide access to information and individuals to search and research such information (Blyberg 2009). While the most difficult aspect of human rights budget work is to define human rights (globally) and then connect these with government spending according to determined standards, reaching this outcome consideration of public budgeting and financial management systems suggests an enduring concern for improving government control, efficiency, transparency, and results. This is encouraging.

## Notes

- 1 Carl Friedrich (1940) and Herman Finer (1941) have a similar argument about the need to contain bureaucratic judgment in their debate about administrative responsibility and democratic accountability. Friedrich, similar to Musgrave and his faith in government, believes bureaucrats can be held to account as professionals, held in check by professional associations and attendant standards of practice. Finer, similar to Buchanan and his suspicion of political authority, is wary of self-interested bureaucrats, considering laws, the courts and/or agency policies, rules and regulations as useful constraints on public managers.

- 2 Charles Lindblom's (1959) research about policy development highlights a contrast between incrementalism and scientific management by comparing branch (successive limited comparisons) and root (rational comprehensive) methods of decision making. In the branch method, policy choice results from agreement among decision makers; the root method requires calculated means-end analysis of policy outcomes to determine the best to pursue. Whereas the root method takes into account "every important relevant factor", the branch method accepts that "important possible outcomes, alternative potential policies and affected values are neglected" (Lindblom 1959, 81).
- 3 In a study of the application of performance budgeting by juvenile justice agencies in U.S. states with applicable laws, findings indicate conduct at every stage of the budget cycle—development, deliberation and appropriation, execution, and audit and evaluation (Lu and Willoughby 2018). Many of the agencies apply performance measures to contracts as well as in-house. Those interviewed reflect on the dilemma in holding to strict sanctions for poor performance by contractors that harkens to agency, transaction costs, and other theories that require understanding individual incentives to effectively conduct performance budgeting. According to one agency director,

Realistically, if we have a new provider, they must get a facility prepared, hire staff, and serve kids before we will pay them anything. That is a significant investment, off the bat, and very few are willing to get into this business. [Good performance] does not influence the budgets of facilities, as we use a fixed cost model. There are challenges to implementing financial penalties when poor performance or noncompliance occurs because vendors will just get out of the business (Lu and Willoughby 2018, 110–111).

- 4 Transparency International (2018) reports on corruption and finds that governments lack of ability to reduce corruption threatens democracy which in turn compromises efficient and effective governmental budgeting and financial management systems. TI surveys experts and business, generating an index ranking 180 countries and territories according to perceived levels of public sector corruption on a scale from (-0-) "highly corrupt" to (100) "very clean". The most recent report finds most countries "failing" in battling corruption, with over two-thirds scoring under 50.
- 5 Vraniali (2010, 19) claims cash management as highly compromised in Greece, given erratic flows resulting in intermittent surpluses and deficits, and suggests reforms illustrative of the interconnectedness of multiple decisions in financial management systems—better coordination between revenue-collecting agencies and the Treasury and a closer link between cash management, spending commitments, and debt management. The author highlights need for a verifiable personnel database that would require upgrading IT systems to support reliable and valid accounting of these liabilities and budget planning (Vraniali 2010, 23). Unwieldy control processes impose their own costs—"of the control process itself, given overlap and multiple actors, in diverted management time...and those derived from the fact that line management cannot assume full accountability for its own actions" (Vraniali 2010, 29).
- 6 In part, expanded democracy in this country via a more diverse Congress and open source politics through social media have contributed to hyper partisanship and ideological divides that hamper budget negotiations and impede budget reform. A recent partial government shutdown became the longest running in history, beginning December 22, 2018 and ending after 34 days in January 2019. Shutdowns introduce a process fracture to routine—a game of chicken in which opponents test each other to a breaking point for policy development. This way of doing business contributes to poor performance by halting momentum in the conduct of government programs, services, projects, analyses and reporting efforts, and increasing costs in the long term. "Brinkmanship budgeting" erodes public trust. In 2011, Standard & Poor's downgraded the long-term credit of the United States from AAA to AA+ citing concerns about the fractious policy making process of Congress, along with continually growing debt, and the government's fiscal performance.

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# CONFORMITY AND DIVERSITY IN BUDGETARY SYSTEMS

## Aspirations, Routines, and Recalibration

*John Wanna*

### Introduction

The task of commandeering, allocating, appropriating, and managing public monies, including borrowing, is a universal aspect of government, and has been so throughout the ages (Graeber 2014; Webber and Wildavsky 1987). The configuration of taxing and spending patterns, which can be regarded as *resource interchanges*, between a governmental authority of whatever historical or political form and its people is a fundamental aspect of statecraft and regime sustainability. Budgets are fundamentally constrained competitive conflicts for public money at the fulcrum of government. Intense competition for resources from both inside government (bureaucrats) and from outside (constituents) requires mechanisms to restrain spending demands and enable a government (or legislature) to formalize and make predictable budgetary formulation. Unlike private market exchanges, public budgets are shaped largely by political considerations, party political platforms, attitudes toward the role of government in public provision, responses to crises or wars, and community or constituency pressures (Lewis and Hildreth 2011).

In modern democratic regimes the authorization and use of public resources involves forms of representation, consultation, degrees of transparency and accountability; in authoritarian or absolutist regimes these attributes will be less apparent although many of the fundamental budgetary functions will remain indispensable. But, irrespective of the type of political system involved, there is a relatively standard set of definable tasks to be performed repeatedly by a constellation of actors through more or less enduring decision-making processes. The universalistic tasks of government budgetary are arguably best expressed by Wildavsky's pronouncement (1974:2) that budgeting in comparative perspective was 'the translation of financial resources into human purposes' (see also Rubin 2014). Nonetheless, government budgetary systems across the entire globe are inherently *sui generis*; they differ in almost every detail, their procedures and planning styles, reporting requirements and different ways of execution.

This chapter will discuss different budgetary systems and then explore the drivers toward some degree of conformity and better practices. The chapter then analyses the pursuit of fiscal discipline and budgetary control, before going on to explore the themes of the quest for greater efficiency in government spending, pressures for greater transparency over budgetary information and finally the imperatives to link results and performance to budgetary management and allocations.



## Distinctive Governance Systems and Budget Regimes

We can identify four main regime types of budgetary systems internationally, each with its own political and bureaucratic traditions, norms, and practices. These can be classified as: (1) autocratic budgeting in authoritarian regimes; (2) centralized planning-based systems; (3) budgetary systems in democratic societies divided between parliamentary and presidential systems; and (4) societies that primarily invest in fragmented and hypothecated resource exchanges outside the budgetary frameworks (off-budget funding of services through government-run contributory insurance schemes). Autocratic budgeting exists when the ruling political regime dictates budgetary allocations unilaterally (e.g. China, Vietnam, Russia). Planning-based budgetary systems extensively use cascading multi-year planning processes (e.g. five or ten and even twenty-five year plans) to prioritize and refine budgetary allocations, popular in many developing countries and reaching its apotheosis in authoritarian Singapore. In modern parliamentary democracies, budgetary systems reflect a fusion of powers, relying on the legislature to authorize and scrutinize budgetary measures moved by the executive and, based on the principle of maintain 'confidence of the legislature', a failure to pass the budget usually results in the resignation of the government. Presidential democratic systems usually involve a more formalized separation of powers between the executive and legislature, with both having independent powers to move and authorize budgetary measures. In hypothecated contributory systems, off-budget funds are self-managed using actuarial formulas reconciling provision of specific services with compulsory but dedicated contribution payments.

In addition, the term 'budget' can mean very different things in different countries. Some nations use their budgets primarily as *revenue* measures (for instance, the United Kingdom, Canada, and Ireland). Some others intend them as primarily *spending* plans (the United States, Japan, France, the Philippines, Indonesia, and many other developing nations). While yet other nations use budgets as instruments that consolidate at a single moment in time all revenue and spending proposals (The Netherlands, Denmark, Australia, New Zealand, and Singapore). A few countries, such as the USA at the federal level, may not be able to pass a consolidated budget or many of the budgetary proposals emanating from the executive and legislature and so pass segments of routine funding to keep government operating while then engaging in horse-trading over new spending programs. As such, budgetary systems display a great variety of different cultural and operational codifications governing the three main phases of public budgeting: (1) budgetary formulation and resource allocation; (2) resource management and implementation; and (3) evaluative analysis and/or reporting.

These codifications may be either 'hard' or 'soft' constraints (or a mixture) that take shape over time, can change at given junctures, or display adaptability in relation to crises or new technologies. These constraints can include: constitutional and statutory requirements, systemic norms, budgetary and fiscal rules, financial memoranda, recognized processes and practices, accepted conventions and behaviors and narratives chosen in budgetary presentation. Some of these codifications are intended to take place in full public view and are subject to legislative and media scrutiny (annual budget statements or budget papers, fiscal strategies, spending proposals), while most remain intentionally internalized strictures (often confidential) adopted to routinize the process of putting budgets together with some semblance of order and stakeholder confidence. Even nations with 'similar-ish' societal cultures such as the seven Nordic nations, or Westminster systems such as the UK, Australia, New Zealand, and Canada, display marked differences in budgetary practice today and maintain their differences (Doern et al. 2013; Jensen and Davidsen 2015; Good 2007; Wanna 1997).

The budgetary 'project' across the various worldwide jurisdictions, while often formalized and profoundly routinized, is basically inherently pragmatic and guided by broader politically expediency. It is an amalgam of retained routines that appear to work and so are kept and periodically

recalibrated, and where things do not appear to work well they tend to be dispensed with or gradually superseded. The history of budgetary reform trajectories is essentially one of zig-zagging patterns fluctuating between greater controls for fiscal discipline and discretionary largesse.

### **Drivers of Greater Conformity toward Better Practices**

Looked at empirically and comparatively, circumstantial and contextual factors underlie much of the observable systemic and behavioral diversity found in budgetary systems. These include constitutional and governmental histories, political party systems and the contours of political development, economic pathways nations have followed, levels of GDP and national wealth materiality, societal cultures and social expectations, critical junctures such as wars or major crises, appetites for or philosophies of spending (universality v targeted or means tested provision) as well as taxing traditions (the balance between direct and indirect, consolidated revenues v hypothecated systems). Many of these circumstantial and contextual factors have been extant for many generations, sometimes even centuries. Their legacies are enduring.

A fundamental question here across nations concerns control of the ‘public purse’ and who exercises the ‘financial initiative’ – that is, which budgetary actors or institutions can request, frame and authorize budget spending. In parliamentary systems the executive of the day typically ‘owns’ the budget but has to ensure legislative approval which is also a ‘confidence’ issue pertaining to the survival of the government itself. In majoritarian parliaments the ‘financial initiative’ often rests with the crown or senior ministers representing the executive, although in some ‘consensual’ parliamentary systems parliament itself shares the initiative (meaning non-governmental parties or actors can propose and move spending measures). In presidential systems, budget ownership is often shared or inter-connected, partially owned or intentionally disarticulated, with greater scope for the legislature separately to initiate financial spending contrary to the political executive (often producing stand-offs or gridlock). These historical institutional resonances form basic systemic structures that can affect other budgetary-related behaviors. For example, the latitude for ‘tacking’ measures through legislatures – generally much higher in the United States or The Philippines, but lower or outlawed in majoritarian parliamentary systems. Another example are the mandated requirements for formal performance reporting and evaluations which are much stricter in the United States context, but far less required in European, as well as many Asian or Australasian countries.

By contrast, there are also major drivers pushing nations toward a degree of conformity; mostly associated with the imperatives of governmental modernization and the adoption of increasing technological sophistication and analytical capacities. The ‘great ideas and driving principles’ that have most clearly informed comparative budgetary practices in recent decades have emerged from notions of managerial reform across the public sector and the adoption of ‘best practice’ principles or transposed techniques and technologies (OECD 2001). Often these reform trajectories were obliquely targeted at reducing the imperatives of incrementalism over budgetary decision-making (LeLoup 1978, 2002; Schick 1990). One main attribute of managerialist reforms (including expenditure targets and medium-term fiscal strategies) was to widen notions of ‘fiscal discipline’ and ‘expenditure control’ in the face of governments wanting to increasingly distribute benefits to their communities (Brumby 2012; Rubin 1990; Thompson 1997; OECD 1997; Wanna et al. 2010). Providing agencies and program managers with discretionary power to manage their own budget allocations in many pioneering reforming nations proved relatively successful in getting them to constrain spending through exercising prudential and judicious conservation of resources (rational managerial behavior and cautious risk management, see Forster 1990; Kelly and Wanna 2001). Medium term expenditure frameworks were explicitly adopted by over 160 countries to curtail governmental attitudes to increased spending – many of which were at best partially

successful. Many of these MTEFs were undermined by powerful countervailing forces that were active in eroding fiscal discipline.

Before the advent of welfare state spending, public budgeting was primarily used for administrative and militaristic purposes and operational in nature – transfers to citizens were relatively meagre. Historically, often the naval budget was by far the largest item of public expenditure. In the 19th century, many industrializing nations with limited government operated with small parsimonious budgets, often with fragmented outlays rather than a consolidated budget. But, gradually notions of a unified ‘Budget’ as a consolidated financial statement began to be adopted, making the presentation of the Budget a significant set-piece of theatre in most legislatures. In the 20th century, and especially after World War I, many nations began to increase spending on social policy, and following the Great Depression gradually began adopting Keynesian interventionism to stimulate demand (including many nations that developed extensive contributory welfare states). This in turn provided greater impetus to manage larger budgets, tailor expanding budgets to promote counter-cyclical demand (although empirical evidence suggests that there was less imperative to constrain budgets in buoyant economic times), and use governmental fiscal policy (or ‘levers’) to manage economic growth (Castles and Dowrick 1990) Following this, many Western nations subsequently influenced by neo-liberal ideas began to use market outsourcing and contracting out to deliver services which governments continued to require and fund (Osborne and Gaebler 1992).

The up-take of modernizing influences on budgetary management was often welcomed with innovations quickly seized upon. These included: accounting and technological innovations, advances in IT, as well as engagement with the epistemic community of senior budgetary officials coordinated by such organizations as the OECD, World Bank, and IMF, where opportunities for policy transfer and learning were explored (see OECD Senior Budgetary Officials reports). Many developed and developing nations consciously drew from the experiences of other leading reformist nations searching for better practices as expressions of ‘policy transfer’. These ‘learning’ initiatives included advice not only on what budgetary improvements to contemplate, but also on what not to do or cease doing (Robinson 2016; Schick 2002). The OECD even endorsed a set of ‘best practice budgeting principles’ in 2001 that was widely disseminated and discussed amongst the epistemic community of budgeteers. As the reform endeavors took hold, Blondal (2003) summarized the common trends across the OECD as involving: improved fiscal positions and a commitment to fiscal discipline, medium-term expenditure frameworks, prudential economic assumptions, top-down budgeting techniques, relaxed central input controls, an increased focus on results, greater budget transparency, and the adoption of modern financial management practices.

However, while there has been much international exhortation toward the need for fiscal management and budgetary reforms, budgetary reform agendas have not been universally accepted or implemented. Indeed, many nations have eschewed what they regard as ‘faddish’ reforms and remained content with traditional budgetary systems (e.g. Germany, Italy, France, Japan, and at the federal level the US with a formulation process that is but fractured and old-style traditional). Elsewhere, nations have occasionally have introduced reform measures to appear to comply with ‘best practice’ but have not made any serious effort to implement them in practice (such as the token adoption of MTEFs in nations such as Indonesia, The Philippines and most of the African developing economies) (see Le Houerou and Talienco 2002). The World Bank and IMF have often advocated budgetary reform agendas to ‘client-dependent’ governments as a means of imposing external discipline on national budgets and controlling government finances (or reducing public debt levels) (Brumby and Hemming 2013). To date, their successes with these impositions has been mixed, with many nations feigning compliance (South Korea is an obvious exception to this generalization, see Kim and Park 2007).

Two related empirical observations are worth highlighting in this comparative analysis. First, budgeting and financial management in the public sector necessarily involve protracted ‘collective choices’ that require many trade-offs and compromises. Budgetary formulation processes remain ensnared in political and legislative logistics, and rely heavily on bureaucratic and public administrative values and practices that are legitimated politically and norm-dependent. Many budget rules and procedures are apparently aimed at conflict minimization and the containment of demands from claimants (but not necessarily publicly presented in that way). Most nations still budget primarily for the period ahead along cash lines, deliver budgets as unified consolidated statements framed on the arbitrary logic of annual cycles, and appear reluctant to adjust budgets or change spending levels once allocations have been duly authorized. Budgets remain, thus, very sclerotic and somewhat dysfunctional, but very socially/institutionally stabilizing, which may or may not be a virtue. They are also not very genuinely performance oriented: they are weak at linking resource allocation to effectiveness, and at reporting actual performance as opposed to bland activity recording (the reliance on surrogate indicators or so-called ‘busyness’ reporting, see Bouckaert and Halligan 2008).

Second, the process of making budgets and implementing them has itself become overly bureaucratized, highly technical, and more professionally discursive. In many ways, despite claims for greater transparency, budgeting is becoming more complex and concealed from scrutiny, more opaque in decisional terms and analytically technologically demanding, and more time-consuming. Those countries that adopted forms of accrual budgeting and moved away from cash budgeting added layers of complexity that not only disguised previously important details and did little to enhance transparency and, in many ways, reinforced the traditional logics of base budgeting for agencies now regarded as the ‘accountable entity’. As budgeting becomes more technocratic, we may also ask: are the intended benefits, supposedly contingent upon nations undertaking such painstaking and complicated ways of deciding resourcing plans, much more evident within society and to their constituencies? Likely not. Some writers and practitioners have even begun to wonder whether annual budgets are needed at all, and whether they can be replaced by more effective continual authorizations, adjustments and reporting – a revolutionary idea that has considerable merit and frees nations from anachronistic legacies that are not efficacious (Helgeby 2021; Smith and Thompson 2012).

### **Pursuing Fiscal Control and Budget Discipline: Charting Commitment and Progress**

Public budgeting is always a contest between provision and rationing, and between spending initiatives and restraint (where rationing can be achieved by freezes or cuts, top-slicing, parameter changes, administrative criteria, targeting or means-testing of programs). The contest for money from ‘claimants’ can be stimulated by bidding processes, formulaic allocations, new prioritizations, sudden emergencies or contingency allowances, even sloppiness in budgetary management. Some nations (e.g. Canada, Chile, South Korea and New Zealand) have introduced fairly stringent ‘prudential’ cultures to artificially restrain spending, and perhaps pay down debt to reduce the inter-generational inequities, but these are relatively exceptional cases where frustrated governments have sought to redress previous inadequacies (Good and Lindquist 2010; Kim and Park 2007; Norman and Gill 2010).

Fiscal control and budget discipline has traditionally involved forms and ways of rationing public resources (year-on-year reviews, lapsing programs, and some in-year tightening mechanisms), but the predominant means of rationing have tended to change over time. In the search for greater fiscal control, budgets have tended to be recalibrated from ‘bottom-up’ logics and ‘line input’

financial designations toward the imposition of more ‘top-down’ frameworks with budgetary allocations aggregated to ‘one-line’ budgets and agency-level funding. Line-item budgeting (still used in Germany) rationed the myriad of designated inputs to administration and programs, in an *ex-ante* attempt to restrain spending by placing arbitrary limits on individual items. However, the aggregate budget spending tended to be the sum total of the approved line items agreed to, only known at the conclusion of the formulation process. ‘Top-down’ procedures that began to be introduced from the 1980s placed the rationing decisions ahead of the budgetary setting processes (sometimes up to six to eight months ahead of budget finalization) with notions of strict aggregate spending limits (enforced by ministerial or cabinet decision-making), which were then cascaded down into agency or program constraints that comprised the entire budget. Top-down budgeting meant that harder limits or fiscal rules were imposed on spending aggregates that theoretically imposed greater discipline within the formulation processes and strengthened central budget agency influence over the allocative functions. The adoption of medium-term expenditure frameworks (MTEF) assisted with ‘out-year’ expenditure control (OECD 1997), and in recent years over 160 countries have adopted some such frameworks to help manage or predict future public spending (Brumby 2012). The trend toward greater top-down fiscal control has often implied that the most senior executives of government, including the key ministers of central agencies, placed their political authority squarely behind fiscal ceilings and aggregate limits declaring these limits as sacrosanct (de Vries and Bestebreur 2010).

As mentioned earlier, the degree of fiscal control a nation can accomplish is generally premised on mix of ‘hard’ or ‘soft’ budget rules and the strength of the various constellation of guardian institutions (finance ministries or treasury departments, budgetary agencies, independent fiscal policy or planning councils, legislative budgetary offices, and perhaps central banks) (Schick 2003). Hard budget rules include commitments to balance the budget over the economic cycle (Australia and New Zealand), or deliver an intended surplus of say 1% of GDP (many Nordic nations), or place annual percentage limits on the growth of the public sector (Singapore, South Korea, and Australia), or alternatively commit to using any surplus funds exclusively to pay down existing debt (Canada and Chile). For nations devastated by the global financial crisis (GFC), getting their ‘primary budget’ (i.e. their annual budgetary spending levels but not counting debt interest payments) back to balance was a recurrent aim. Big spending governments in nations such as The Netherlands and Belgium struggled to get their budgets into surplus. However, others with high levels of public expenditure such as Sweden and Denmark managed to achieve consecutive budget surpluses for over a decade prior to the GFC, through a combination of centralized top-down controls, hypothecated revenues for specific expenditure areas, and ‘hard’ expenditure ceilings set up to four years out (and only changed by subsequent statutory amendment). The Singaporean government has adopted a relatively novel means of imposing fiscal discipline on itself, by tying the level of government spending to a fixed proportion of the estimated GDP (which means government spending only grows if the economy first grows), and with government agencies rewarded principally by their measured contribution to economic growth (Blondal 2006).

The imposition of greater fiscal control was not usually an end in itself, but was a means to create further latitude or opportunities for governmental largesse (or perhaps even to pay-down public debt to reduce the intergenerational equity considerations associated with borrowing). Governments imposed fiscal disciplines and insisted upon staying within aggregate ceilings to allow greater scope for re-prioritization and greater political discretion over time (Kraan and Kelly 2005). The rise of expenditure review and strategic budget cabinet committees to rein in demands and contain budgets is one positive expression of this feature. Alternatively, in some US states strategic budget funds – controlled largely by the governor and carved out from existing agency outlays – were reallocated and used to provide seeding funds for new projects and changing priorities (*The Economist* 18.6.2020). However, such ‘strategic’ initiatives are usually by nature

one-off adjustments and time-limited. This has not diminished interest in 'strategic budgeting' as a theoretical construct, even though it is difficult to apply in practice (Meyers 1994).

Within the public sector, and reflecting the general need for continuity and predictability, the concept of 'base budgeting' has retained a germane salience in most countries, whereby the existing levels of funding agencies or programs receive is routinely re-allocated over time with slight marginal adjustments. This reflects the public sector's purpose or responsibility to provide stability in society and the economy and deliver essential services (defense, law and order, regulation, community services, emergency services). However, separating 'base budgets' from other areas of spending (new spending, new programs) introduces various perversities as agencies have relatively enduring incentives to maximize their budgetary allocations and few incentives to ration them or seek less funding. 'Base budgetary' systems work typically on auto-pilot, with expected variances not warranting much political attention. Agencies strive to come in close to budget, often the internalized measure of good management (i.e. a little bit over budget but not by too much, indicating continuing need). Later after managerialism and new public management (NPM) was widely adopted coming in exactly 'on budget', or a little under, was the new best practice (i.e. not over-spending or exacerbating contingent liabilities). As already mentioned, those nations that adopted forms of NPM, where line managers were given greater financial responsibilities for managing programs, tended to find they behaved conservatively and managed within budget constraints, often carrying funds forward where budgetary rules permit (Peters and Savoie 1998). Empowering bureaucrats in charge of budgets generally produced budgetary restraint rather than creating 'budget-maximization by bureaucrats as Niskanen predicted (1971).

Debt management is also a feature of fiscal control. Transferring recurrent expenditure (i.e. current public consumption) to debt involves a combination of political expediency (a political or bureaucratic lack of fiscal discipline) and structural issues affecting economy and economic growth. Some nations (e.g. China, Japan, Italy, Portugal, and Spain) have embarked on substantial borrowing trends premised against rising economic growth – only for the expected growth not to materialize or debt levels to continue to blow-out (Horie 2015). Many OECD nations following the GFC are now carrying huge debt burdens, with over a dozen advanced economies exceeding 100% of GDP, and a few like Greece, Italy, or Portugal well over 150%, and Japan sitting on around 250% of GDP. Those countries with relatively manageable debt levels (say under 70% of GDP) tend to be a mixture of very advanced welfare states (Luxembourg, Norway, Switzerland, Denmark, Sweden, Finland, Australia, and The Netherlands) and developing nations (Estonia, Chile, Turkey, Latvia, Mexico, Lithuania, and the Slovak Republic) (OECD 2019).

### **The Quest for Efficiency in Government Spending – More Illusory Than Real?**

Increasing efficiency is the perennial holy grail of public finance, at least rhetorically. Across almost all governments, spending initiatives or reform measures will never be announced that admit to being inefficient or likely to worsen efficiency levels; on the contrary, measures that may have little to do with efficiency are routinely announced as 'efficiency measures'. Efficiency is the gold standard in aspirational endeavor; mostly with a focus on 'technical efficiency', but with some jurisdictions developing an interest in exploring ways of estimating 'allocative efficiency'. Nevertheless, governments operate many accepted functions and services where efficiency *per se* is not a prime consideration (e.g. policy-formulation, accountability requirements, an emphasis on due-process and integrity in public management, regulatory effectiveness in society, reviews and inquiries, and many essential services such as schools, prisons, hospitals, social housing, etc.). Quality of service criteria and other factors such as timeliness, accessibility, equity of treatment may be far greater imperatives than efficiency as a goal of provision.



A few important caveats need to be mentioned here when examining government efficiency in a comparative context. First, many large items of government spending are designed and implemented without much of a business case developed or publicly released. They are simply ‘good intentions’, ‘worthy initiatives’ or ‘approved policy measures’ perhaps from a claimed mandate. They are usually not determined with targeted efficiencies set out in schedules that can be subsequently monitored by oversight agencies or the media. Second, although governments have committed themselves to results-driven corporate cultures, they are not good at measuring efficiency (organizational, activity-based or input based) nor calculating the associated costs of policy and delivery. Moreover, governments tend to focus on immediate costs, ignoring or downplaying other important costs (e.g. overheads, long-term costs, depreciation of whole-of-lifecycle costs, or contingent liabilities). Hence, governments have often resorted to imposing across-the-board cuts as a way of publicly indicating an interest in lifting performance – often sold as exhortations to agencies to start ‘doing more with less’. Most OECD nations since the 1990s and especially after the GFC have had to resort to austerity programs and increased user-charging regimes – especially where distinct personal benefits are consigned to the public consumer (e.g. publicly funded tertiary education, health and aged care, even pensions and retirement incomes).

In recent years some nations have introduced crude productivity ‘clawbacks’ across their general government sectors to urge greater efficiencies, increase competitive effort or comparative advantage (or so-called ‘efficiency dividends’, which presume governments will gain an efficiency improvement from its outlays, and earn a ‘dividend’ back to the budget from the imputed productivity gain). These clawbacks tend to be blunt instruments extracting a fixed percentage from a budgetary allocation irrespective of relative priorities or the existing efficiency or inefficiency of the activities being trimmed. Many of these budgetary claw-backs are, in all honesty, relatively miniscule in magnitude but deeply resented in the public services by staff who routinely blame any shortcomings or inability to deliver services on the visibly imposed ‘cuts’. Even when annual aggregate expenses increase many public agencies (such as public broadcasters, transport agencies, cultural industry sectors) have become adept at manufacturing a discourse of complaint about perceived ‘cuts’ they deem to have been applied to them.

An alternative means of improving efficiency is through imposing deep cuts periodically, to test within agencies and programs what is essential to perform and what is of marginal importance. Cuts to base budgets of say 5–10% cause agencies periodically to review their existing structures, activities, facilities, competencies, and even expose cross-subsidies. One of the best examples of this type of radical reduction was the ‘Program Review’ exercise (*Getting Government Right*) conducted by the Chrétien Liberal government in Canada conducted between 1994 and 1999 where some C\$80 billion in expenditure reductions was cut from federal budgets over five years, causing an enormous incentive to re-conceptualize and re-engineer government provision (Lindquist 1996; Good 2007:247–302; Savoie 2014).

Other means of resourcing public provision may involve far less budgetary oversight, largely operating through ‘self-funding’ off-budget funds and self-managed foundations. For instance, nations relying contributory insurance schemes and various means of hypothecation (by tying revenues to specific spending items, such as worker insurance, health provision, pharmaceuticals, etc.) can achieve levels of efficiency through actuarial management of the benefit entitlements ensuring the independently managed funds were self-sustaining. Regarding public budgets not as distributive largesse, but as longer-term investments, or as stand-alone contributory funds operated against anticipated demand by actuarial oversight, changes the nature of public provision and helps ration usage.



## **Toward Greater Transparency: Maintaining Confidence and Credibility**

An important aspect of government budgeting is the maintenance of public confidence among the many interested constituencies and audiences in the government's management and stewardship of resources (IMF 2007). These constituencies have various and competing interests in the plans and outcomes proposed by the government: as electors, lobbyists, specialist interests, business leaders, unions and workers, the media, other levels of government, and future generations. Comprehensive and reliable information is important for maintaining confidence and trust: governments usually try hard to meet these community expectations, while putting gloss on figures so they can be plausibly believed.

Most governments assemble budgetary information (fiscal strategies, expenditure estimates, projections, portfolio or agency funding statements, etc.) purely for presentational purposes – this detailed budgetary information is not formally part of the legislated appropriations, and it is generally not audited for accuracy and consistency. Moreover, historically, budget presentational information often change from year to year depending on the assumptions made and/or any re-configurations in allocative distributions. Usually no government would want to highlight cuts to important programs and tend to disguise any funding reductions by rebadging programs or changing parameters. Hence, the information accompanying budgets serves two important functions. First, it provides a basic level of information about intended budgetary outlays, new spending and decisions taken in linking expenditures, revenues, and borrowings. Second, it provides an opportunity for government 'spin' so the executive can positively 'spruik' its credentials and intended plans. Budget documents are as much exercises in marketing, advertising, and promotion as they are formal instruments of accountability.

More recently, and with the increased significance of credit rating agencies and fiscal watchdogs, greater consistency in sequential reporting (so-called 'line of sight reporting') has more evidently been practiced by governments. Information contained in initial budget documentation, has to be the basis for any mid-year or up-dated reporting (with variants, parameters or policy changes dutifully explained), and then subsequently consistent with final budget outcomes (which reports consistently across all three stages). Some nations have now required such 'line of sight' historically consistent reporting in financial statutes forcing governments and their agencies to comply legally (for instance, New Zealand, the United Kingdom, Australia), whereas others have attempted to improve longitudinal consistency to help underscore their credibility and satisfy credit rating agencies and financial markets.

## **Linking Results and Performance to Budgeting: Emblematic or Aspirational Quest?**

Improving performance through the prisms of budgetary decision-making has taken hold of many governments worldwide, although demonstrable progress in reporting real improvements in performance remains highly problematic. Since the 1980s, most OECD governments have begun to talk about moving toward results focus, shifting away from itemized inputs classifications to a greater emphasis on outputs, outcomes, and performance management. From the late 1990s, many governments toyed with the notion of 'performance-based budgeting' – which has various meanings in different governmental settings, but mostly it has been adopted only as an emblematic moniker. According to one source, performance-based budgeting involves the preparation of the budget based on the evaluation of results within an organization (Borad 2009). A performance budget should indicate a clear link between each dollar allocated and expected performance levels,

on a continuous basis. To the extent possible, allocative decisions should be informed in the budgetary preparation and formulation process by analysis of ongoing performance data. Performance budgeting has also been described as ‘a budget development, implementation, and evaluation process that emphasizes performance management, allowing funding decisions to be based in part on the efficiency and effectiveness of service delivery’ (Kelly and Rivenbark 2015:10; see also IMF 2003; Robinson 2007; Schick 2007). However, in the wider public sector (unlike the private sector) investments cannot be solely determined or evaluated solely along the lines of performance or results (or productivity). Some nations have attempted to link ‘activity-based costing’ with performance considerations, and even ‘zero-based budgeting’ going back to first principles in each formulation phase. The arguments for such performance-based budgeting is that government agencies will be more clearly accountable for pursuing their intended purpose and for quantifiable results. Their budget allocation may depend upon their performance achievements.

An alternative and slightly less mechanistic interpretation of performance budgeting sees only a loose link between budgetary allocations and agency performance, hoping to encourage innovation, experimentation, and customer satisfaction. The emphasis is largely on stable budget allocations but with high expectations of accurate performance reporting informing the key decision-makers and legislative scrutineers. Improved performances can come about because of greater effectiveness, better planning and understanding of causation in policy design, but also by innovation and experimentation in the value-added chain. Behavioral economics has been employed to lift service delivery outcomes in many countries, most notably European nations interested in more positive interventions. Often these behavioral innovations have been stimulated by dedicated central agency units acting as ‘ginger groups’ to other agencies or program managers (Thaler and Sunstein 2009).

However, performance information in a budgetary context is often regarded as highly subjective and with asymmetrical control or influence over the substantive performance information (the manipulation of data risk). Typically, the ‘agent’ (the delivery unit) possesses detailed information of its performance through its proximity to the point of delivery, and the ‘principal’ (the government or authorizing legislature) is held hostage to their release of meaningful or less meaningful data. Across OECD member nations, a preference for results-driven management has seen a drift toward output and activity measures as surrogates for performance but not necessarily tied to budgetary allocation decisions (Podger 2018; Wanna 2013). Moreover, governments have found rewarding agencies for their self-reported performance is inherently open to gaming and has perverse consequences. Schemes to provide ‘consumers’ with vouchers (to shift the funding logic from centralized public provision to contained consumer-led demand) have been debated, especially by public choice scholars, but have proved difficult to implement in practice. Principally, public providers find it difficult hard to recalibrate to shifting patterns of demands (e.g. schools, hospitals, disability, or aged care facilities) and consumers do not always make the best choices in their medium-term interests. In addition, significant public investments in, say, a school, university, or hospital, are expensive fixed investments and it would be wasteful in resource terms to up-scale or downscale these investments according to the fickleness of changing demand trends. The transaction costs of public organizations subject to voucher-style funding models driven by consumers are likely to be very high.

Beyond the direct government delivery of programs, governments have also increasingly turned to market-delivered programs, outsourcing and contractualization, often using NGO delivery modes as well as specialist for-profit firms. Many governments have used public-private partnership arrangements for the delivery of infrastructure projects and specified service delivery such as prison or hospital management (also called public finance initiatives). The benefit to governments of using these market-based delivery providers is that they must specify what it is they want produced or delivered, and then over time they receive comparative ‘prices’ for the services

they seek. This was not always transparent in government bureaucratically delivered services. Contractually provided services may not necessarily be the most cost-effective but governments are relieved of the responsibility for delivery and receive an external price for the services. But, importantly, governments cannot outsource the risks or accountabilities involved.

### **Conclusion: Public Budgeting as Continuous Balancing**

Governments have long grappled with the challenges of matching their ability to meet the myriad of societal needs and demands they are expected to provide with their capacities to commandeer societal resources with which to make the provision. Governments use a range of techniques including public policy-making, various policy levers and resourcing commitments to find ways to ‘translate financial resources into human purposes’. But the demands of claimants are multitudinous and usually far exceed the government’s ability to satisfy them. Hence, public budgeting – whether theoretically informed or not – provides a mechanism for reconciling these competing objectives.

Budgets serve as a rolling mechanism simultaneously to provide endowment and provision as well as the necessary rationing of scarce resources. They constitute an ongoing and fine balancing act repeated over time for which the government is held to account. Moreover, budgets are framed within specific global, economic, and social contexts. They must intersect with the expectations of the community and interested observers, whether these expectations are managed or not by governments. These contextual non-budgetary factors are equally important in shaping the content and priorities of government budgets, and include changing social or demographic circumstances impacting on government provision, responses to changing economic conditions and market fluctuations, the outcomes of political processes, and even global crises and pandemics.

Budgetary systems work best when they provide direction that meets the public’s expectations, as well as engendering public confidence and are demonstrably accountable. As ‘satisficing’ collectivist devices, they are never perfect but often the best governments can do in the circumstances. In recent decades, governmental budgeting as an instrument of management and accountability has become more sophisticated, aimed at becoming more fiscally responsible, more controlled, and instantaneously monitored by technocratic guardians, and arguably better managed internally. Principles of modernization and reform (including information technologies) have improved budgetary planning and preparation processes, bringing greater transparency and accountability for decisions. However, many of the issues relating to efficiency, effectiveness and performance remain aspirational and somewhat illusive in nature. As Allen Schick once sagely suggested, government budgeting remains a work-in-progress.

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# 16

## PERFORMANCE MANAGEMENT

### Experiences and Challenges

*Tom Christensen and Per Lægveid*

#### **Introduction**

One of the core tools in the New Public Management movement is Performance Management (PM). Over the past 30 years performance management has been one of the most widespread trends in public management reforms, but performance measurement and management has also been seen as the Achilles' heel in administrative modernization (Bouckaert and Peters, 2002). Bouckaert and Halligan (2008) claim that performance management has not needed results to fuel its onward march. It is a big literature on PM including detailed case studies in particular countries, broad international comparisons (Bouckaert and Halligan, 2008) and studies of how it works in practice (Boyne et al., 2006; Pollitt, 2006; Moynihan, 2008). A general finding is that it is great variations in forms and importance among different countries and different tasks (Pollitt, 2005, 2013).

This chapter reviews experiences of PM over the past decades. We ask how does it work in practice, compared to the ideals of PM. Conceptual problems, technical problems as well as political and value problems are addressed (Talbot, 2010). The chapter starts with a short theoretical and conceptual section applying perspectives from organization theory discussing the concept of performance. A main argument is that performance management must be put into a broad frame and not seen as a purely technical issue, because it has political implications, meaning that objective information often is blended with subjective interpretations by leaders and experts, negotiations among stakeholders about result implications, cultural constraints, and symbols.

Core challenges that will be addressed is what criteria is used to assess performance, and what incentives or penalties are attached to the performance indicators, including processes of gaming of the systems (Pollitt, 2018). Challenges related to goals, politics, and the control–autonomy dilemma, what is being measured, timing and attribution, performance reporting, follow up and accountability are discussed. Different trade–offs such as between autonomy and control, between standardization and flexibility, and between external incentives and trust–based systems, will be addressed. The chapter will discuss under what conditions and in what contexts the PM system works well and when it faces challenges. Variations across formal structural factors like tasks and administrative levels are examined, but also the importance of institutional factors. In this respect, challenges related to handling of transboundary tasks and wicked issues will be discussed as well as challenges with PM for handling more long–term problems and governance for the future and the tensions between settled and unsettled situations.

Empirically, we will have a special focus on central government and on the case of Norway. We have unique survey data related to the attitudes and behavior of Norwegian central civil servants



from four decades and some of these data will be used to illustrate some of the trends and challenges that are discussed analytically. The chapter ends by revisiting the theoretical perspectives. We draw some conclusions and point to some suggestions for revising performance management.

## **Theoretical Basis**

### ***Perspectives from Organization Theory***

The ideal model of performance management is founded in a hierarchical instrumental model. We will supplement this perspective with a negotiating perspective, a cultural perspective and a myth perspective to understand how it works in practice (Christensen et al., 2020; March, 1994). A hierarchically based instrumental perspective would expect that hierarchically responsible leaders implement PM in an instrumentally rational way, that the objectives and performance indicators are formulated through a top-down process and that leaders organize reform processes on the basis of unambiguous means-ends considerations. There is a sharp divide between politics and administration. There is to be a close connection between objectives, measurable targets, input, activities, output and outcome, and incentives are deployed to encourage staff to hit their targets (Pollitt, 2013). The point of departure is a deliberate instrumental-structural design by leaders to bring about change (Egeberg, 2012).

Viewed from a negotiation-based instrumental perspective, deficiencies in carrying out PM may stem from resistance to leaders' plans for change from actors inside or outside the organization due to different interests and perceptions of problems and solutions (March and Olsen, 1983). Different actors have different vested interests and may act strategically and influence how PM works in practice. PM may therefore both create conflicts and reflect compromises.

From a cultural perspective, it will be important to clarify how an organization's established cultural features (Selznick, 1957) will influence the course and outcome of processes of PM. Informal norms and values and the appropriate organizational solutions will be relatively stable over time. Rather than a logic of consequentiality, a logic of appropriateness informs how the PM are run and there will be a compatibility test of PM (Brunsson and Olsen, 1993; March and Olsen, 1989). It might run into trouble if it deviates too much from existing traditions, procedures, and processes. There might be a layering process in which PM is edited and supplements existing arrangements rather than replacing them, resulting in hybrid solutions (Mahoney and Thelen, 2005).

A myth perspective focuses on the symbolic aspects of PM (cf. Meyer and Rowan, 1977), which potentially may lead to both more easy implementation and implementation problems (Patashnik, 2014). There might be loose coupling between talk and actions (Brunsson, 1989). Public organizations attain legitimacy by deploying PM since it is regarded as modern and acceptable by the environment, but it might be more window dressing and how the organizations work in practice might not change that much. Performance information and performance data might be used to show that one is 'modern,' 'accountable,' 'in control,' or 'acting dynamically,' rather than with an intention to use it according to the ideal model (Pollitt, 2013).

### ***The Concept of Performance Management – Ambiguous and Multifaceted***

A performance management model consists of three main components: setting targets, selecting indicators, and taking action (Boyne, 2010; Van Dooren et al., 2010). First, one needs goals and objective which are clear, consistent, stable, specific, and operational. A hierarchy of goals starts with overall general and main goals which can be broken down into sub-goals and performance indicators. Normally superior bodies formulate these objectives, but they can also be developed by subordinate bodies through consultation. Second, subordinate bodies have to report on obtained



performance according to the specified goals, objectives, and performance indicators, which are often quantitative. Third, superior bodies are supposed to follow up upon reported performance. The main idea is that the performance management system is supposed to be an incentive system, where performance should have behavioral, organizational, or resource-based implications for the actors. However, performance management is not only a system for steering and control, but also a system for learning and improvement.

The performance management model is not based on a coherent model but has an inbuilt tension between on the one hand a distrust-based economic organization theory, such as principal-agent theory, in which subordinate bodies are subject to a rather detailed and rigid performance reporting regime (Knott and Hammond, 2012). By use of contracts or contract-based arrangements superior bodies are supposed to control and steer subordinate bodies to improve the efficiency in the public sector. The slogan is 'make the managers manage.' On the other hand, the model also is informed by a more trust-based management theory which assumes that subordinate bodies should have a lot of autonomy and flexibility in use of allocated resources (Boston, 2011). Thus, decentralization rather than centralization is important to increase the efficiency. The slogan is 'let the management manage'. Agencies are supposed to have more managerial autonomy but not more policy autonomy, and the control change from *ex ante* input control to *ex post* output control.

What is meant by performance? It might be useful to distinguish between objectives, input, activities, output, and outcome, that should be strongly related (Bouckaert and Halligan, 2008). The objectives are supposed to address some specific needs among users and citizens. Inputs are about organizational capacity such as staff, buildings, and financial resources. Activities are those processes that take place within the organization in order to generate output. Processual effects include effects on service quality, coordination, responsiveness, user-friendliness, motivation, and satisfaction among the employees. The output is the product of these processes, i.e. delivering of services to the users and citizens. The outcome is the societal effects of the output for users and citizens. Efficiency normally has to do with the relationship between inputs and outputs, while effectiveness is related to the relationship between output and outcome (Pollitt and Bouckaert, 2017). A narrow concept of performance focus on internal administrative and operational effects such as on efficiency, activities, processes, and output. A broad concept of performance also focuses on external, political, and societal effects such as outcome and the realization of public values such as effectiveness, equity, robustness, openness, and transparency (Van Dooren et al., 2010). An expanded concept of performance will also address side effects and effects on political-democratic steering.

Effects can also be *symbolic*, which one can understand from a myth perspective, concerning effects on opinions, beliefs, attitudes, and interpretations. As well as affecting practice, PM can affect ideas and influence peoples' and civil servants' understanding of public organizations. The effects are elements in building opinions, reputation, and conceptions of what are thought to be relevant problems and good solutions. Performance management can help change the organizational culture in the direction of a more performance-oriented and a less procedure-oriented culture.

Summing up, the instrumental perspective focuses on performance-based intentional behavior and deliberate action. One can distinguish between if one is preoccupied with the quality of the processes and actions being performed and the quality of the results or achievements. The ideal PM model focuses on both quality of activities and output as well as quality of results (Van Dooren et al., 2010). Both these aspects of PM are affected by cultural and symbolic factors.

### Challenges of Measuring Performance

There is a huge literature discussing challenges and dilemmas in measuring performance in the public sector (Bouckaert and Halligan, 2008; Christensen et al., 2018; De Bruijn, 2002; Talbot, 2010). Often, what is measured get attention and what is not measured might be neglected (Bevan

and Hood, 2006). One might be hitting the target, but missing the point. Performance measurement often relies on simplistic top-down approaches and one-size-fits-all solutions that are not always effective for dynamic and complex public organizations (Radin, 2006). Often the focus is on achieving efficiency without attention to other values.

### ***Ambiguous Goals and Objectives***

In practice, there are often *conflicting, unclear, and unstable* criteria for evaluating results. Conflicts can go between political parties, interest organizations, administrative levels, sectors, and professions. Goals and objectives may not be compatible, for example economy, efficiency, being representative, responsiveness to voters, professional quality, performance, service quality, safety and security, due process, control, neutrality, equal treatment, impartiality, public transparency and openness, predictability, and rights of participation, etc. PM is confronted with great many partially conflicting concerns.

Political collaboration and consultation and a culture oriented towards consensus, divergent normative and political criteria often cause actors to seek compromises, which in turn contributes to goals being ambiguous (March and Olsen, 1983). In a collaborative culture agreements and compromises are usually based on elastic formulations – long unprioritized wish-lists or ‘catalogues’ of good intentions that are open to interpretation. Often, unclear goals are intended to be unclear. This is apt to be politically necessary for garnering sufficient support for a new policy programs, yet unclear and partly conflicting goals make it more difficult to measure effects and results.

Another challenge is *unstable goals and criteria*, which makes it difficult to measure results. Frequent change of top political executives may change goals and priorities. Therefore, performance indicators change frequently, with problematic effects on subordinate levels. Altogether, this creates problems for measuring results and effects over time, and evaluations will be more social tests than efficiency tests (Thompson, 1967), with the measurement devices being relative, as it is with *benchmarking*.

### ***Politics and the Control – Autonomy Dilemma***

A fundamental problem with performance measurement, seen from an instrumental perspective, is that it presupposes two independent processes: one superior political goal-formulation process and one subordinate technical-neutral implementation and feedback process. But, the slogan ‘more steering in big issues and less steering in small issues’ is difficult, because political executives often have problems prioritizing, so the practice is often more a constrained performance system with high focus on results but low managerial authority and autonomy (Moynihan, 2008).

Tension often arises between a political and an administrative logic, given that one of the hallmarks of the political world is conflict of interests. Political logic pulls in the direction of being reactive, of responding to current and unexpected events, where small issues can be used to signal a political stance to voters (cf. March, 1994). Often one is more preoccupied by influencing the political agenda and launching new initiatives than to evaluate existing policy. Consequently, two steering systems might develop that are relatively loosely coupled to each other: a political steering-system and a performance-management system, largely delegated to administrators, professionals, and experts. Many politicians experience the demand for result control as burdensome when the parliament, the national auditor’s office and the mass media are continually asking for results.

### ***What Is Being Measured?***

In spite of being highly contested, performance measurement has increasingly been used in public management (Johnsen, 2005). One often faces the performance paradox referring to a weak

correlation between performance indicators and performance itself (van Thiel and Leeuw, 2002). To turn attention from procedures, processes and allocating resources (input), to activities, products, services (output) and societal results (outcomes) is challenging. Often, processes are measured as *surrogates* for results and effects in society, because results of many initiatives are not apparent until many years later, nor will results necessarily follow the budget year. Instead of studying the effects on society, one often resorts to scrutinizing whether there have been changes in the way public organizations plan and collect information, the content of the plan, and managerial routines and behavior. Follow-ups of goals is not based on unambiguous objectively performance information, but rather interpreted in a collaborative dialogue between actors with different institutional belongings, roles, and interests.

Deficient performance measurement may also have to do with such measurements tending to be trivial, uncontroversial, apolitical, and vague, while politically controversial performance indicators have a tendency to be removed. Thus, performance information for democracy is often a missing link (Pollitt, 2006). This means that the less politicized an organization's sphere of activity is, the easier it will be to develop performance indicators. While political controversial issues, like 'wicked' problems that are transcending organizational borders, often is difficult to handle for PM. Examples of such 'wicked issues' are societal security, climate change, environment, poverty, unemployment, crime, and immigration.

### ***Timing and Attribution***

There is also the *problem of timing*. When should the performance be measured? If performance is measured shortly after an initiative has been launched, the measurements will pertain mainly to the adaptation process, which makes it easier to intervene and change the course of reform. If one waits until it is possible to reveal all the consequences, it may be too late to influence political decisions about the initiatives and the program's future. But, the more time that passes, the greater the difficulty of isolating the effects of a specific policy initiative from other policies that have occurred at the same time.

The problem of timing is also linked to the problem of governing for the future (Boston, 2016). Performance management systems are often related to yearly budget cycles or to four years election cycles. But, often the time horizon is much longer and effects can only be detected after many years. The problem of climate change is a good example of such long-term effects that cannot easily be handled in performance management systems.

This leads us to a serious methodological problem of effect measurement, namely, *the problem of attribution*. The attribution problem arises when one tries to identify and isolate the effects of one single policy initiative. It is also difficult to grasp the *contra-factual*, that is, what would have happened without the ongoing measures. A particularly difficult task is to isolate the effects of a single reform measure in a period when many other changes are underway.

### ***Performance Reporting***

How reliable are the results information reported back to leaders by potentially self-interested actors working in an incentive-based system? Often reported information upwards is not neutral, but can be used strategically and biased in order to promote self-interest. Accordingly, there is a risk of gaming or bending the rules (Pollitt, 2013). Performance management encourages strategic over-reporting of successes and under-reporting of failures in order to strengthen one's own organization or position.

Another challenge is to let one set of performance indicators to stand for the whole performance of the organization while important aspects of the organization, which is not being measured are

ignored (Bevan and Hood, 2006). Or, *mismeasurement* happens when less important but quantifiable aspects of organizational activities are reported, whereas more crucial but non-quantifiable aspects remain unreported. One measures something other than what was originally intended by only accounting for quantifiable and calculable circumstances.

Finally, reporting involves the *problem of isolating the results* of a single organization's activities from all the other activities of public organizations. In a public organizational landscape many challenges lie at the interface between organizations and organizational boundaries between them could be blurred. In practice, public organizations are often intertwined with other public organizations and organizations in society. There are, for instance, demands for co-production in which numerous organizations may collaborate, cooperate, share team leadership, and be involved in transboundary networks. This may also include public-private partnerships.

### ***Follow-Up***

Whatever results are achieved, they should have resource-related, personnel-related, or organizational consequences. Good results are supposed to be rewarded and poor results should be punished, which is difficult in practice. One example is the pay-for-performance systems for administrative executives, whereby they are supposed to receive salary supplements for good performance and lose supplements for poor performance, but they have had only limited success as performance incentives (Lægreid, 2000). Likewise, government resources are seldom allocated on the basis of performance or results, partly because budgeting processes are seldom consistent in providing good, reliable information about results. Furthermore, using information about results in order to allocate resources works better at lower public-sector levels than at higher levels. Another example of how difficult it is to operate with a narrow focus on results, is the relationship between the police, the courts, and the prison authorities. An effective police force can create problems and queues for courts, and effective courts can create prison queues. One organization's success becomes the next organization's problem.

A further problem of follow-up is that subordinate agencies can never be completely sure how those in superior positions will use information about their performance information. Do superiors, for reasons of capacity or motivation, immediately file the report without reading it, or how are they using the incentive system? This creates opportunities for manipulation by superiors, and uncertainty for subordinate organizations.

And, public leaders are often facing the dilemma of either rewarding good performance or trying to help public organizations with poor performance, because the latter could be politically appropriate. Evaluating what should be done with good and bad results must also be seen in relation to the tasks that different organizations have. Many public organizations must cope with problems of wickedness that will never be completely resolved, such as crime, drug abuse, alcohol abuse, unemployment, and environmental protection issues.

### ***Accountability***

Who should be held accountable for poor results and who should get credit and be rewarded for good results? One face the 'problem of the many hands' or who should be accountable, and the 'problem of the many eyes' or to whom one should be accountable and for what. Often different accountability dimensions are present. One can distinguish between political accountability, administrative accountability, professional accountability, legal accountability, and social accountability against users and clients (Bovens, 2007). An instrumental understanding is often preoccupied by formal, mandatory vertical accountability which often is political or administrative, while the cultural and symbolic perspectives more point to more voluntary, informal, and horizontal

accountability relations such as professional and social accountability (Schillemans, 2008). Managerial accountability, connected to PM, will be a version of administrative accountability.

The *principle of ministerial rule* is central in many representative parliamentary democracies. This means that the individual cabinet minister is accountable for everything that happens in his or her subordinate organizations. At the same time performance management allows greater autonomy for administrative executives and structurally devolved organizations, which deviates from their traditional role of following rules and procedures. It is not uncommon that politicians want to take the credit for good results, but pass accountability for bad results onto the organizations that actually carried out the work (Hood, 2011). The tension between control and autonomy is a persistent and fundamental dilemma.

Increased managerial freedom often results in the paradoxical development of an explosion in auditing and control. There are high demands for results, but managers lack authority to promote change, limiting performance improvements and result-based accountability (Moynihan, 2008). Contracts, whether institutional or individual, may engender a 'check-list approach' to questions of accountability, which pulls in the direction of short-sighted aspects and a weakening of broader, long-term of accountability. Performance contracts may therefore strengthen administrative accountability but weaken political accountability.

The critical question is to what extent politicians can waive accountability for the consequences of how means are used in structurally devolved or market-exposed public organizations with limited transparency. At the end of the day, politicians are held accountable, often for results over which they have diminishing control (Brunsson, 1989). This gap between accountability and power is an important source of the legitimacy problems that public organizations increasingly face in relation to the general public.

## Norwegian Experiences

Management by Objectives (MBO) has been a central component in public management reforms in Norway from the first modernization program in 1986 and it is now the basic steering principle in government (Christensen et al., 2018). In 1987, it was decided that all government bodies should have a strategic plan based on a management-by-objective technique. A main focus was on designing a hierarchy of objectives from main goals to sub goals and performance indicators. Since then the system has developed over time.

First, the focus changed from goals and objectives to performance and results, and the labelling changed to management-by-objectives-and results (MBOR). Second, from 1997 it was integrated into the financial management regulations which should be based on the principles of MBOR. A new agency management system based on the principle of MBOR was established, including a letter of allocation of financial resources from ministry to subordinate agencies including performance indicators, a steering dialogue and regular performance reporting. Third, quantifiable performance indicators have been supplemented by qualitative descriptions of results and more flexibility was allowed based on the specific features of individual agencies. Fourth, in 2004 a specific central agency, the Government Agency for Financial Management, was established to manage the performance management system.

Fifth, it has been an increasing recognition that the system has become too complex and detailed with too many goals, objectives, and performance indicators. It has been difficult to live up to the claim that the performance management should concentrate on significant and important issues and risk assessments. In some areas, such as the police, the hospital system and the education field, there was more than 120 different performance indicators every year that also were revised several times during the year. Thus, it is difficult to practice a 'hands off' management and 'let the manager manage' (Læg Reid et al., 2005). Over the last decade, efforts have been made to simplify

the system and reduce the number of performance indicators. 'Steering by indicators' has proven to be difficult (Læg Reid et al., 2006), like seen in the welfare administration, where the central leadership in a period tried to steer the regional units once a month based on around 40 performance indicators.

Sixth, the system has been criticized for becoming a rigid and detailed steering and control tool for superior bodies and that it should also be seen as a tool for improvement and learning. Over time, it has been a development towards 'balanced scorecard' as a voluntary modification of the MBOR system, and 'risk management' has been an integrated part of MBOR from 2004. A change has occurred from a MBOR discourse focusing on autonomy and a simple system in the early years, toward a discourse focusing more on control and a more sophisticated, detailed, and comprehensive system (Kristiansen, 2015).

The MBOR system is mandatory and supposed to be used for all governmental bodies, but it varies how tight the coupling is between the PM and the financial resource allocation. For example, within higher education and the hospital system the funding is partly depending on achieved activities and outputs such as treated patients and graduated students. But, it is a continuous debate about how large the incentive-based financing should be for hospitals, or whether for the system is biased in the university system, favoring large disciplines, and undermining small one, like humanities.

Large public agencies in Norway have a tendency to comply more with the PM system than smaller ones regarding goal formulation, performance reporting and performance steering, reflecting capacity. The PM system is also more easy to implement in young agencies. Adding to this, a high level of mutual trust between a ministry and agency is furthering the use of a PM system, i.e. they are supplementary systems, which seems paradoxical (Christensen et al., 2006). Generally, there is a loose coupling between overall goals, objectives, performance indicators, performance reporting and using the results for performance steering (Christensen and Læg Reid 2015; Læg Reid et al., 2006). Overall, the MBOR is a soft performance management system characterized by mutual trust, cooperation, and dialogue (Christensen et al., 2006). The traditional cooperative policy style is combined with performance management techniques in a mixed system.

A large study of the role of PM in the steering of 77 executive agencies shows that performance goals in performance contracts are much more on output than outcome and that input and process goals are used slightly more than outcome goals (Askim, 2015). This study also shows that performance management practices are loosely coupled to the ministerial financial, legal, and direct behavioral steering. Agencies with higher fiscal autonomy, legal autonomy or behavioral autonomy do not face fewer performance goals overall than other agencies, but they have a higher number of input-oriented performance objectives. Overall, the performance management practices are influenced by contextual factors like the agency's tasks, age, and size (Askim et al., 2015).

Bjurstrøm (2020) finds that that to capture varying ministry-agency steering practices, it is necessary to take both input-oriented steering and output-oriented steering into account. Organizational characteristics only partially explain steering practices. Also, whether the relationship between ministries and agencies looks like a principal-agent relation or a principal-steward relation matter. He also shows that ministry-agency steering practices affect the impact of performance management on the governance of agencies. Bureaucrats who perceive performance management to be more oriented towards a bottom-up approach, perceive performance management to have a higher impact in the steering.

Civil servants in ministries and central agencies in Norway agree that the development of objectives and performance indicators is done in consultation and cooperation between superior and subordinate bodies. Involvement of affected actors seems to be an important pre-condition for successful implementation. Regarding effects of the MBOR system, the civil servants in central government agree that it has enhanced a result-oriented administrative culture and strengthen the



control of subordinate bodies, but not increased the efficiency (Christensen et al., 2018). In 2016 51% employees in central agencies agreed that MBOR first of all was a tool for control and steering from superior authorities, while only 22% said that it had enhanced improvement and learning and 25% agreed that it gave great flexibility and autonomy for subordinate bodies.

The Norwegian PM system has both an organizational system linked to the budget system for the specific organizations and an individual system linked to pay-for-performance arrangements for top managers. It seems to a greater extent to have become a control and reporting regime than a tool that give more autonomy and discretion to subordinate bodies. It is more measuring of activities and tasks than outcome-based results. An Achilles heel seems to be the interface between political and administrative executives and the follow up on performance reporting. It varies to what extent MBOR is linked to resource allocations. At individual level, it has also been difficult to live up to the performance elements. In many positions, it has been difficult to link pay to individual performance for top managers.

### **Revisiting the Theoretical Approaches**

The existing literature shows, first, that seen from an instrumental perspective PM has to a great extent been adapted as a new governance tool in public administration. It is one of the major components in contemporary administrative reforms. Second, PM is seldom a straightforward and commonsense procedure according to the ideal model of PM. Third, it does not mean that PM usually is a failure. The question is how far the supplementing negotiating, cultural and symbolic approaches can contribute to understand how PM works in practice. There are delicate balancing acts between stability and change, and between tight and loose coupling between performance measures and incentives, between top down and bottom up processes, and between trust-based and distrust-based approaches (Pollitt, 2013).

It seems to work better as a tool for administrative control of subordinate bodies than as a mean to enhance the political control. In the PM system, the main role of the political executives is to formulate main goals and assess achieved results, but it is difficult for the politicians to live up to these role expectations. The PM system seems to work best in more simple situations when there are agreements about goals and targets and when the means-end knowledge is strong. In more ambiguous situations with goal conflicts and weak means-end knowledge, the PM systems is more difficult to practice (Askim, 2015). In general, PM is not well suited to handle complex 'wicked issues' that transcends administrative levels and policy areas, and in which there is a loose coupling between the organization structure and the problem structure. It is also not well suited to handle the problems of governing for the future and long-term challenges that goes beyond yearly budget cycles and four-year election cycles.

Seeing PM from a negotiation perspective, the politicians are in typical consultative and consensus-based political-administrative systems with coalitions or minority governments, which seldom make them able to formulate clear, consistent, and stable goals. It has been an increasing critic of lack of political priority and micro-management through a great number of goals, objectives and performance indicators followed by detailed performance reporting.

Seen from a cultural perspective, PM has been modified, translated, and edited to fit to the established culture and tradition in public administration (Askim et al., 2015). What is called performance management it not necessary the same as the ideal model recommended by the concept developers. PM has not replaced the established governance tools, but supplemented and modified them. The result is increased complexity and hybridity in the administrative apparatus (Christensen and Læg Reid, 2015). Management by rules is still widespread and cost efficiency is seen as less important than due processes and rule of law in many countries.



Seen from a myth perspective, the politicians often interfere in single cases with high symbolic value, because they act regarding the so-called 'institutional environment' (cf. Meyer and Rowan 1977). The media often define the political agenda and affect the politicians' attention. Thus, it is difficult to live up to the PM slogan of 'more steering is big issues and less steering in small issues'.

One implication is that the benefits of PM will vary considerably from one context or situation to another (Pollitt, 2013). As a global idea, PM may be adopted seriously and effectively in some contexts, in a primarily symbolic manner in another or translated and edited to fit the existing administrative culture or interests in a third setting. Thus, there is unlikely to be a unique 'best practice'. Good practice will be practice that fits the specific context well.

## **Conclusion**

There are many paradoxes in PM systems (Bouckaert and Halligan, 2008; De Bruijn, 2002; Radin, 2006). One is that it prescribes decentralization, local autonomy, and flexibility, but also centralization and control. Another is that goals and objectives should be clear, consistent, and stable, while practice shows that they are often ambiguous, conflicting, and unstable. Third, PM is based on a trust-based management theory, but also on a mistrust-based principal-agent model (Boston, 2011; Knott and Hammond, 2012). Fourth, trust in professionalism is crucial for good performance, while PM express certain distrust in professions. Fifth, PM is supposed to improve performance, but often performance indicators are not the same as performance. Sixth, PM should primarily focus on outcome, but outcome is hard to measure. Seventh, what is measured get attention, but many important aspects are difficult to measure.

Overall, PM have experienced both failures and disappointments as well as many solid achievements. Available evidence suggests that performance management works, but the quantity and quality of the studies is clearly too low to draw firm conclusions (Boyne, 2010). It works in some situations, for some tasks and organizations and one implication is that promoters and designer of such systems should be more characterized by being humble than act out of hubris (Pollitt, 2018).

One can ask if PM is the best non-workable system (van Dooren et al., 2010). Are we facing the TINA paradox, meaning There Is No Alternative? Performance management is necessary and useful, but impossible to attain. When PM does not work, the answer has often been that there is nothing wrong with the system. One has to make the system more sophisticated, improve the implementation, replace, or educate managers who do not follow the system, etc. May be it is time to ask if there is something wrong with the system and to reform it, so that it fits more to the actual practice in the political-administrative system. PM practiced as management by measurement tends to fit only the rather unambiguous context of public administration (Nordergraaf and Abama, 2003). What may be needed is a system that can be used for ambiguous and uncertain circumstances and that are more trust-based. Reducing the need for control might be more important than to enhance the possibilities for control. PM also needs to be more political, involve more actors and dealing with conflicts.

There are also several challenges for research on performance management regarding research gaps and agendas for further research. First, there is a need to move beyond the instrumental rational model and to also include contextual, institutional, and cultural approaches. Second, there is more need for comparative research, longitudinal studies as well as comparison across countries, policy areas and administrative levels. It is important to go beyond the one-size-fits-all model and to examine how it works in practice in different contexts.

Third, there is a need for studying how performance management can be designed to handle complexity and transboundary 'wicked' issues characterized by uncertainty regarding means-end knowledge and ambiguities regarding goals and values. There is a miss-match between the

complexity of contemporary governance systems and the simplicity of performance measurement and management used to portray them (Moynihan et al., 2011). One way to handle these challenges is to introduce collaborative performance management in the shadow of hierarchy, but there is little knowledge about how such arrangements works in practice, their effects and implications for accountability relations and democratic values (Busi and Bitici, 2006).

Fourth, there is need for more research on the relationship between performance management and other tools for control and governing in the public sector, such as use of informal signals, management by rules, fiscal, legal, and direct behavioral steering as well as trust-based steering. Often different ways of steering coexist and supplement each other in a complex mixture, which is under-researched. Linked to this there is a research gap between looking at performance management as a steering tool and to examine performance-based reforms as organizational learning (Moynihan, 2005).

Fifth, there is also a research agenda to move beyond the traditional study of particular performance management reforms and initiative and broad assessment of whether they appear to have been working or not and to pay more attention to the micro-foundational bases for how public officials actually make use of performance data (James and Olsen, 2017; Moynihan et al., 2017). To get a better understanding of managerial use of performance data by bureaucrats and politicians as well as by citizens observational research needs to be supplemented by experimental methods.

Finally, it is a research gap between a narrow concept of performance addressing internal administrative effects on processes, activities and output and an extended concept of performance which also include outcome and societal effects on users and citizens. An important research agenda is to move from a technical and managerial approach to performance management and to also include the political aspects of performance management. Regarding effects, it is also a challenge for researchers to go beyond perception data and to grasp the long-term effects that go beyond yearly budget cycles and four-year election cycles.

Thus, there are theoretically, conceptually, methodologically, and empirically challenges for future research on performance management but promising new research agendas has the potential to reduce research gaps and to increase the evidence-based knowledge about how performance management works in practice. The challenge is to get a more realistic view on what constraints and enables this administrative reform, to get a better understanding about under what circumstances it might work well, and when it runs into problems.

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# APTITUDE, ACCOUNTABILITY, AND ADAPTATION

## Research Themes for Public Budgeting, Financial Management, and Accountability

*Justin Marlowe*

### **Introduction**

The study of public budgeting, finance, and financial management is often focused on technical matters. How much money should a state government keep in its “rainy day fund” (Joyce, 2001)? How can local governments bolster their bond ratings (Palumbo and Zaporowski, 2012)? Which forecasting techniques and processes produce the most accurate revenue estimates (Beckett-Camarata, 2006)? What is a non-profit’s ideal mix of earned revenue, donations, and borrowed money (Calabrese, 2011)? Research of this sort produces specialized, actionable insights of real clinical value to public finance practitioners.

But at its core, the study of public budgeting, finance, and financial management is an academic sub-field of public administration. After all, budgeting was the final piece of POSDCORB (Gulick, 1937), and the focus of VO Key’s (1940) “central question.” It follows that by observing the practices that budgeting and finance professionals employ, and the accountability dilemmas they face, work in this sub-field can speak to “questions of the state” (Milward et al., 2016) that resonate across all of public administration.

With that goal in mind, nearly a decade ago a group of junior public financial management scholars (Kioko et al., 2011) set forth a framework to organize the core public management concerns that public financial management could and should directly inform. Their review focused on three salient public management themes where public budgeting and financial management could offer especially useful empirical insights. Those themes are reiterated here as the “Three A’s” – aptitude, accountability, and adaptation.

This chapter revisits those three main themes, with particular emphasis on scholarship within the past decade and suggested directions for future research.

### **Aptitude – Expertise and Discretion in Democratic Institutions**

There is a scene in Act 2 of the hit musical *Hamilton* where Thomas Jefferson, James Madison, and Alexander Hamilton emerge from the private meeting where they brokered the Compromise of 1790. Recall that this monumental agreement placed the new nation’s capital in the South in exchange for Hamilton’s plan for the federal government to assume the states’ Revolutionary

War debts. An ambitious young Aaron Burr observes the three emerge from the meeting, and is shocked that a nakedly ambitious, non-elected technocrat like Hamilton could wield such influence. In that moment, Burr decides to enter politics so he might be the people's voice "in the room" as the young nation's course was charted. The cast refrains, "No one really knows how the game is played, the art of the trade, how the sausage gets made. We just assume that it happens but no one else is in the room where it happens."

This scene is Broadway's take on public administration's classic "Frederich-Finer" debate (see Wang and Crosby, 2019). Elected officials enjoy the moral authority bestowed by voters, but rarely have the technical expertise to solve complex service delivery problems. Professional administrators have endless skill and resourcefulness, but no authority of their own. This tension is often distilled to a simple but daunting question: How much discretion should elected officials afford professional administrators? Public budgeting, finance, and financial management are excellent settings to explore this question.

### ***Designing and Managing Stakeholder Engagement***

One ubiquitous and visible example of discretion in action is citizen co-production of services (see Nabatchi, 2012). Administrators exercise enormous discretion over how, when, and why to engage citizens in the technical work of delivering public services. It follows that one of the key questions in public management today is how the design of those citizen engagement processes affects everything from service delivery outcomes to citizens' perceptions of government.

For nearly 30 years, public budgeting scholars have examined states' and localities' efforts to engage citizens in the formation, execution, and evaluation of budgets. The initial work in this space focused on how these efforts were structured and whether citizens produced relevant and actionable feedback (Ebdon and Franklin, 2004). More contemporary work goes a step further and examines whether citizen participation actually changes budget allocations and finds the effects range from negligible (Clark and Guzman, 2017) to unintended redistribution (Shybalkina and Bifulco, 2019). This is an area ripe for future research, especially around how citizen engagement with budgeting affects other dimensions of accountability like trust in government, support for future fiscal policy actions, and citizens' capacity to participate in other policy-making activities. Future work might also build on recent attempts (Khalid et al., 2017) to catalog the origins, structure, and outcomes of participatory budgeting activities in collaborative organizations like regional coordinating and planning bodies.

A related stream of research investigates how budgeting professionals act as information intermediaries in budget formation. It shows that when presented with new information about operational performance (Demaj, 2017) and financial performance (Jorge et al., 2019), elected officials' budget preferences become stronger, their budget positions become more polarized, and they become less willing to compromise. This raises a number of questions for future research about how the design and information content of the budget process might bias resource allocation.

### ***Disclosure, Transparency, and Narrative-Building***

Finance professionals also enjoy broad and consequential discretion over financial reporting. Governmental accounting principles set minimum standards for the structure and types of financial information that governments must disclose. But beyond those minimums, finance professionals can and often do influence what information their organizations disclose, where they disclose it, and how they disclose it.

Studies of government financial disclosure have historically focused on two main disclosure-related concerns. One is how financial disclosure, or the lack thereof, distorts citizens' understanding

of their tax burden. This is the so-called “fiscal illusion” tradition of public finance (see Oates 1985; Afonso, 2014). This literature is thoroughly developed.

The other is how investors, credit rating agencies, and civil society groups respond to financial disclosures (see, among others, Baber and Gore, 2008; Johnson et al., 2012). This line of work has been especially robust throughout the past decade, as a flurry of new governmental accounting standards have compelled state and local governments to disclose vast new amounts of information about otherwise opaque financial concerns like unfunded pensions, retiree health care liabilities, and infrastructure maintenance needs. It seems stakeholders do respond these new disclosures (Marlowe, 2007; Aubrey et al., 2017; Benson and Marks, 2017).

In addition to content, the timeliness of financial reports also matters. Compared to their corporate counterparts, states and localities tend to report on their finances at a considerable lag. This is thought to diminish the value of that information, particularly to investors. That’s why it’s not surprising that more timely reporting (Edmonds et al., 2017) correlates with lower debt financing costs. Work in this space is well-developed, but will continue to proliferate as accounting standards, stakeholders’ information needs, and information-sharing platforms continue to evolve.

Looking ahead, a promising new stream of work closely scrutinizes how finance professionals use financial statements, budgets, and other platforms to shape a financial narrative. For instance, governmental accounting researchers have correlated positive “linguistic tone” in cities’ financial statements with lower likelihood of future budget deficits (Rich et al., 2018; also see Anastasopoulos et al., 2020).

Many states and localities have also developed alternative financial reporting platforms. Some use short, plain-language, visually engaging versions of traditional financial statements – broadly known as “popular financial reports” – to make their finances more accessible to citizens (Yusef and Jordan, 2015). This style of reporting allows financial managers to position their organization’s finances within a broader economic, political, and strategic context. How they define that context, and how that context shapes citizens’ perceptions, are unanswered empirical questions. Others employ corporate-style investor-relations programs to pro-actively share information with investors and credit analysts. In an era of social media and unprecedented demands for transparency, this process of financial narrative-building has emerged as one of the most profound applications of administrative expertise in all of public administration.

### ***Balancing Efficiency with Equity***

Much of the study of public management is focused on the interplay between efficiency and equity. Some view them as complimentary while others see them as inherently at odds (for a thorough overview, see Fernández-Gutiérrez and Van de Walle, 2019).

What’s less contentious is the claim that the interplay between efficiency and equity is often moderated by the application of administrative expertise. Public budgeting, finance, and financial management are rich settings to explore that interplay and moderation.

For most of the 19th and 20th centuries, public budgeting and administrative efficiency were all but synonymous. Budgeteers were seen as the guardians of efficient allocation, control, and use of public resources. But with the advent of the New Public Management (see, among many others, Dunleavy and Hood, 1994) much of that emphasis has shifted toward the budgeting and financial management in the pursuit of equity.

Much of the field of tax policy analysis is rooted in a distributional implications framework that pinpoints many specific equity-efficiency trade-offs. For instance, an income tax with progressively higher rates is a terrific way to shift more of the tax burden on higher income individuals. But at the same time, income taxes are difficult and costly for the government to collect, and can lead to unexpected changes in consumer behavior. In other words, the income tax is good



for vertical equity, but administratively and economically inefficient (for a good summary, see Crawford, 1997). Public management scholars interested in equity would be well-served by familiarizing themselves with this literature.

A great deal of recent tax policy analysis has shifted toward governments' attempts to retrofit government their revenue systems to a 21st century economy. Several papers have examined equity-efficiency trade-off for sin taxes (O'Donoghue and Rabin, 2006), sales and excise taxes on electronic commerce (Afonso, 2019), and a bevy of new alternative revenues (Zhang and Hou, 2020) including controversial court fines and fees (see Su, 2019). Expert opinions on the design and implementation of these unconventional new revenue instruments will shape equity-efficiency interactions in states and localities for years to come.

The decision to not collect revenues is also enormously consequential for equity-efficiency dynamics. Urban areas compete fiercely for major economic development projects, cultural institutions, and other amenities that often exempt large swaths of the local economy from property and sales taxes. An important but often overlooked question is how these exemptions, and attempts to backfill them with payments in lieu of taxes (PILOTs) and similar arrangements affect the distribution of tax burdens. Tax policy analysis has only now begun to contend with the equity implications of tax abatements, deferrals, differential rates and other "tax expenditures" that reduce tax burdens for specific businesses and industries (see Benjamin and Posner, 2018). This area is ripe for empirical research, especially in the wake of recently developed accounting standards designed to bring new visibility into the size and scope of state and local tax expenditures (Propheter, 2017). Taken together, all this suggests tax policy experts and their recommendations about tax expenditures can dramatically shape equity-efficiency trade-offs.

A correspondent branch of this literature is focused on "intergenerational equity," or how fiscal decisions today affect future tax and spending burdens. Public finance has long been concerned with how to measure intergenerational equity and how to incorporate it into the budget process (see Auerbach et al., 1994). Throughout the past decade, new accounting information about long-term liabilities has spurred an explosion of empirical research. Much of it has focused on the near-term and intermediate-term fiscal implications of public pensions (Novy-Marx and Rauh, 2011; Thom, 2013) and other long-term liabilities. This literature establishes without question that these liabilities could force an unprecedented transfer of wealth from the next generation to the current generation.

What's less clear is how public financial management professionals attend to intergenerational equity concerns in more routine, less visible financial decisions. Debt re-financing is a perfect example. Interest rates have remained at record low levels throughout the past decade. That's presented governments with myriad opportunities to reduce costs by re-financing debt now on their books. When to refinance debt is certainly a technical decision driven by expert recommendations. However, many re-financings also present opportunities to lower debt service costs even more, and curry favor with elected officials, by pushing principal and interest payments further into the future. This practice of "scoop and toss" can fundamentally re-shape a government's intergenerational equity profile (Luby, 2014). When is it appropriate or necessary for finance professionals to solve these types of political problems with technical solutions?

The same is true of borrowing money to address pension or retiree health care obligations (Calabrese and Ely, 2013) and various other forms of financial engineering designed to shift fiscal pressure away from the current budgets and onto future budgets (Singla and Luby, 2018). A similar dynamic is at work in many infrastructure privatization agreements, where governments are able to take large up-front payments in exchange for allowing a private operator to collect tolls or other fees long into the future (Gilmour, 2013). These opportunities demand sophisticated technical analysis that is beyond the comprehension of most elected officials. As a consequence, professional

public financial managers wield tremendous influence on intergenerational equity. And yet we know little about why, when, and how they choose to exercise that discretion.

More recently, budget and finance professionals have assumed a central role in a variety of new strategies designed to bolster equity of all sorts. This is not new. Public education finance scholars have spent decades studying policies designed to address socioeconomic and geographic disparities in spending on public schools and the attendant disparities in educational outcomes (Duncombe and Yinger, 2005). Public health scholars recently took up a similar effort (Mamaril et al., 2018).

However, the more recent focus on disparities is unique in that it has made its way into the technical budget analysis carried out in many large jurisdictions (see Valenzuela, 2017 for a recent example). In fact, the Government Finance Officers Association's recently revised code of professional ethics states explicitly that careful attention to the needs of underserved communities is a necessary precondition for effective financial management and, ultimately, trust in government.

Cost accounting has its own vast implications for equity. And unfortunately, those implications are often overlooked. How governments and non-profits choose to assign costs across departments, funds, and other organizational units has enormous implications for who receives services and what they pay for those services (Mohr, 2017). But at the moment we know little about if and how elected officials and technical experts bring equity considerations to bear on cost accounting policies, rate-setting decisions, and other policy choices.

### **Accountability – Financial Resources, Performance, and Outcomes**

During the late 20th and early 21st centuries, the field's collective thinking about accountability shifted. Gone was the old paradigm that emphasized hierarchy, process, and political control. In came a new paradigm organized around measurable outcomes, decentralized governance, and market solutions (see, among many others, Romzek, 2000). Public budgeting and financial management has had much to contribute this evolution and the study of it.

### ***Performance Budgeting and Performance Management***

Perhaps the most direct connection between the outcomes-focused accountability and public resource management is the advent of performance budgeting. Public budgeting scholars have since the Progressive Era studied the many ways that outcome indicators can inform resource allocation. Performance budgeting and the study of it became especially popular in the 1960s with the advent of the federal government's planning, programming budgeting system (Schick, 1966) and later with the Government Performance Results Act and its subsequent iterations (Gilmour and Lewis, 2006; White, 2012).

The most current and well-developed stream of research has its roots in the 1990s, when sub-national governments in both the US and abroad implemented their own versions of performance budgeting (for a thorough summary, see Lu and Willoughby, 2018). This literature has more than adequately explored the various types of performance budgeting now in use and why jurisdictions adopt those forms (Mauro et al., 2018). What's less clear is whether performance measures change budget appropriations (Ho, 2018). Moreover, a small but growing stream of research has taken a more cynical view performance budgeting. For instance, recent game-theoretic work (Bischoff and Blaeschke, 2016) has shown that the time and effort of "window dressing" the budget with performance measures might outweigh any performance improvements.

Oddly, public financial management scholars have devoted surprisingly little attention to the financial and other costs of improving performance. In fact, there is evidence that cost accounting

and performance budgeting are incompatible as methods to control cost and improvement performance (Mohr, 2016). Looking ahead, public financial management scholars could add tremendous value to questions of performance and accountability by answering basic questions about costs of performance outcomes and the foundational administrative activities and capabilities that support them.

This emphasis on benefits, costs, and administrative processes highlights another emerging area of research: The changing role of the central budget office. Budgeteers were central players in the era of accountability through efficiency. Their deep knowledge of the technical dimensions of budget formation allowed them to control where and how money was spent. Performance budgeting threatened their very existence because it shifted the locus of control away from cost control as a performance measure and toward broader questions about if and how spending led to desired outcomes (Schick, 2001; Marlowe and Nye, 2013; Kalambokidis, 2014). Central budget offices have slowly adapted to this new reality by adding strategic planning, process improvement, benchmarking, benefit-cost analysis, and demographic forecasting to their core competencies. Future work can and should consider whether this drastic shift in the work of budgeting has advanced performance and accountability more generally.

### ***Financial Outcomes as Effective Management***

Since the Great Recession, many public budgeting and financial management scholars have shifted away from performance measurement as a component of budgeting, and toward government-wide fiscal health as a performance indicator all its own. This is one of the sub-field's most robust areas of inquiry throughout the past decade.

For much of the 1980s and 1990s, "fiscal health" was all but synonymous with state "Rainy Day" fund balances (Joyce, 2001) and local government fund balance levels. The Great Recession challenged the fidelity of those measures, as many states and localities with strong financial cut services much deeper than their peers, often without touching those reserves.

That counterintuitive behavior revived interest in more comprehensive frameworks that tell a richer and more nuanced fiscal health story. Many papers have proposed new measurement frameworks and adaptations of existing frameworks (see McDonald, 2018 and Helpap, 2016 for thorough overviews). More recent work has focused on the challenges and opportunities of forecasting future fiscal health (see Gordon, 2018; Gorina et al., 2018). To date, this body of work has archived a more than adequate arsenal of fiscal health performance measures.

How to measure fiscal health is an important question, but perhaps the more important question is how public managers can improve it? Financial management scholars have devoted considerable attention to the efficacy of "fiscal strategies" that state and local finance professionals employ to that effect. This work, not surprisingly, tends to focus on technocratic financial solutions like reserve funds (Snow et al., 2015), fiscal slack (Hendrick, 2011; Gorina et al., 2019) and conservative budget forecasting (Thompson and Gates, 2007; Rose and Smith, 2012), among others.

That said, an especially promising new stream of work leverages this same empirical strategy to consider how a much broader range of administrative actions affect fiscal health. By implication, it then also speaks to the relationship between administrative action and performance outcomes generally. For instance, recent papers show that benchmarking (Gerrish and Spreen, 2017) and training (Spreen et al., forthcoming) both improve local fiscal health and reduce the variability in health across jurisdictions. Future work in this vein might consider the relationship between fiscal health and other administrative actions like strategic planning and administrative reorganization.

Public management scholars have also leveraged fiscal health outcomes to explore the efficacy of some particular accountability mechanisms. For instance, there is evidence that declines in local fiscal health correlate with turnover of both top managers (Connolly, 2018) and elected officials

(Cuadrado-Ballesteros et al., 2019). And naturally, if fiscal health is so important, then managers will have incentives to manipulate how it's measured and reported (Rich and Zhang, 2016; Anessi-Pessina and Sicilia, 2020).

This analysis can extend beyond fiscal health to consider the management and effectiveness of other financial management outcomes. As an example, property tax administrators are held to a clear performance indicator – assessed values as close as possible to actual sale values – and employ training, benchmarking, managerial networking, and other management tools to bolster their performance (Pie-Ching Lee et al., 2014; Propheter, 2016). The same is true for functions like procurement and debt management (see Hildreth, 1993). These basic questions about administrative action and fiscal outcomes more broadly are ripe for additional study.

### ***Financial Outcomes as Policy Analysis***

Financial outcomes are also an ideal setting for public policy analysis. Public finance is shaped by many different rules that change often, and in turn present opportunities for sophisticated empirical policy analysis. This “before-and-after” empirical strategy is the foundation for dozens of studies on the fiscal efficacy of many formal and informal policy interventions.

Note also that many researchers have leveraged many of these same outcomes to test theories of the policy adoption and diffusion process (see, for instance, Greer and Lee, 2016). Collectively, this work speaks to the accountability and responsiveness of the policy process.

Of course, this style of work suffers from a severe limitation: Policy changes are not random. It's extremely difficult to separate the effects of a policy change from the underlying characteristics of the organization that's adopting and implementing it.

Fortunately, recent innovations in econometric methods have helped to overcome much of this limitation. With quasi-experimental empirical methods like difference-in-difference analysis, matched sampling, interrupted time series models, and bunching, among others (for an excellent overview of these methods see St. Clair and Cook, 2015) public finance researchers can test the efficacy of an ever-wider variety of policy change and policy implementation strategies. Good recent applications of these methods include work on topics as diverse as the effects of audit requirements for non-profits (St. Clair, 2016) to the fiscal impacts of No Child Left Behind (Hayes, 2015), among others. These methods could be especially useful for studies of the effects, both desired and undesired, of retrenchment strategies (see Smirnova and Leland, 2014) that public organizations will almost certainly deploy in the aftermath of COVID-19.

### **Adaptation – Secular Trends, Institutional Change, and Evolving Practices**

Budgeting and financial management is an ideal context to observe how public organizations evolve. A government's budget process shows us how it processes new information, engages citizens, and responds to shifts in priorities. How a government shares financial information with its government and non-government stakeholders reveals some of its strategy for navigating complex, decentralized governance structures. When it changes its tax structure, it's adapting to changes in its political, economic, and intergovernmental environment. As public organizations have evolved, so too have the questions and methods that public budgeting and financial management scholars have employed to follow that evolution.

#### ***“Rational” Budgeting and Its Adaptations***

As described earlier, public budgeting's early work was dominated by Progressive Era push to “rationalize” public resource allocation (see, among others, Rubin 2020). That movement gave

us PPBS, zero-based budgeting, a raft of capital budgeting reforms and many other adaptations designed to “de-politicize” budgeting. Performance budgeting in all its forms is the current manifestation of this secular trend.

It’s worth noting, however, that some of the most promising recent work is focused on how ostensibly technical, data-driven processes like revenue forecasting are far more relevant to decision-makers when they adapt to decision-makers’ political needs (Mikesell and Ross, 2014). This is especially true of some of the recent work in the long tradition of punctuated equilibrium theories of budgeting (Flink, 2019).

Researchers interested in adaptation might also look at budget trade-offs. A rational budget process operates with a great degree of allocative efficiency (for a good summary see Brumby, 2007) when budget appropriations respond quickly to new policy priorities. And yet, public budgeting scholars rarely model those trade-offs. A few recent studies employ new empirical tools to consider the fiscal pressures brought about by new spending demands in salient areas like election administration (Mohr et al., 2019). This type of analysis could be especially useful as governments adapt to the post-COVID reality of constrained resources and inevitable new demands for spending in areas like public health and disaster preparedness.

### ***Institutional Adaptation in an Anti-Tax Era***

Public budgeting and finance scholars have long concerned themselves with how institutional features like form of government (for a thorough overview, see Jimenez, 2020) and charter powers (McDonald, 2015) affect local taxing and spending. In the states, there is a related literature that explores the implications of fiscal structures like balanced budget requirements (Smith and Hou, 2013). Some have even explored the fiscal effects of drastic institutional change like consolidating entire municipalities (Holcombe and Williams, 2009; Gaffney and Marlowe, 2014; Mughan, 2019). As these institutional features have adapted, so too have the sub-field’s attempts to understand how they shape and re-shape important fiscal outcomes.

But for many public budgeting and finance scholars, adaptation means the study of a specific type of adaptation to voter demands for lower taxes. Since the California property tax revolution in the mid-1970s, the anti-tax movement helped to pass and implement a wide range of limits on the growth of government revenue, spending, and debt issuance. Dozens of studies have examined various aspects of these tax and expenditure limitations (TELs). Some have enumerated the variation in TEL features across the states (Mullins and Wallin, 2004). Others have focused whether they actually limit spending (Park, 2018) and debt (Kioko and Zhang, 2019); how they affect revenue volatility (Staley, 2018), credit ratings and debt issuance costs (Johnson and Kriz, 2005); and how they drive local economic development decisions (Chapman, 2008). A strong case can be made that TELs and the adaptation they’ve spurred has been more than thoroughly explored.

What’s less well explored, and a high priority area for future work, is how governments are adapting to the new intergovernmental dynamics brought about by the anti-tax movement. Ironically, broad anti-tax sentiment has not curbed demand for government action. In fact, since the end of the Cold War citizens have demanded that government respond to an ever-broader array of social problems. That “agenda explosion,” coupled with hyper-partisanship and gridlock in Washington, DC, has forced unprecedented new demands on states and localities. Nowhere is this more evident than in the COVID-19 crisis. When asked to characterize the federal government’s role in the crisis response, President Trump said “we’re the backup.” This seems the completed realization of Peter Fisher’s contention that the federal government has become “an insurance company with an army.”

Public budgeting and finance needs to respond to this in two ways. One is a new understanding of fiscal federalism (Oates, 1972) that accurately describes this new intergovernmental reality and

the new state and local fiscal toolkit it demands (Krane et al., 2004). Today's local governments are the de facto first responders on affordable housing, immigration issues, homelessness, international trade, pandemic preparation and response, and an array of other concerns formerly relegated to the federal government. The problem is localities do not have the revenue sources, spending autonomy, coordination capabilities, or legal authority to deliver many of their basic services (Wang and Pagano, 2017), much less this expanded menu. States are in a similarly constrained position, as Medicaid, mental health, and other human service needs continue to crowd out spending on other critical services.

The second requisite response is careful consideration of how states and localities are adapting their budgeting and financial management practices to effectively discharge these new functional assignments. Budgeting for comprehensive human services and affordable housing is quite different from budgeting for streets and sidewalks. In the states, the politics of changing policies that drive non-discretionary programs like Medicaid are radically different than the budget politics of allocating a shrinking general fund.

Meanwhile, future work might also consider the subtle adaptations now at work in federal budgeting. At one level, the past few years of federal resource allocation bear no resemblance to the regular order of federal budgeting. Once rare events like continuing resolutions, debt ceiling brinkmanship, and shutdowns have become routine (see Meyers, 2014). Add to that the near complete absence of fiscal discipline and the explosion of federal debt (Dodaro, 2017) and it would appear federal budgeting has failed to adapt in any meaningful way to its new political and economic environs. And yet, there is some evidence of new intuitional norms and procedures, especially around appropriations for mandatory spending in areas like Medicare (McCann, 2016, 2020). Those new norms, coupled with growing popularity of modern monetary theory as an organizing macroeconomic framework (Kravchuk, 2020) suggest a new and exotic form of federal budgeting "regular order" might have emerged. Whether this is a real adaptation, or an ad hoc response, remains to be seen.

### ***Adapting to Decentralization***

Public management's two main contemporary paradigms both extoll the virtues of decentralization. In this context, decentralization has meant the shifting of decision-making authority and resources out of hierarchical government bureaucracies and into "systems of governance" comprised of lower levels of government, non-profits, private sector actors, and civil society. "New Public Management" sees decentralization as a means to capture the efficiency of market-based solutions through contracting arrangements with for-profit and non-profit organizations. "New Public Service" (Denhardt and Denhardt, 2011; Bryson et al., 2014; also see Bracci et al., 2019) decentralization allows government to help create "public value" by engaging the broadest possible range of stakeholders in a dialogue on what the public most cares about and how to go about creating it.

Much of contemporary public management scholarship is focused on how traditional government bureaucracies have adapted to these decentralization pressures. Fortunately, scholarship on public budgeting and financial management offers paths forward on these and many other questions.

Many core public financial management processes have always been organized as stand-alone decentralized networks. By studying these processes we're able to observe who participates, how the network is structured, and how the network changes over time. Perhaps most important, many of these networks are endowed with the "holy grail" of network management research: a well-defined and broadly agreed-upon indicator of effectiveness.

As an example, consider "debt management networks" (Miller, 1993). When most states and localities – in the US and increasingly abroad – borrow money, they seek the assistance of private



sector actors like investment banks, credit rating agencies, bond lawyers, and financial advisors. This team of hired experts works together to ensure the government borrows at the lowest possible cost. These networks are a terrific setting to explore a variety of questions about how governments can and should structure network relationships (see Moldogaziev and Luby, 2016) and how a network's structure ultimately affects its performance.

There are other examples. Public pension systems, for instance, are typically governed by an independent body comprised of a representative cross-section of the government's stakeholders. How that body makes decisions, and how those decisions affect the financial health of both the pension system and its sponsor government, are perfect questions to explore through the lens of networks and governance (Chen et al., 2015; Wang and Peng, 2018). The same applies to other technical financial management concerns like government pooled investment funds (Nukpezah, 2019) and government procurement systems (Liebman and Mahoney, 2017); and to broader structural concerns like how to govern fiscal common pool resources like overlapping tax bases (Tang et al., 2014) and potential debt contagion effects (Yang, 2019).

A separate but equally promising stream of work turns this question inside out. It asks how, in the absence of a coordinating government authority, do decentralized networks organize and govern themselves? The answer, perhaps surprisingly, is that traditional bureaucratic tools budgets, financial statements, and contracts are often the focal point for precisely that organization. Recent work on inter-local agreements and regional councils of local governments (Mitchell and Thurmaier, 2016; Mohr and Mitchell, 2019) illustrates this point. Research of this sort will be especially salient in a post-COVID world, given that local public health capacity, especially in areas like epidemiology and disaster preparedness, exists mostly through service sharing agreements.

Another core public financial management function – debt management – offers a glimpse into how government might regulate de-centralized governance systems. When states and localities borrow money, they sell tax-exempt bonds euphemistically known as “municipal” bonds or “munis.” The muni market resembles the used car market more than it resembles the stock market. It's largely self-regulated. State tax laws create a strong preference for local investors. Munis do not trade on a centralized exchange, but rather “over the counter” through networks of brokers and dealers. The result is a complex, fragmented structure that many criticize as inefficient (see, among others, Harris and Piwowar, 2006) and perhaps even discriminatory (Dougal et al., 2019).

In turn, government regulators and industry groups must constantly contend with questions about how to make this self-regulated market more efficient and equitable through financial disclosures, reporting of trading activity, licensing, and certification requirements for key market participants (see Johnson et al., 2014), and other traditional regulatory tools (Greer et al., 2018). Going forward, the municipal bond market is a rich empirical setting to explore these and other questions about how to adapt traditional regulatory tools to the particular challenge of oversight and accountability in self-governing networks.

Decentralization has also encouraged the emergence of a new “fourth sector” – hybrid mash-ups of private sector firms, non-profits, and non-governmental organizations (NGOs) that deliver government services financed in part or entirely with public money. But unlike governments, fourth sector organizations rarely have the luxury of defining their own performance goals. And yet, we know next to nothing about how they organizations adapt traditional budgeting and financial management practices to that unique opportunity, and how those adapted practices shape their ultimate effectiveness and accountability.

This is especially important in parts of the fourth sector that are rapidly becoming key players in the provision of public services around the globe. Some non-profits have been shown to suffer from goal conflict and diminished service delivery capacity once they take government money (Mosley, 2012; Marwell and Calabrese, 2015). What's less clear is whether other parts of the fourth sector suffer the same fate when infused with new money from public and quasi-public source.



There is reason to believe they might. International NGOs that receive money from or send money to national governments must comport with the performance targets set forth by multilaterals like the World Bank or international accords like the United Nations Sustainable Development goals. Many infrastructure public-private partnerships (Bertelli, 2019; Tan and Zhao, 2019) raise money from equity investors who expect an especially high financial return on investment. Faith-based organizations that receive government money must still adhere to ecclesiastical principles. How these organizations adapt their money management to their particular accountability challenges is largely unexplored to date.

## Conclusion

This review has focused on a small group of salient public management questions where the study of public budgeting and financial management offers immediate and tractable empirical insights. In doing so it extends a dialogue opened more than a decade ago by public financial management specialists intent on explaining to their public management brethren “why public financial management matters.” This dialogue will hopefully continue well into the future. And as described above, many of these questions will emerge front and center in a post-COVID world.

To be clear, the themes explored here are just a small sample of the many classic and contemporary public administration concerns on which public budgeting and finance have much to offer. Those themes include: the integration of finance and information technology, and in particular, how public financial management participate in the shift from evidence-based policy to the “good governance of evidence” (Parkhurst, 2017); unfunded mandates and their financial implications (Ross, 2018); the role of budgeting and financial management in climate change adaptation and natural disaster preparedness (see Painter, 2020); and the effects of corruption and anti-corruption efforts in public finance (Butler et al., 2009; Liu et al., 2017; Greer and Bullock, 2018), among many others. Future work should consider these and many related concerns.

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# Modernizing Human Resources Systems for the Public Sector



# 18

## DEVELOPING PUBLIC SERVANTS

### International Trends in Human Resource Management

*Rex L. Facer II*

#### **Introduction**

Frequently we hear criticisms of public servants. These critiques often assume that public servants are not held accountable for their performance, they are over-paid, and they lack substantive expertise. However, these criticisms often ring hollow when compared with the experience of citizens with individual civil servants (Goodsell 2014). Nevertheless, public managers are aware of these critiques and have focused on not only improving the quality of public servants but have often instituted human resource management structures to facilitate the development of these civil servants.

The development of public servants is a key element for organizational effectiveness (Rainey and Steinbauer 1999). Employee development lies at the heart of human resource management. Because of the important role individual public servants play in the delivery of services, it is critical to have institutional structures that will attract, develop, and retain qualified public servants. These institutional structures are at the heart of modern human resource management. This chapter will address several human resource management trends facing public organizations. While it is difficult to paint a complete picture of global trends in public sector HR, this chapter will highlight several issues that continue to be at the core of public sector HR.

#### **Human Resource Management Model**

The core elements of a successful human resource management system include: aggressive recruitment and selection; responsive position classification; competitive compensation and benefits; employee involvement; and effective and systematic training and development (see Figure 18.1). This chapter will focus on the elements or components of this model receiving the most attention in global human resource management in the public sector: compensation, competency management (training and development), performance appraisal (employee involvement and development), and competitive entrance exams (recruitment).

Perhaps the most consistent global trend is that public sector human resource management, and civil service systems, regularly seek reform to meet the changing demands of the modern public service. Efforts to modernize the civil service can focus on addressing unique state traditions, responding to larger external pressures, or implement new managerial concepts. Often the core driver of these modernization efforts is a desire to elevate the performance and professionalism of the civil service. In doing this, the professional value of merit is often at the heart of reform efforts.

Advocating for merit is not new. Merit is often seen as an antidote to the practice of patronage. For example, a shift toward merit was at the heart of the development of the modern American civil service system, initiated in the 1883 Pendleton Act. Another example of the advocacy for merit comes from the British civil service. In 1914 MacDonnell Commission argued that merit in the British civil service would lead to high-quality civil servants and enhance the service delivered to the public.

An example of this type of reform is from Kazakhstan. In recent years, Kazakhstan has instituted several reform efforts to strengthen the professionalization of its civil service. For example, the creation of the Corps A, a professional cadre of executive managers, was designed to increase commitment to professionalism. In 2016, Kazakhstan has reduced the number of political appointees from 3,271 to 400, to enhance merit selection and transparency of the civil service (OECD 2016). Additionally, Kazakhstan's government has strengthened requirements for entry into the civil service and centralized the recruiting process to enhance the evaluation of the knowledge and competencies of candidates. Overall, Kazakhstan has initiated a robust set of human resource management reforms.

### **Compensation**

Perhaps the most common area of reform across the globe centers around compensation. Compensation is a perennial issue facing public organizations; both in how much to pay, as well as in how to pay employees. One leading example of paying civil servants competitively is Singapore. Singapore has a policy to offer public employees competitive market salaries. Singapore has committed to its policy in significant ways, such that Singapore is seen as a leader in public sector compensation practices. Salaries for Singapore's public servants are driven by three factors: paying market rates, the type of work and responsibilities, and the experience and skills of the candidate (Committee 2012). Many governments around the world struggle to provide competitive compensation (Clements et al. 2010).

### ***Gender Pay***

One area of recent compensation interest has been the focus on gender pay gaps. Equal pay has been a requirement in many countries around the world for decades, yet there continues to be evidence of gender-based pay gaps in countries around the world. Iceland has established a clear effort to enforce its law. In 2017 Iceland amended its Gender Equality Act No. 10/2008 to require all companies and institutions with 25 or more employees to obtain an equal pay certification in conjunction with their gender equality program. Their Gender Equality Act requires that,

women and men working for the same employer shall be paid equal wages and enjoy equal terms of employment for the same jobs or jobs of equal value. "Equal wages" mean that wages shall be determined in the same way for both women and men. The criteria on the basis of which wages are determined shall not involve gender discrimination. Workers shall at all times, upon their choice, be permitted to disclose their wage terms.

This certification demonstrates that the equal pay system meets the requirements of Icelandic Standard 85: 2012 (e), demonstrating compliance with the expectations of an equal wage system.

The UK, on the other hand, has taken a different strategy, requiring large firms to publish the difference between the average hourly pay received by men and women. The Organisation for Economic Co-Operation and Development (OECD) (2018), in their research on labor markets,

estimates that across 35 countries the average pay gap is 13.2%. In other words, on average the difference in mean average annual earnings of men is 13.2% higher than the average annual earnings for women. The gap ranges from a high of 36.7% in Korea to a low of 1.8% in Costa Rica. Notably, over the previous decade, the pay gap has shrunk on average by 5%.<sup>1</sup> The largest decrease in the pay gap was in Greece. The gap for Greece in 2006 was 11.9% and it fell to 4.5% by 2016.

### ***Combating Corruption through Compensation***

Human resource management is often seen as being on the front line of fighting corruption. The World Bank sees corruption as a major challenge to ending extreme poverty and boosting shared prosperity. Additionally, combating corruption is at the core of the United Nation's Sustainable Development Goals (SDG). For example, SDG 16: "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels." Public agencies have several strategies to build effective, accountable, and inclusive institutions; all of which require human resources in a state's civil service to perform professionally.

One strategy to combat corruption and encourage professionalism has focused on compensation practices. Poor compensation has often been blamed as the underlying cause of bribery and other corrupt practices (Ul Haque and Sahay, 1996; Van Rijckeghem and Weder, 2001; Le et al., 2013). However, recent scholarship suggests that simply increasing pay may not be as powerful an antidote to corruptions as is often assumed (Gong and Wu 2012). Nevertheless, altering compensation practices is often one of the core strategies employed to combat corruption. De Haan et al. (2013) articulate the expected relationship between higher wages and reducing corruption.

Higher government wages will raise the cost of job loss due to corruption and make government employees feel that they are being 'fairly' treated, both of which decrease the incentive to be corrupt. Furthermore, higher government wages attract better employees to the government and prevent qualified government workers moving to the private sector, thus improving the government's ability to control corruption. At the same time, studies such as Besley and McLaren (1993) and Macchiavello (2008) suggest that higher government wages should not be used to combat corruption in poor countries because it is very costly to do so or because selfish, corruptible agents will crowd out highly motivated employees.

Compensation will likely continue to be a common tool for combatting corruption.

### ***Performance Pay***

Another global trend in compensation practices is around performance pay. Performance-related-pay makes a connection between an individual employee or a group's job performance and the compensation they receive. This trend has taken hold in a wide range of countries over the last 30 years. Two-thirds of OECD countries report having implemented performance-based pay (OECD 2005). However, as Schiavo-Campo et al. argued in 1997, "the facts show that bonus schemes have been only marginally effective in improving performance, even in the private sector, and especially in the public sector, where outputs are difficult to quantify" (p. xii). More recently, Perry et al. (2009, p. 43), echoed this sentiment finding that "performance-related pay in the public sector consistently fails to deliver on its promise." Nevertheless, performance-linked-pay continues to be a commonly used trend. For example, Singapore (Committee 2012) links individual performance and national performance to a public servant's pay.

Performance-linked pay has significant challenges. One being the difficulty in accurately assessing an individual's performance. For example, in an early implementation effort in China, a wide range of factors made linking performance to pay difficult, including the "poor performance measurement method" (Chan and Ma 2011, p. 299). Later efforts in China also ran into challenges with the prevailing culture. Chan and Ma (2011) report that the Chinese personnel management system has challenges trying to induce "high performance by the great majority of career civil servants when career mobility to the administrative elite class is not based on job performance" (p. 317). Most OECD countries report that they have a formal performance appraisal system for public employees (OECD 2005). Additionally, in recent years many countries in other parts of the world, including nations in the Commonwealth of Independent States and South East Asia, have increased their usage and efforts to improve performance appraisal systems and link performance to pay (ASCH 2016).

Recent research from examining performance pay in German local governments highlights that when performance pay is viewed as controlling, employee motivation is negatively affected (Wenzel et al. 2019). In other words, when a performance pay system is viewed as "unfair, non-transparent, and nonparticipatory" (p. 245) it harms the implicit psychological contract and reduces motivation. This implies that if a performance pay system is implemented in a way that is fair, transparent, and participatory, it can be successfully implemented. Unfortunately, there is limited evidence of successfully implemented systems in practice.

## **Competency Management**

Competency-based approaches to managing in the public sector have become common in most developed countries (ASCH 2016). Competency models are designed to highlight and improve the capabilities and skills of public servants (Hood and Lodge 2004). Op de Beeck and Hondeghem (2010) argue that competency management is primarily a leverage for change, as well as a mechanism for communicating behaviors that lead to accomplishing organizational outcomes. Competency management is often seen as a strategic alternative to functional-based human resource management. Traditional HR often uses job descriptions to define what is done; while a competency approach uses a competency profile to not only articulate what is done, but also the why and how something is done (Op de Beeck and Hondeghem 2010).

Competency training and development is used in countries across the globe. For example, Su and Liu (2016) describe six core competencies used in the training of senior civil servants in Taiwan. These include innovative vision, strategic analysis, administrative reform, crisis management, interagency coordination, and performance management. Civil servants have the opportunity to develop these competencies through a combination of trainings designed to improve the capacity to lead and manage in a complex global environment. This type of training requires a significant commitment, most often from central personnel agencies (Wu 2013). Another example of the use of competency models comes from Canada.

Canada has developed a six-element competency model for public service leaders. The Canadian Key Leadership Competencies (KLC) include: creating vision and strategy, mobilize people, uphold integrity and respect, collaborate with partners and stakeholders, achieve results and promote innovation and guide change (Government of Canada 2016). Canada uses its KLC model as part of its Executive Leadership Development Program (ELDP) to provide training and development opportunities to federal senior executives. Departments nominate executives, who are identified through their annual talent management process. The ELDP, in addition to providing training on the KLC, is designed to increase executive's networks and broaden individual executive's perspectives. Like many other countries, Canada and Taiwan have embraced competency management into the training and development of their organizations.

## Performance Appraisal

Performance appraisal is a common strategy to communicate an employee's performance. Over 90% of OECD countries have individual performance appraisals (Lah and Perry, 2008). Performance appraisals are opportunities for managers to communicate performance expectations to employees and to align expectations with organizational objectives. While performance appraisals have a long history in many countries, there are some, such as those in the Commonwealth of Independent States, that did not have a history of traditional performance appraisals. The "attestation" method historically used in many of these countries was seen as a tool of politicians to rid their staff of those they did not like or those who were disloyal (ACSH 2016). Several of these countries have semi-annual (e.g., Armenia) or annual (e.g., Azerbaijan, Kazakhstan, Moldova, and Tajikistan) performance appraisals. The precise mechanisms of these appraisals vary, with some being performed by supervisors, while others are performed by commissions.

Performance appraisal for the Chinese civil service was developed in the mid-1990s (Liu and Dong 2012). As noted above the performance appraisal system created challenges for implementing pay-for-performance in China. The objectives of performance appraisal in the Chinese system were

to accurately and fairly assess the virtue, capacity, and work effectiveness of civil servants. The appraisal results should be considered as the basis for reward and punishment, training, dismissal, and adjustment of the post, rank, and salary of the civil servants.

*(Liu and Dong 2012, p. 151)*

These early appraisal strategies resulted in a final appraisal assessing an employee as excellent, competent, or incompetent. There was a limit that no more than 15% of an agency's civil servants could be rated as excellent, but no limitation on the other two categories (Liu and Dong 2012). In 2007, the number of categories was changed from three to four. The new category, almost competent, was a way to discourage managers from rating incompetent managers as competent in an effort to avoid difficult conversations. Additionally, the portion of civil servants eligible for an excellent rating was increased from 15% to 20%. The dimensions evaluated were also expanded to include integrity and decency, in an effort to combat corrupt behaviors. Civil servants who were rated as excellent were publicly recognized in their agencies. Finally, the appraisal was expanded beyond core personnel decisions (compensation and dismissal) to include training opportunities (Liu and Dong 2012). Liu and Dong (2012) note that while the performance appraisal system in China has matured over the last 20 years, there is still significant opportunity for continued improvement. They suggest developing a performance management framework, training evaluators, clarifying job responsibilities and job specifications, and emphasizing performance improvement and growth.

## Competitive Exams

Competitive examinations for entrance into the civil service have a long history. Historically, these types of exams have been used to promote meritocracy and prevent patronage and nepotism (Sundell 2014). In the U.S. competitive exams were part of the early reforms of the Pendleton Act of 1883. Early in the 20th century, civil service examinations in Great Britain focused on classics, history, mathematics, and natural sciences, as taught at the preeminent universities of Oxford and Cambridge (Willis 2019). In France, competitive exams became a common practice after World War II (Greenan et al. 2019). Lavigna and Hays (2004) have warned that designing and validating testing instruments has highlighted the poor record of predicting job performance for exams.

Even with these types of concerns, there has been a push in many parts of the world to continue to utilize civil service exams. For example, in Trinidad and Tobago concerns around the changing recruitment strategies, such as the elimination of competitive exams, focused on whether it would lead to increased ethnic discrimination (Bisseassar 2006). As a result of these concerns, Trinidad and Tobago continue to use competitive exams for entrance into the civil service.

Recent research has examined whether or not competitive exams are the most meritorious mechanism for recruiting a competent civil service. Sundell (2014) finds that in countries at a high risk for corruption, there is a positive relationship between competitive exams and assessments that those who receive civil service jobs have the skills and merit to perform the job. Specifically, Sundell finds that “low discretion in recruitment, expressed both through the use of formal examinations and centralization of HRM, only has a positive effect on meritocracy in recruitment in countries where there is a risk for patronage” (p. 453). This finding suggests that in countries with a low risk of patronage there are advantages in improving merit by using “lean and flexible” recruitment strategies. In addition to strengthening merit, another reason articulated for competitive exams is that they open access to the civil service for groups that may not have historically had access.

Greenan et al. (2019) examine the impacts on diversity of competitive examinations in France. They argue that “to reap the benefits of a representative public workforce while recruiting candidates with the skills best suited to public jobs, public managers must ensure that recruitment strategies select the best candidates regardless of their gender, race, ethnicity, or socioeconomic background” (p. 371). France uses a two-stage evaluation process; first-written exams, followed by an oral test. The researchers did not have data on race, so they used a variety of proxy measures, such as where candidates live and where they were born. Greenan et al. (2019) find that the anonymity of written tests does not guarantee an equal probability of success on the oral evaluation. In the oral exams, women and those born outside of metropolitan France fared better than men, and those born in metropolitan France. It appears that “selection boards seem to take into account the gender of the candidates and, to a lesser extent, their place of birth in order to offset the inequalities observed in the written tests during the oral tests” (p. 379). Greenan et al. (2019) conclude by arguing that France should consider revising their written exams. While the positive bias in the oral exam may offset some bias at the group level, the group biases don’t overcome biases at the individual level. While France may not be representative of competitive exams in other countries, the findings of recent research suggest that exam development needs much more attention to promote fair and merit-based recruitment.

## **Conclusion**

This chapter reviewed four major trends in international public sector human resource management: compensation, competency management, performance appraisal, and competitive entrance exams. Of these trends, compensation is probably the most complex. While compensation practices vary across the globe, most places understand that in order to recruit a competent and qualified civil service, appropriate and fair compensation is a key element. Competency management is an emerging trend, often focusing on senior executives. Competency management highlights the capabilities and skills necessary to leverage change and accomplish organizational outcomes. Common elements of competency models include strategy, vision, and collaboration or coordination with key stakeholders.

Next, the chapter reviewed the common use of performance appraisal in public sector organizations. Unfortunately, performance appraisals are fraught with common problems; but as noted in the performance pay section, when done well, they can be very useful in promoting organizational performance and accomplishing organizational objectives.

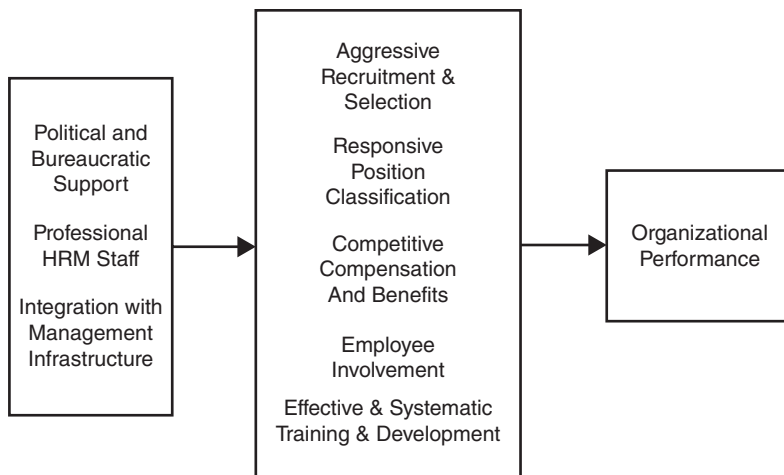


Figure 18.1 Human Resource Management Model

Source: Condrey et al. (2015).

Finally, this chapter reviewed the use of competitive exams in the recruitment of civil servants. In countries at a high risk for corruption, these exams can have a very positive impact on increasing the placement of qualified public servants. In other cases, the negative consequences of discrimination and poor test design can negatively impact the civil service.

In each of these four areas, there are positive benefits that can enhance the public service. Unfortunately, poor management can also raise its head and weaken the civil service and reduce the quality of services delivered to citizens. Elected officials and senior executives need to be concerned about the quality of the human resource systems as those systems will impact individual civil servants who are seeking to provide high-quality services to the public.

### Note

- 1 Note, this excludes Hungary from the calculation. From the data reported by the OECD Hungary’s pay gap increased from 0.4% to 9.4%, an increase of 2,336%. When Hungary is included, the average gap has increased by 56%.

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# HUMAN RESOURCE REFORMS IN SOUTH ASIA, THE CARIBBEAN, LATIN AMERICA, AND THE UNITED STATES

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## **Introduction**

One of the most important components of any modern organization is its human capital, and in the past few decades, human resource management in the public service has gained momentum around the world including in South Asia, the Caribbean, Latin America, and the United States. The three biggest economies in South Asia are India, Bangladesh, and Pakistan; these nations have struggled to overcome their colonial legacy through numerous reforms. These reforms were not only difficult to achieve, but also the most resisted within the public administration system. The Caribbean is often cited internationally as an exotic attraction for tourists as well as the United States. These two jurisdictions share other similarities as they are both considered part of the Western Hemisphere. However, the Caribbean shares greater similarities with the three South Asian nations than the US given its 525 years of colonial history.

Most Latin American nations created democratic constitutions, institutions, and bureaucracies. Many constitutions, though, are not necessarily honored or interpreted as written, government institutions function at the will of the ones in power, and bureaucracies (civil servants) perform as instructed by their administrators. Government civil servants throughout Latin America operate in variation of each other. While some countries in the region are economically progressive, others are not so fortunate, afflicted by corruption, inefficiency, ineffectiveness, and waste. Facing these backlashes, most Latin American countries are unable to advance and fully develop as those compared in the developed world. This backlash also imposes needless costs on its citizenry. South Asia, the Caribbean and Latin America, specifically Central America, remains in public administration (PA) and comparative PA literature an under-represented and under-researched region (Moloney and Chu, 2016). This chapter seeks to address this lacuna by examining from a comparative lens the Human Resource (HR) reforms specifically, civil service systems in South Asia, the Caribbean, Latin America, and the US.

## **Human Resource Reforms in South Asia**

The modern administrative system prevailing in the Indian subcontinent can be traced back to the British Colonial system when the British Crown took control from the East India Company through the Indian Act of 1858 (Mishra 2013). The reforms introduced in managing human

resources during the reign of the Crown were slow but continuous (Khan 1999). They designed a highly centralized and elite administrative system known as the Indian Civil Service (ICS) (Khan 1999). The major reforms included the introduction of the open competitive exam introduced by the Charter Act of 1853, systematic training for the public personnel and expanded participation of Indians, known as Indianization (Khan 1999; Mishra, 2013). In an effort to bolster the local governments, the British government developed different departments and distributed responsibility among them (Mishra 2013). After independence in 1947, ICS went through major restructuring actions, establishing new services known as the Indian Administrative Service (IAS), Indian Police Service (IPS) and Indian Foreign Service (IFS).

On the other hand, after independence from India in 1947, Pakistan developed the Civil Service of Pakistan (CSP), which had great resemblance to the structure and essence of ICS. The 'elite' nature and dominance over key policy measures by a handful of public service officers only reminded of the bureaucratic system introduced by the British (Khan 1999). After independence from West Pakistan in 1971, the people of East Pakistan formed Bangladesh. The Bangladesh Civil Service started its journey with a motivation to elicit the monopolist nature of the public service and servants and increase political intervention (Khan 2013). Unlike the Pakistan rule, advisers were chosen from the pool of influential politicians rather than high positioned civil servants, also several areas of development were commissioned to elected politicians rather than civil servants (Rahman 1980).

### ***India***

In order to recommend strategic changes to the personnel system there were about 50 commissions formed to reform civil service in India. The recommendations focused on recruitment and selection, compensation, performance management, and human resource development. However, the major reform initiatives focused on recruitment and selection. Tummala (2013) argues the reform recommendations were repetitive in nature starting from making a university or equivalent degree compulsory for secretarial and ministerial positions to increasing the age limit; initiatives were taken to ensure patronage free and efficient public service. But, despite efforts to restructure the entire recruitment and selection policy by introducing a single competitive exam, only a handful of the recommendations made by the First Administrative Reforms Commission in 1969 were implemented. The selection process to civil services is extremely rigorous and competitive. While thousands appear for the civil services examination, commonly called UPSC (Union Public Service commission), only a handful are selected each year. To improve performance, several commissions emphasized the training and incentives for completing projects in a timely manner. A comprehensive model was adopted with scope for variation across different services and awards were distributed at the state and district levels (The Second Administrative Reforms Commission: Refurbishing of Personnel Administration, 2008). Table 19.1 details the key HR reforms and its recommendations along with the implementation status of each initiative.

### ***India: Training Civil Servants***

The Department of Personnel and Training (DPoT), is the chief arm of the central government in India and serves as the nodal agency that provides training to all rungs of the Civil Services. The Lal Bahadur Shastri National Academy of Administration (LBSNAA) in Mussourie and Institute of Secretariat Training and Management (ISTM), Delhi are the apex training institutions of DPoT. The institutes provide training to all higher civil services. The Department of Personnel and Training is also affiliated with the Indian Institute of Public Administration (IIPA) to provide advanced training to administrators. The Mid Career Training Program (MCTP) provides higher

Table 19.1 India HR Reforms, Initiatives, Recommendations, and Implementation

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendation</i>	<i>Reform Implementation</i>
Report on Public Administration, 1951	Equal opportunity	Recruitment should be free of patronage	
Report on Public Services, 1956	Workforce planning	Introductory training for the new employees	
	Recruitment and Selection	Compulsory university degree for higher services	
Report on Indian and State Administrative Services and Problems of District Administration, 1962	Recruitment and Selection	Recruitment to the top tiers of civil service should be conducted annually	
	Training	A structured training similar to IAS officers for the state civil service offers	
The First Administrative Reforms Commission: Personnel Administration, 1969	Job Classification	Higher civil service posts were divided into two categories: posts in the field or 'functional' and posts at headquarters or 'non-functional	
	Compensation	Unified grading structure for posts with similar qualifications, difficulties, and responsibilities to implement the policy of equal pay for equal work	Restructuring the recruitment process and modifications in the performance appraisal system. Implemented
	Recruitment and Selection	A single competitive examination for the Class I services, lateral entry to technical posts at senior levels, cancellation of direct recruitment to Class II services, recruitment to central government posts from the existing state government employees	
	Training	National policy on civil services training, the creation of the Central Training Division in the Department of Personnel, changes in the courses taught at National Academy of Administration	
	Performance Management	Incentives for timely completion of projects, cash rewards for increasing economic efficiency of the agency, establishing work model and observe staff strength, Establishment of Lok pal and Lokayuktas (agency to control corruption) at the Centre and in the states	

(Continued)

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendation</i>	<i>Reform Implementation</i>
Committee on Recruitment Policy and Selection method, 1976	Recruitment and selection	Two-stage examination system introduced	
The Civil Services Examination Review Committee, 2001	Recruitment and selection	Entrance exam based on common subjects	
	Training	Three mid-career training programs in the 12th, 20th and 28th years of service	
The Committee on Civil Service Reforms, 2004	Recruitment and selection	The age for the candidates between 21–24 years with a five years' age concession for members of the Scheduled Castes/Scheduled Tribes and three years for the Other Backward Classes	
The Second Administrative Reforms Commission: Refurbishing of Personnel Administration, 2008	Recruitment and selection	Change the age of entry	It was decided that the upper age limit should be 26 years for Unreserved Candidates, 28 for OBC, 29 for SC/ST and Candidates with additional 2 years for Physically Challenged in each category
	Workforce Planning	Establish National Institute of Public Administration	Central universities were requested to have 'public administration' as a major
	Training	Training to equip the civil servants with changing socio-economic scenario and new challenges	Mandatory training for entry-level and mid-career was implemented
	Performance Management	Setting goals measurable at all levels, monitoring the performance of each unit and individual within the organization, developing the capacity to perform, rewarding good performance and managing underperformance. Enhance accountability and responsibility by achieving specified performance targets while managing within resources	Partially Implemented Two extensive reviews will be performed one at 14 years of service and another at 20 years

Source: Second administrative reforms commission, tenth report, refurbishing of personnel administration, 2008.

level training to IAS officers and was implemented as a mandatory program in 2007. Mid-career IAS officers are identified as those at the policy formulation stage with 7–9 years of experience, at the inter-sectoral policy formulation stage with 15–18 years of experience and officers working on implementation of policies with 27–28 years of experience. Officers with 7–9 years of experience undergo four weeks of training on delivery of services, evaluation, and implementation of projects alongside addressing key governance issues, leadership, and negotiation skills. IAS officers with 15–18 years of experience also undergo a four-week training program that includes one week at a foreign institute. The training focuses on developing soft skills and enhances domain knowledge in various policy areas. The senior most IAS officers with 27–28 years of experience are required to go through a three-week training program focused on strategic leadership skills.

### ***Pakistan***

While scholars like Tummala (2013) and Khan (1999) considered the reforms initiated and implemented by India well balanced, Pakistan has struggled to implement strategic reform initiatives suggested by reform commissions and committees. Almost all of the major reform bodies were in favor of eliminating the existing structure as it became obsolete and lost its utility (Khan 1980). Reform initiatives mainly included restructuring the recruitment and selection, compensation, training, and decentralization process. The recommendations ranged from abolition of the elite service to the creation of a seven-layered National Civil Service (Pay and Services Commission Report 1959–62), merit-based selection, appointment, and promotion at all levels of public administration while projecting regional representation. These initiatives aimed to ensure equal opportunity for career advancement to all employees without preferences or reservations for any particular class – generalists or specialists (; Hussain 2011; Hussain 2012).

Pakistan also attempted to decentralize the service by disseminating power through different levels of services (Khan 1980). The reform initiatives undertaken by the committee of Reorganization of Pakistan Government for Development in 1955 and Administrative Reorganization of Pakistan in 1961 increased the delegation of administrative and financial powers to departmental heads who would be primarily responsible for the technicality of their proposals entitled to submit cases directly to the secretaries of their ministries (Khan 1980).

None of the recommendations were adopted by the government, in fact, the members of the Civil Service of Pakistan (CSP) strongly opposed the ideas and suggestions as they perceived them as a threat to revoke their centralized power and privilege over the public administration system (Khan 2002). Therefore, no major reform initiatives were implemented until the reign of Zulfikar Ali Bhutto. After acquiring power in 1973, he formed the Administrative Reform Committee which included recommendations from previous reports by Egger (1953) and Gladieux (1955). Some of the major recommendations made by the committee were: adoption of a uniform pay scale that reduced CSP officers' comparative advantage in salary structure, elimination of reservation of posts for CSP officers and the abolition of CSP academy (Kennedy 1987). Table 19.2 highlights the major HR reforms in Pakistan, recommendations proposed by each initiative and the implementation status.

### ***Bangladesh***

After gaining independence in 1971, several committees were formed to restructure the personnel administration but only a few of the recommendations were implemented. The first committee that was appointed by the Bangladesh government was the Administrative and Services Reorganization Committee (ASRC) in 1972. The committee suggested some radical reformation of the public human resource management such as single, unified grading structure with different pay



Table 19.2 Pakistan HR Reforms, Initiatives, Recommendations, and Implementation

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendations</i>	<i>Reform Implementations</i>
Pay and Services Commission, 1949	Compensation	Recognition and protection of existing pay scales	Implemented as it promoted the already existing pay structure, but the elites benefitted from it (Khan 1980)
The Improvement of Public Administration of Pakistan, 1953 (Khan 1980)	Recruitment and Selection Training	Merit-based selection, appointment, and promotion at all levels of public administration. Broad-based open competitive exams for anyone under the age of 30 with minimum qualifying education. Lateral recruitment at middle and higher level Mandatory training for all new hires at the Civil Service Academy (Khan 1980)	
Reorganization of Pakistan Government for Development, 1955	Compensation	Pay scale ensuring income equality between generalist and specialist officers	
	Workforce Planning	Establishment of administrative staff college and Institute of Public Administration. Amalgamation of different central services into one unified civil service system. Constitution of Pakistan Administrative Service (PAS)	Administrative staff college was implemented later, but only to benefit CSP officers as they hold the director positions and could go abroad for training purposes
	Decentralization	Creation of Pakistan Public Service Board with new powers in recruitment, promotion, and transfers	
Pay and Services Commission Report, 1959–62	Workforce Planning	Abolition of the elite service and integration of various services to create a seven-layered National Civil Service (Khan 1980). Merit-based selection for PAS	Not implemented was opposed strongly

Administrative Reorganization of Pakistan, 1961 (Khan 1980)	Recruitment and Selection	“Constitution of the Economic Pool to fill senior positions in the Ministries of Commerce, Finance and Industries.” Introducing Section Officer post, to be filled by CSP and other provincial and superior services, promotion from below and new recruitment	Implemented
Administrative Reform Committee Report	Decentralization Compensation Equal Opportunity Workforce Planning	The delegation of increased administrative and financial powers to departmental heads Adoption of a uniform pay scale (Kennedy 1987) Elimination of reservation of posts for CSP officers (Kennedy 1987) The abolition of the CSP Academy and the introduction of lateral recruitment, designed in part to politicize the bureaucracy	
The Civil Services Commission Report, 1981	Recruitment and Selection	Merit-based recruitment and selective lateral entry	
The National Commission for Government Reform (NCGR)	Equal opportunity Recruitment and Selection Promotion Training	Living wage and compensation package including retirement benefits for all civil servants. Equal opportunity for career advancement to all employees without preferences or reservations for any particular class. Elimination of Superior service cadres (Hussain 2011) Merit-based selection while protecting regional representation Promotions and career progression will be based on past performance and assessment of potential (Hussain 2011) Mandatory training at post-induction, mid-career, and senior management levels (Hussain 2011)	

scales according to different levels of qualifications, skills and responsibilities, and the abolition of quota system to ensure recruitment based on merit and qualification (Obaidullah 2017). This committee also emphasized creating a decentralized administrative system (Zafarullah 1987). The recommendations made by ASRC were strongly opposed by the Civil Service officers as they feared it will interrupt their status quo.

In its effort to integrate New Public Management reforms, Bangladesh public service has taken initiatives to decentralize the administrative structure. The initial recommendation was made by the Administrative and Services Reorganization Committee in 1972 (Zafarullah 1987) but as mentioned earlier, none of the recommendations from ASRC were implemented due to political reasons. Later, in 2000, the Public Administration Reform Committee suggested delegating powers to subordinate and field officers (Obaidullah 2017), which was partially implemented. Thus, owing to the common British colonial past, the nature of reforms and resistance witnessed across these three nations is also similar. Table 19.3 highlights the major HR reforms in Bangladesh, recommendations proposed by each initiative and the implementation status.

### **Human Resource Reforms in the Caribbean**

The Caribbean (i.e. English Speaking region) Civil Service (better known as public service) shares common threads with India in terms of inheriting a British colonial civil service system. It bears the hallmarks of the Imperial Age with an institutional framework (i.e. rules and regulations) governed by the British government. By the middle of the 19th century there was mounting pressure to make changes to the civil service system wrought with patronage and nepotism in recruitment and selection. In 1854, (via the Northcote Trevelyan Report) the British Parliament's appointment of a select committee was done to implement changes to these staffing functions. By so doing, recruitment, selection and promotion activities using nepotism and political patronage could no longer be practiced. Instead, merit principles were introduced with a recommendation for the creation of a Civil Service Commission, with independence, authority, and impartiality to hire individuals most suitable for it (Charles-Soverall and Khan 2006; Minto-Coy and Berman 2016). Additional reforms continued which reflected by the late 19th century, a civil service that represented an established and unbiased administrative system. This new orientation reinforced what characterized all administrations throughout the British West Indies (i.e. colonial civil service in the Caribbean), enshrined with major values such as efficiency, neutrality, transparency, honesty, and integrity (Minto-Coy and Berman 2016).

Currently, the civil service is not as politically neutral nor does it consistently operate with a high level of professionalism as earlier periods (e.g. immediate post-independence eras). There are allegations of politicization. For instance, issues of interference from political leaders via competitive party politics, and attempts to intervene with recruitment, selection and promotion of high office holders. For these reasons and more, the public service has lost some of its traditional appeal of recruiting and retaining the best and brightest individuals for public service. In some territories issues of nepotism, patronage, and victimization have affected human resource management (HR) practices. Additionally, other factors impact public HR as the Caribbean is diverse-socially and institutionally. The following sections will provide an evaluation of HR reforms in Barbados, Jamaica and Trinidad and Tobago.

#### ***Barbados***

HR reform initiatives in Barbados around the post-independence era focused on reforming the public service between 1969 and 1973 (Best-Winfield 2006). These types of reforms were adopted via decentralization and performance management. Implementation took the form of the creation

*Human Resource Reforms*

*Table 19.3 Bangladesh HR Reforms, Initiatives, Recommendations, and Implementation*

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendations</i>	<i>Reform Implementation</i>
Administrative and Services Structure Reorganization Committee, 1972	Compensation	Single, unified grading structure with different pay scales according to different levels of qualifications, skills, and responsibilities	
	Equal Opportunity	Gradual abolition of the quota system, recruitment based on merit and qualification only	
	Recruitment and Selection	Merit-based selection, appointment, and promotion at all levels of public administration	
	Decentralization	Creation of decentralized administrative structure (Zafarullah 1987)	Not implemented
National Pay Commission, 1973	Compensation	10 scales of pay instead of 2,200 pay scales 52 scales of pay to reduce the multiplicity of pay scales	
Pay and Services Commission, 1977	Equal opportunity	The abolition of the elite cadre, and the barrier between CSP and other specialist and non-specialist services (Obaidullah 2017)	
	Recruitment and Selection	Merit as a basis for recruitment, tests designed to recruit efficient professionals	Formation of Bangladesh Civil Service ensuring equal pay at entry level for all cadres (Obaidullah 2017)
	Performance Management	Performance-based on fulfilling targets	
Public Administration Reform Committee, 2000	Performance Management	Introduction of performance monitoring and result oriented audit of the agencies (Obaidullah 2017)	
	Decentralization	Delegation of power to subordinate and field offices (Obaidullah, 2017)	Partially Implemented

of the Organization and Management Division (OMD) in 1971, and in 1973, a separate OMD was created in the Prime Minister's Office. There was also the creation of a Ministry of the Civil Service, the OM Unit was reinstated and local training was given greater priority. Performance Management reforms occurred in 1986, with a new emphasis on HR activities such as performance improvement, competence, improving morale of public servants, and ministerial direction by developing, implementing, and monitoring strategies and programs for performance improvement (Charles-Soverall and Khan 2006).

The second wave of reforms occurred in 1995 under the umbrella of The Constitutional Review Commission Draft White Paper and White Paper on Public Sector Reform. These initiatives used decentralization and human resource management/performance management. It sought to

decentralize and devolve in order to encourage greater autonomy in the management of ministries and departments led by the Ministry of Civil Service with Office of Public Sector Reform. Implementation failed due to reasons such as scarcity of resources, lack of political commitment, and bureaucratic inertia (Sutton 2006).

The third wave of reforms occurred during the late 1990s with the ushering of New Public Management doctrines globally, right through to the 2000s. These reforms were essentially geared toward Public Sector Reform (PSR; 1997, 1998–1999) with reforms identified under decentralization, performance management, deregulation, and privatization. Recommendations under the first three were varied. Deregulation reforms aimed to develop a Public Service Act (PSA), which was passed in 2007, a move from seniority and longevity to use other criteria as merit, performance, qualification, and achievement for advancement and promotion. These changes were met with resistance leading some to early retirement (Charles-Soverall and Khan 2006; Minto-Coy and Berman 2016).

Further, HR reforms in the 2000s highlighted strategic planning, organizational reviews, customer charter, internal reform committees, Employee Assistance Programs (EAP) and customer service. Yet, challenges were experienced as there was limited progress in most areas such as resource acquisition, support from senior leaders especially permanent secretaries. Finally, in the areas of decentralization and privatization in the 2000s recommendations were put forward with no successful implementation. For instance, recommendations were made to address the duplication/overlapping of responsibilities with other departments such as strategic planning, building public/private nexus to circumvent red tape, and stimulate an investment sector reform program to enhance Barbadian economy (Best-Winfield 2006; Charles-Soverall and Khan 2006). A list of key HR reforms in Barbados along with their recommendations and implementation status are highlighted in Table 19.4.

Table 19.4 Barbados HR Reforms, Initiatives, Recommendations, and Implementation

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendation</i>	<i>Reform Implementation</i>
Public Service Reform, 1969–1973	Decentralization	Abolition local government administration	Establishment of Organization and Management Division 1971
Reform, 1986	Decentralization	Establish department/ units	Creation of Ministry of Civil Service
	Performance Management	Emphasis performance improvement, competence. morale of public servants	
Constitutional Review Commission Draft, 1995	Decentralization	Dilution authority/ functions of service commissions	
	Performance Management	Human resource planning, job analysis, recruitment, selection placement of personnel, appointment, new performance appraisal	
Public Sector Reform, 1997	Decentralization	Establish agencies/ offices to create ownership for public sector reform	Office of Public Sector Reform, the Steering Committee; Task Force Public Sector Reform, Internal Reform Committees
	Performance Management	Strategic planning Human Resource Information System	PSA passed in 2007
	Deregulation	Develop Public Service Act (PSA)	

## *Human Resource Reforms*

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendation</i>	<i>Reform Implementation</i>
Public Sector Reform, 1998–1999	Performance Management Privatization	Performance review development system, job evaluation exercise, Introduction Employee Assistance Program Enabling Environment for Private Sector Investment	Successful implementation EAP
Office of Public Sector Reform, 2000	Performance Management Training, Workforce Planning Decentralization Privatization	Humanized management/ personnel excellence approach Organizational reviews; procedural manual for all registries Duplication/overlapping of responsibilities with other Departments Investment sector reform program	
Office of Public Sector Reform, 2001	Privatization Performance Management	Continue public/ private sector nexus under Enabling Environment for Private Sector Investment (EEPSI) Institutionalize Performance Review and Development System	Launched in 2001
Public Sector Reform Initiative, 2004	Training and Development	Initiate a new training and development policy. Ensure appropriate training is provided to all public sector employees	

*Source:* Adapted from multiple sources (Best-Winfield, 2006; Charles-Soverall and Khan 2006; Minto-Coy and Berman, 2016; Sutton, 2006, 2008).

### ***Jamaica***

Jamaica, like Barbados experienced successive phases of civil service (also called public service) reforms during the post-independence era, many of which included HR. It was expected that these reforms would usher in critical changes that would be implemented in the personnel management system with its practices that Jamaica inherited from Britain. One scholar has categorized these reforms into six phases. This section will examine them and highlight those more applicable to HRM (Tindigarukay 2004).

The first phase of Public Service Reform (PSR) occurred during the 1970s. These types fell under the classification of HRM. A successful implementation outcome was the creation of a Ministry of Public Service. The second phase of PSR was during the 1980s. The Administrative Reform Program (ARP) was introduced as a recommendation and aimed to improve human and financial resources management within the Jamaican public sector (Tindigarukay 2004). The size of the public service has been a perennial regional issue especially as this entity serves a critical role in Jamaica's national development. Citizens and other stakeholders have negatively stereotyped it as "top heavy, inefficient, unresponsive, and slow". Therefore, this implementation can be linked to some NPM principles of "doing more with less", "cut back management strategies" and "efficiency" (Osborne and Gaebler 1992) with implications for HR practices (e.g. performance management, compensation, recruitment and selection).

The third phase of PSR occurred during the early 1990s under the Administrative Reform Program (1991). It included economic/fiscal reform which aimed to strengthen the efficiency and effectiveness of the public service administration in revenue mobilization. These HR reforms

bore similarities with NPM doctrines and principles. However, like earlier phases not all recommendations were successfully implemented and could be attributed to controls inherent in the traditional system, lack of ownership and commitment to the ARP by the Jamaican leadership, limited resources, projects targets were overly ambitious and a lack of preparation in coordinating with ministry officials (Tindigarukay 2004).

Moreover, the fourth phase focused on more fiscal reforms (not directly HR related) while the fifth and sixth phases honed in on public service reforms, public sector modernization program (1996), vision and strategy for public sector reform (2002–2012), and strategic public sector transformation project (2014). Customer service, HRM, decentralization, privatization and contracting out, deregulation, declassification, economic/fiscal were all reform measures used during these mid to late 1990s and going right up to the 2000s. There was a re-visitation of efforts to reduce the public service to enable government to pay compensation to fewer employees and stimulate private investments in areas critical to Jamaican national development. Public service enterprises were privatized under the Modernization plan –i.e. recommendations made earlier were implemented (Tindigarukay 2004). A list of key HR reforms in Jamaica along with their recommendations and implementation status are highlighted in Table 19.5.

Table 19.5 Jamaica HR Reforms, Initiatives, Recommendations, and Implementation

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendations</i>	<i>Reform Implementations</i>
First Phase Public Service Reform, 1970s	Human Resource Management	Self-reformation of public service. Modernization of management practices	Reform implemented. Creation of Ministry of Public Service
Second Phase Public Service Reform, 1984	Human Resource Management	Introduction of the Administrative Reform Program (ARP)	
Structural Adjustment, 1989	Structural Adjustment Trade Liberalization	Implementation of structural adjustment policies. Quantitative restrictions, tariff reductions, tariff rates	
Third Phase, Administrative Reform Program (ARP) 1991	Economic/ Fiscal Reform	Establishment of Financial and Program Management Improvement Project (FPMIP)	
	Decentralization	Decentralize personnel issues. Restructure central personnel agencies	
	Declassification	Improvements in compensation and pension administration	
	Deregulation	Modernize existing staff orders and public service regulations	
Fourth Phase Tax Administration Reform, 1994	Fiscal Reform	Broadening Tax base. Improvement of Tax administration and voluntary compliance	
Fifth Phase, Citizen's Charter, 1994	Customer Service	Customer service improvement. Establishment of Citizen's charter	



## *Human Resource Reforms*

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendations</i>	<i>Reform Implementations</i>
Sixth Phase, Public Sector Modernization Program (PSMP), 1996	Human Resource Management	Improvements in the quality of service provided by public agencies	
	Decentralization	Modernization of pilot institutions	Creation of Executive Agencies (EAs)
	Deregulation	Disciplinary actions for permanent secretaries	A Standards and Policy Division was created
	Declassification	Compensation improvements. Remuneration packages	
	Privatization Contracting Out	Contracting out government facilities and services	Direct sale of public assets
	Procurement Contracting Out	Strengthening Government procurement procedures	
Final Phase, Vision Strategy Public Sector Reform, Ministry Paper No.56, 2002–2012	Human Resource Management Customer Service Performance Management	Vision and strategy for public sector reforms in Jamaica under eight thematic areas	

*Source:* Adapted from multiple sources (Howard 2001; Sutton 2008; Tindigarukay 2004).

### ***Trinidad and Tobago***

Trinidad and Tobago's (TT) HR reform initiatives were similar to Barbados and Jamaica. At a macro level, Caribbean governments were adopting and implementing NPM reforms within their civil services, in an attempt to restructure, re-engineer, and transform them to operate with greater efficiency and effectiveness while motivating employees to do more with less, build and sustain institutional capacity, retain talent, and manage scarce resources. Similar reforms were being implemented globally. The rationale was implementing NPM reforms designed for developed economies into the Caribbean as small developing economies with the expectation that similar outcomes will transfer.

In light of the above Public Service Reforms (PSR) in the mid to late 1980s focused on workforce planning and performance management. Recommendations were made to improve performance in all agencies especially those critical to the restructuring process and help to broaden economic and social development. Like Barbados and Jamaica, this reform program reduced the size of the TT public service and sensitized staff within that there was a dire need to enhance performance organization wide in order to improve efficiency (Dumas 1995; UNPAN 2012). Another wave of reforms came in the early 1990s under the Draper (former minister of government) initiative. He advocated for the implementation of NPM reforms in the TT public service. He championed public sector reform (PSR 1991–1993) and made recommendations within HR activities and related areas for strategic planning, decentralization, workforce planning, performance management, declassification, privatization, contracting out and training. Reform recommendations aimed at transforming the public service using strategic planning process to implement plans, vision, and mission. Under Draper's PSR initiative the process of consultation and consensus for government was a priority. He was committed to a philosophy of care and participatory democracy for nation building. He recommended a new culture for public service customer care, using the phrase, "service begins with me", in order to motivate public servants to excellence in service delivery, greater responsiveness to the needs of citizens, improved quality service, increased financial and human resources, greater efficiency in revenue collection and accountability (Dumas 1995; Sutton 2006; UNPAN 2012).

Further, Draper’s leadership initiated many reform recommendations. These included the transformation of performance management, specifically to transform personnel divisions into HR divisions, performance management and review of the existing appraisal system, and proposed the need to intensify and consolidate programs and activities that target efficient management of HR. More changes were proposed by replacing the old system of staff reporting with a system of performance management and appraisal and like Jamaica, offering EAP. Training was streamlined to make middle- to upper-level managers in the service more oriented with HRM approaches and theories using private consultants. Ministries and departments were required to use contracting out such as restructure and advertise for the recruitment of human resources to fill new highly paid contract positions. Implementation successes varied for this period of reforms and many recommendations met with great challenges.

The next wave of HR reforms came under the New Public Administration reform initiatives (1994–1998). Similar types of reforms continued to be used but those that had greater impacts on HR included important legislative reforms, policy decisions in performance management, and the creation of a new ministry in public administration to provide the institutional framework to implement and manage many of the recommendations (Bahall 2012; Dumas 1995; Riley and Micheline 2004; Sutton 2008). The final phase of public service reforms occurred like Jamaica and Barbados in the 2000s. Performance Management continued to be developed in light of the establishment of HR units in each ministry. The TT public service still is governed by a dated Civil Service Act of 1960s that does not allow for an integrated human resource information system, as an IT innovation already implemented to be fully functional in many HR modules and to take precedent over traditional rules and regulations (Roach and Davis-Cooper 2016a and 2016b). There are also HR training issues with staff who are not competent with using it effectively. By 2016, PSR focused on decentralization, workforce planning and performance management. A list of key HR reforms in TT along with the recommendations and implementation status are highlighted in Table 19.6.

Table 19.6 Trinidad and Tobago HR Reforms, Initiatives, Recommendations, and Implementation

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendations</i>	<i>Reform Implementation</i>
Public Service Reform, 1984–1987	Workforce Planning Performance Management	Public Service Review Task Force	
Administrative Reform Program, 1988	Performance Management	Performance issues related to rationalization of services, structures, staff	Voluntary Termination of Employment Plan (VTEP) created
Draper Initiative, Public Sector Reform, 1991–1992	Strategic Planning  Decentralization  Workforce Planning Performance Management	Strategic planning process  Decentralization of human resource functions Restructuring line ministers and departments Transformation personnel division to human resource divisions, performance management, performance appraisal system	Staff retreats. Ministries’ strategic plans    Partially implemented

## Human Resource Reforms

<i>Reform Initiatives</i>	<i>Type of Reform</i>	<i>Reform Recommendations</i>	<i>Reform Implementation</i>
Public Sector Reform, 1993	Declassification	Classification and compensation of jobs	
	Performance Management	Introduction performance management and appraisal system. Employee Assistance Programs	
	Training	Training and orientation	
	Privatization	Sale of eighteen (18) state owned enterprises	Opposition faced by Public Service Commission
	Decentralization	Reallocation of responsibilities to line ministries	
New Public Administration, 1994–1998	Performance Management	New Performance Management System	Ministry of Public Administration established
	Decentralization	New Decentralization Act (1994)	
	Deregulation	Regulatory reform. Constitution Amendment Bill (1998)	Creation of Regional Health Authorities (RHAs)
	Workforce Planning Recruitment Selection Training	Improvement and stewardship of health reform	
Public Service Reform, 2002	Performance Management	Establishment of human resource units in each ministry	Successfully Implemented
	Human Resource Information System	Human Resource Information System-Integrated Human Resource Information System ( <i>thRIS</i> )	Implemented but not fully functional in many HR modules, dated Civil Service Act of 1960s does not allow for this IT innovation to take precedent over traditional rules and regulations; duplication exists with less priority on using <i>thRIS</i> full modules
Public Sector Reform Initiation Programme, 2004	Performance Management Training	Launch of Public Sector Reform Initiation Programme (PSRIP)	
Public Sector Reform, 2005–2008	Privatization	Privatization of current health care system	
Public Sector Reform Initiatives, 2016	Decentralization Workforce Planning Performance Management	Initiatives aimed at maintaining and improving public service delivery	

*Source:* Adapted from multiple sources (Bahall 2012; Dumas 1995; Ministry of Public Administration 2016; Riley and Micheline 2004; Sutton 2008; UNPAN 2012).

### Human Resource Reforms in Latin America

Latin America has experienced recent human resource reforms since the world became technologically advanced and now faces challenges with innovative technology. El Salvador, Nicaragua,

Chile, and Argentina, discussed below, introduced reforms in human resources to provide its citizens with the most efficient public services. These four Latin American countries have in common its history, language, colonialism, and underdevelopment. El Salvador and Nicaragua have experienced delayed development regarding human resources whilst Chile and Argentina are two of the most advanced nations in the region.

### ***El Salvador***

El Salvador used to be a rich country with its coffee production. During its genesis as an independent country, El Salvador depended on its coffee exports for its economy. As a consequence, landowners never bothered to develop the manpower for further human resources reforms. Adverse economic conditions, poverty, poor working conditions, high unemployment, underemployment, and a lack of access to a basic education only perpetuated the underdevelopment of the human element (BID 2006). In 1994, it was estimated that approximately 70% of the government's expenditures were being used to pay employee salaries because of the large number of existing public employees (Moreno 2004). These employees were low-level bureaucrats without any specialized training, and earning salaries at the professional level without the required expertise. Some employees were only at the technical level (Mayora 2009). As a result of this, the national government promoted a comprehensive reform of the civil service and management of human resources supported financially by the World Bank (Banco Mundial 1996). This reform implemented a centralized human resources system, strengthened human resource administration capacities in operating units within the ministries, reduced public employment to eliminate redundant personnel, and reformed a new legal structure for the civil service (Banco Mundial 1996).

The state sought efficiency in providing public services and considered that an appropriate administration of human resources was essential. Therefore, reducing economic resources allocated to pay employee and public officials' salaries was crucial for the financing of investment projects (CLAD 2010). The government figured that it would be convenient in light of the guidelines contained in the Public Sector Modernization Program requiring that a small but professional and capable public sector would be the ideal (Mayora 2009). The creation of a legislative decree on voluntary retirement of public employees was promoted in 1995, and on December 18 of the same year, the Legislative Assembly approved the Temporary Law of Economic Compensation for Services Rendered in the Public Sector (Moreno 2004). In considering this law it is stated that for reasons of efficiency, efficacy, and effectiveness it was necessary to reform the public sector because this restructuring necessarily entailed the elimination of unnecessary positions, for which the employees would receive financial compensation. It was the intent, with this legal provision, to avoid the suppression of necessary personnel positions for the administration of public services. The government needed to preserve these professional and specialized personnel. Although intended to improve voluntary retirement, the guidelines for selecting those unnecessary positions within the civil service cadre, was not necessarily achieved.

### ***Nicaragua***

The first human resources reforms took place in the framework of the transformation of Nicaragua after the 1990s elections gave the winning victory to Violeta Chamorro, allowing for change of Daniel Ortega's Sandinista government, of a socialist nature. During both the Cold War and Nicaragua's Civil War from 1979 to 1990, Nicaragua was ruled under a Marxist government after Daniel Ortega overthrew Anastasio Somoza's dictatorship. This gave way for changes direly needed in the administration of the country's ill organized civil service. As with any organization, process of change implies considering all available human resources at hand because it constitutes

the most important source to make it not only possible but effective (Jarquín 1999). With this vision, the Public Sector Reform and Modernization Program of Nicaragua included among its components the Civil Service Reform (Jarquín and Barrios 2003).

Modernization requires new, capable, effective, and efficient public institutions. This allows for a true process of modernization and orientation in order to provide the citizens with high quality services. However, this process is not achieved only by making changes in the formal aspects of the institutions. What is also needed is to transform other aspects of the current system such as the culture, values, and work styles that have an impact on the efficacy and effectiveness of the functioning of the administration of the state (UCRESEP 1997). The Reform and Modernization of the Public Sector considers as one of its components the implementation of a Civil Service System and administrative career based on merit aimed to create a professional, impartial, effective, and efficient public service (UCRESEP 2003). Steps were taken toward implementing human resources reforms in Nicaragua. The Chamorro government worked on the modernization process of the civil service. The results gave way for a new and reformed civil service designed to take into account the management of the state's administration (Coopers 1998). The new civil service system implemented the following reforms:

- Classification of functions and responsibilities required of each position and employee
- The criteria for establishing the selection procedures in accordance with the requirements of each position
- Retributive market studies
- Definition of a method to manage the performance of public servants
- Information system making for a speedy decision-making process
- Basic guidelines to define the nature and scope of the employment relationship of those who are at the service of the Administration

All these elements were analyzed, designed, and put into practice to continue bringing to fruition the process of modernizing Nicaraguan public administration.

## ***Chile***

Chile is a South American state that has made headways in economic growth, job creation, and political stability after the fall of the Dictatorship of Augusto Pinochet in 1990. Chile has experienced a 50% growth in its middle-class post 1990 (World Bank 2013). As its economy continues to grow, special attention is given by the government to its human resource reforms. Chile is an illustration of the success a state can achieve if it pays attention to its workforce and its needs for reforms. The Chilean government created economic opportunities for its workforce by creating policies that include purposeful incentives and tax benefits (Al-Zendi and Wilson 2012). In the 1990s, post-Pinochet regime, during the first democratically elected government, President Patricio Aylwin took over a country that had been ruled under poor economic conditions (Garreton 1988). Chile was relatively isolated from the international community and as a consequence suffered precarious situations. President Aylwin championed five nation building objectives, one of them was reforming human resources (Boeninger 2007). Under his presidency, he instructed the Minister of Internal Affairs to modernize public services (Olavarría 2006). In 1994, the Internal Affairs Minister created the Interministerial Committee for the Modernization of Public Management. This committee's purpose was to design and propose reforms related to human resources (MINSEGPRES 2006).

The committee designed a plan known as the Strategic Modernization Plan to be implemented over a three-year period. The plan strategically defined six broad objectives: transparency,

management, total quality management, citizen participation, human resources reforms, and communications (MINSEGPRES 2006). This plan was primordial in its design and implementation because the political class and parliamentarians remained excluded from having a say in it. The aim was to allow administrators and public service officials to design reforms targeting inefficiencies they knew needed change with total autonomy and free from government interference (Waissbluth 2006). Chile for the first time in its history experienced decentralization of human resources at the local level. Having total autonomy and freedom to make decisions at the local level had the effect of keeping lawmakers neutral (Waissbluth 2006). Furthermore, the reforms were planned and designed in a way that it was meant to skip the bureaucratic hurdle of being debated in parliament. With these reforms, Chileans experienced a speedy turnaround in public services. For example, the issuance of government personal identification cards required days, but with the reforms' implementation, identification cards were printed on site (Olavarría 2008). Citizens no longer have to request a day off from work to obtain a government issued identification because it can be obtained in a matter of minutes. Popular public opinion manifests that political authorities and the citizenry realized that it was not enough to regain democracy, the entire public system needed an overhaul to keep up with modern times.

### ***Argentina***

Argentina, just like El Salvador and Nicaragua, has had difficulties and challenges throughout its history. Argentina had its share of being ruled under dictatorial regimes, however, in recent history Argentina has experienced the introduction of democracy. With the introduction of democratic rule came about reforms in the public sector. At the turn of the century, in 2001–2002, Argentina went through a political crisis, with five presidents in a period of one year. After recovering from this political crisis, Argentina started to seriously address and establish the foundation for a sustainable and more equitable economy to maintain steady growth (López 2003). Starting in 1989, the chaotic economic situation triggered unprecedented structural human resources reforms in the state of Argentina. The hyperinflationary crisis was the major factor guaranteeing introduction of human resources reforms into the national agenda (Bozzo et al. 1999). It was during this period that popular unrest caused the media, business persons, international organizations, and the citizenry to start advocating for the redesigning of the state. The State Reform laws are chapter-long laws regulating national public administration.

Because the state was experiencing economic difficulties, the State Reform laws prohibited private contracting or ascending certain individuals in top level positions without merit (López 2003). These laws allowed the state to amend previous practices of employment hiring violations in the public sector. With human resources reforms, the state was able to reduce its budget by implementing measures that allowed early retirements, voluntary retirements, freezing of part-time and temporary support staff, hiring freeze, institutional reorganization, and the transferring of surplus employees to the provincial and municipal levels (Zeller 2000). After the reforms were implemented, the Menem administration delegated the administration of the reforms to the Ministry of Economics with the assistance from the President's advisors. The World Bank assisted by providing loans and technical assistance to execute the reforms.

Between 1989 and 1996, the national operating budget for human resources decreased 57% by eliminating privatization of public services, eradicating excessive bureaucracy, and decentralizing services (Zeller 2000). By reforming human resources administration, the government implemented a new national system of professional administration. The objective was to professionalize the administration of human resources. Additionally, this new system allowed for the establishment of a career public administration (López 2003). The new system permitted the evaluation of human resources performance for position ascension and salary increases. Ever since the

democratization of Argentina under the Administration of Carlos Menem, the country has made strides in advancing democratic principles. One of its major changes has been in the administration of public services with the implantation of human resources reforms. Efficient services are provided but now what the country needs are good economic policies to stay afloat.

### **Human Resource Reforms in the United States**

President George Washington is credited with the inception of a civil service in the United States (US). He wanted to build a cadre of public servants based on fitness and ability. However, while not the choosing of Washington, fitness and ability meant social status and not competence. Civil service from 1789 to 1829 was predominantly limited to the aristocrats. From 1829 to 1883 the spoils system also known as the patronage system dominated, wherein supporters, friends and loyalists of the president were appointed to federal government positions. President Andrew Jackson was responsible to popularize the spoils system (Cayer and Sabharwal 2016). In 1864, Senator Charles Sumner proposed to introduce competitive exams, however, the Congress defeated such bills repeatedly between 1865 and 1869 (Therriault 2003). Politicians were dictating the recruitment of civil servants in posts with irrelevant backgrounds. For example, among various appointees in the office of the Treasurer, there was a postman, a salesman, a washerwoman, and 112 other employees with no particular occupation (Hoogenboom 1959). The assassination of President James A. Garfield by a disgruntled office seeker dealt a blow to the spoils system.

Pendleton Act in 1883 was enacted to remove this ridiculous practice of hiring loyalists, friends, and relatives to the civil service. The goal was to enhance professionalism and eliminate the political influence in public service by introducing the merit system. The implementation of entrance exams not only freed the recruitment process from the grasp of the politicians but also replaced loyalty with merit for the new bureaucrats. Initially only 11% of the civil service was based on competitive examinations, it grew gradually and by 1,900, around 46% of the total federal recruitment was under the merit system (Hoogenboom 1959). Another major step taken under the Pendleton Act was the establishment of the Civil Service Commission (CSC) that established the classification system. The commission faced several upheavals leading up to the presidency of Theodore Roosevelt in 1901 (Hoogenboom 1959). His election led to the building and expansion of the federal civil service system.

The next major step in the history of civil service was the Classification Act of 1923. The significance of this act can be described from various perspectives. Some of the recommendations that were implemented under this act were: establishment of broad occupational divisions or services, which were later subdivided into a number of grades based on duties and responsibilities covered by the job description (Huddleston and Boyer 1996). This act was of major significance as it not only created a pathway for equal pay for equal work but also laid the foundation for the pay structure and position classification for years to come (Pfiffner 1998). Between the Classification Act of 1923 and the first Hoover Commission in 1949, another act was passed which prohibited government employees in the executive branch to engage in any sort of political activity- the Hatch Act of 1939. This act gave legislative force to the Civil Service Commission's prohibition on political activity.

After World War II, under the leadership of president, Herbert Hoover the first Hoover Commission was established. The commission comprised of 24 task forces issued 277 recommendations, of which several were related to streamlining the personnel management system. The commission recommended that department heads and agencies should have the primary responsibility to hire new administrators. The Commission also suggested a preference for hiring veterans and recommended changes to the compensation system (Summary of Reports of the Hoover Commission: Part I, 1949). To improve career services, the Commission suggested that Congress



mandate professional training to the most promising employees (Summary of Reports of the Hoover Commission: Part I, 1949). The second Hoover Commission was formed in the year 1955, and comprised of 19 task forces (Moe 1982). Unlike the first Commission, most of the recommendations proposed by the second commission were not implemented, establishing senior civil service was one of them (Riper 1958).

The next big step to reorganize the personnel management system was the passage of the Civil Service Reform Act (CSRA) of 1978. This act divided the former Civil Service Commission into two agencies, the Office of Personnel Management (OPM) and the Merit Systems Protection Board (MSPB). The motive behind creating two different agencies was to ensure that the government serve the public efficiently and protect the merit system from any form of partisanship. The main recommendations of CSRA were: delegate personnel authority including authority over competitive exams to the federal agencies, creation of a Senior Executive Service, performance-based pay for middle level managers, additional protection for whistleblowers, an easier process to fire incompetent employees, and granting employees the right to unionize and arbitrate (Knudsen et al. 1979).

In line with the initiatives undertaken by past reforms, The National Performance Review Report in 1993, *From Red Tape to Results: Creating a Government That Works Better and Costs Less* aimed to transform government by reducing red tape and creating a more results-oriented service in the federal management system. The primary focus of the report was on: putting customers first, reducing bureaucratic burden or cutting red tape, empowering employees and downsizing (Pfißner 1998). The reform initiatives were mostly a reflection of business-like practices in government that continue to influence the HR practices in the US.

The current public human resource management reforms are a departure from past practices that were inundated with inefficiencies toward a strategic human resources management (SHRM) approach. SHRM aims at reinventing government and introducing market-like practices such as: employment-at-will, merit pay or performance-based pay, decentralization, deregulation, and privatization (Llorens and Battaglio 2010). These reforms aim to provide greater latitude to personnel managers in decisions related to hiring, firing, promotion, compensation, position classification, and performance. However, constant government budget cuts make it difficult or impossible to provide competitive compensation and merit pay to public employees. Radical civil service reforms, like privatization, outsourcing employment-at-will take away traditional job security afforded to public sector employees, and hence opposed by several scholars (Coggburn 2007; Condrey and Battaglio 2007; Light 1999; Yusuf and O'Connell 2014). At the state level, employment-at-will reforms are most pronounced in Georgia and Florida, despite 28 states with similar arrangements. With dwindling budgets and the move to more business-like practices, recruiting and retaining public sector employees can be the biggest challenge facing HR professionals.

## Conclusion

Interestingly, most of the HR reforms in South Asia, the Caribbean, and Latin America parallel the US, yet, each country is influenced by its history, culture and traditions that shape its public human resources systems. Although reforms in these emerging economies have initiated structural changes to public services many of them still operate within a personnel management framework. Majority of the initiatives fall under the traditional core, known as PADS (planning, acquisition, development, and sanction) (Klingner and Nalbandian 2003), and to a much lesser extent to the new strategic human resources management system. In fact, human resources are commonly referred to as “personnel” in these countries. There is still a great need for integration of HRM fragmented functions and activities. Questions still remain as to the relevance and impact of NPM reforms adopted in these countries. Majority of HR reforms in the countries highlighted in this

chapter, including the US are aimed at increasing efficiency, productivity, improving morale and hiring and retention of public sector employees. However, a balance must be maintained between autonomy and flexibility guaranteed to public managers and the need for fairness, equity, and justice in all personnel decisions (Brewer and Kellough 2016).

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# RAPID ADVANCES IN HRM TECHNOLOGIES AND PUBLIC EMPLOYMENT SYSTEMS

## A Research Agenda for Acquiring and Managing Talent

*Jared J. Llorens*

### **Introduction**

The push for technologically driven reforms has been one of the most prominent themes in both public and private sector human resource management (HRM) over the past 25 years. Developing technologies have often been praised for their potential to both simplify and improve essential management tasks related to such areas as talent acquisition and performance management, and there is perhaps no arena within human resource management that has not been significantly impacted by the development of new technologies. While advancements such as automated recruitment portals were recently thought of as cutting edge in the hunt for talented job candidates, their use is now assumed for most high performing organizations. Looking forward, researchers that track trends in the field now point to the rapid growth in artificial intelligence technologies and big data ‘people’ analytics as two of the primary drivers of future human resource management innovation (Partnership for Public Service, 2016, 2018).

To date, public HRM scholarship has yet to fully address how the push to utilize developing HRM technologies uniquely impacts public sector employment systems. Much like the widespread adoption of compensation reforms (e.g., merit pay) in years past, it has often been assumed that there is a net gain from any and all information technology reform efforts. From an academic perspective, the lack of robust scholarship in this area can partially be attributed to the dizzying pace of technological change, with research in the field often compared to aiming at a moving target.

Keeping this unique context in mind, this chapter addresses three primary topics. First, it seeks to provide an overview of developing human resource management technologies as they relate to the core functions of traditional public employment systems. Second, the chapter seeks to explore how developing technologies hold the potential to impact the core values of traditional public employment systems, namely a commitment to hiring processes founded upon merit-based selections, fairness, equity, and transparency. Last, the chapter makes the case for a renewed research focus within public HRM scholarship that more fully addresses both the complexities of rapid technological advancement and its associated impacts.

## **The Historical Evolution of Talent Acquisition in the U.S. Public Sector**

The process of filling occupations with talented and qualified candidates can be viewed as one of the key foundations of high performing organizations. Simply stated, without a stable and qualified employment base, it is not possible to fulfill organizational missions in a truly effective and efficient manner. This dynamic is true for organizations in both the public and private sectors, but unlike their private sector counterparts, public sector employment systems have evolved within the unique context of democratic institutions.

Prior to the late 19th century, public sector employment systems were grounded in patronage-based hiring practices which valued political loyalty above all else in acquiring talent. As historical overviews of the period have documented in detail, these systems routinely resulted in the incompetent and inefficient administration of public services, and calls for reform culminated with the move toward merit based civil service systems built upon the ideal of hiring candidates that were qualified for public service occupations, while also maintaining a commitment to ensuring that public employees were representative of the communities that they served (Van Riper, 1958; Krislov, 1967).

With the growth of merit-based employment systems in the late 19th century, public employers quickly adopted and implemented systems for recruiting and hiring candidates on the basis of their knowledge, skills, and abilities, rather than non-job-related factors such as political affiliation. However, while these merit-based talent acquisition systems still serve as the core of public employment, the means by which organizations have sought to attract qualified candidates and assess their suitability (i.e. merit) for positions have changed considerably over the past century.

### ***The Core Components of Talent Acquisition***

Viewed from the top down, talent acquisition can be thought of as system comprised of three unique, yet interrelated, processes – recruitment, assessment, and selection (Llorens et al., 2018). The primary goal of recruitment efforts in the public sector is to match employment opportunities with candidates that are either immediately qualified those opportunities or have the potential to be trained/developed for such opportunities. In addition, given the public sector's unique commitment to social equity and democratic values, the recruitment function for many public employers is also influenced by efforts to ensure that employment opportunities are made available to all members of a relevant community and that the process of recruiting candidates is as transparent as possible.

In practice, the recruitment of candidates in many public agencies has transformed as new technologies have made it more efficient and effective to advertise employment opportunities to potential candidates and as the expectations of candidates have changed. For example, only 25 years ago, it was not uncommon for federal, state, and local government employers to simply post listings of vacant positions in governmental buildings or in local print publications. Under such practices, potential candidates were limited to individuals that either resided in a local community or had a means of learning of employment opportunities from members of the community. With the advent of computer-based information systems, these paper-based practices were quickly replaced by computer kiosks listing employment opportunities for larger geographical areas and later, web-based employment advertising (Llorens and Kellough, 2007). While the advent of such systems greatly influenced the efficiency of advertising employment opportunities, as well as access to previously untapped labor markets, it was not long until even these systems were supplemented by newer mobile applications and social media platforms (Llorens, 2011). At present,



it is not uncommon to find public employers with recruitment systems that leverage multiple approaches such as college career fairs, informational websites, job previews and employee testimonials on such sites such as YouTube, and targeted recruitment on the popular employment platform LinkedIn.

Once applicant pools are assembled using a chosen recruitment method or system, organizations are then tasked with assessing applicants based upon their merit. While conceptually concise, in practice the assessment of applicants is often much more challenging given the complexity of both defining what merit means for a particular occupation and implementing a process for evaluating the presence of identified attributes that a given candidate might possess. While public employers are often known for the widespread use of exam-based assessment processes (i.e. the classic civil service exam), in reality public organizations often use a wide variety of tools for assessing candidates. These include simulation centers, interviews and resume reviews. Regardless of method, prior research has pointed out that to be effective, assessment methods should be reliable, valid, appropriate for the selected population of candidates and unbiased (MSPB, 2009).

Of the characteristics identified above, the reliability and validity of assessment systems are key for all organizations and, for public employers in particular, maintaining a fair and unbiased assessment system is equally important. For assessment tools to be reliable, they must consistently evaluate applicants such that applicants of equal merit receive comparable assessments across varying time periods and contexts. For example, if using a classic exam-based assessment method, applicants with comparable skills and abilities should receive comparable scores if the exam is to be deemed reliable. The validity of assessment systems is often viewed through the lenses of content, construct, and criterion validity (Llorens et al., 2018). In order to possess content validity, assessments must measure abilities that relate to the actual duties and requirements of a particular job. Similarly, construct validity relates to the extent to which assessment methods measure psychological traits or aptitudes that are related to optimal performance in a selected job. Last, criterion validity refers to the extent to which performance on a given assessment is related or correlated to the performance in the occupation being filled. For example, standardized tests used to evaluate applicants for colleges and universities are often criticized for their inability to predict academic performance since academic success is often the result of characteristics (e.g. work ethic and time management) that are not measured on the test.

Selection processes, often viewed as the final stage of talent acquisition, vary from employer to employer, but are generally grounded upon the ideal of hiring those candidates best suited for a particular opening. Although private sector managers are commonly thought to have a high degree of discretion in selecting from candidates that have successfully navigated the assessment process, public employers have traditionally maintained supplemental policies and procedures to either ensure fairness in the selection process or to benefit targeted groups of applicants. For example, it is not uncommon for public employers to mandate that hiring managers select from the top tier qualified candidates (e.g., the 'rule of three') as ranked by an assessment tool (MSPB, 1995). Additionally, many public employment systems maintain preferential hiring practices for military veterans depending upon their type of service and disabilities related to their service (OPM, 2019).

### **The Promise of Technological Advancements**

Residing within the broader cannon of electronic government (e-government) research, there has been a growing body of research highlighting how technological advancements of the past 20 years have shaped the means by which public employers engage in talent acquisition (see, for example, Selden and Orenstein, 2011). While comprehensive studies in this area have been limited due to both the diversity of public employment systems and the speed of technological innovation,



it is commonly accepted that technological innovation has most significantly impacted the recruitment process, first through the adoption of web-based recruitment portals and later through the use of social media platforms as a means of reaching potential job candidates.

Beginning with the widespread development of organizational websites in the mid- to late 1990s, organizations quickly realized that given the accessibility of websites from virtually any computer network, their websites held the potential, if applied to employment advertisement, to exponentially expand applicant pools, thus increasing the probability of hiring talented job applicants. While companies such as Monster.com led the push for web-based job advertisements on the private sector side, public sector employers were quick to follow by either developing their own employment websites or contracting out with for-profit providers (Llorens and Kellough, 2007). For example, at the federal level, the U.S. Office of Personnel Management launched its USAJobs.gov platform in 1996 as a centralized portal for jobseekers and federal employers, but its efforts were also matched with individual agency efforts to develop supplemental employment websites hosted on their individual websites (ibid). Such efforts were also seen at the state and local government level, with employers such as the State of Washington launching its automated recruitment portal in the early 2000s (Bingham et al., 2002).

Along with technological advancements, the functionality of employment websites grew over the 2000s from simply posting job opportunities to providing applicants a means of both applying for vacant positions through a web-based portal, and in many cases, allowing applicants to track the status of their applications throughout the hiring process. Together, these two advancements greatly benefitted the talent acquisition process because online application systems substantially decreased the transaction costs associated with applying for a job and, in addition, status tracking helped to address a longstanding criticism of many public employment systems – that talented candidates often withdrew from the hiring process as a result of not knowing the status of their applications during lengthy time-to-hire periods.

Following the adoption of web-based recruitment systems by many public employers, these systems were once again transformed by the rapid development and use of social media platforms such as Facebook, YouTube, Twitter, and LinkedIn. While many of these social media platforms, with the exception of LinkedIn, were not initially developed for employment purposes, employers quickly came to realize that while career websites were helpful for passively providing large amounts of employment data to potential candidates, social media platforms allowed them to actively brand their organizations and make contact with candidates that may not have been actively seeking employment opportunities with their organizations. This more active recruitment strategy can be seen in the use of Twitter accounts to announce future job openings and the promotion of employment profile videos on YouTube to communicate to potential applicants the benefits of working for a particular organization.

To date, these technological advancements in the field human resource management have resulted in two major benefits. First, employers in both the public and private sectors now have access vastly larger applicant pools than at any time in their past. Whether an employer is in Anchorage, AK or Austin, TX, they are able to access candidates from across the globe and communicate the benefits of working for their organization. Second, job seekers now have the ability to learn more than ever about potential employers and employment opportunities, as well as apply for vacant positions with relative ease compared to just 25 years ago. However, while the benefits of technological advancement have largely been experienced within the recruitment arena of talent acquisition processes, new advancements in both data analytics and artificial intelligence (AI) hold the potential to drastically transform assessment and selection processes, and as a result, raise critical questions for public employers seeking to maintain their commitment to fairness, equity, and transparency.

### ***The Role of Data Analytics, Predictive Analytics & Artificial Intelligence***

While innovations such as web-based recruitment greatly impacted the ability of public employers to expand their applicant pools and more effectively brand their organizations, they did little to impact the backed process of assessing, evaluating, and selecting candidates. For many organizations, this stage of the acquisition process remains ‘high touch’ in the sense that there have been limits on the ability of new technologies to adequately assess, beyond baseline qualifications, the suitability of a broad spectrum of candidates. However, tools associated with the growing fields of data analytics and AI have introduced new and developing technologies that hold the potential to transform the assessment and selection of candidates in a similar fashion that web-based recruitment processes did years earlier (Riley, 2018).

Data analytics, including big-data analytics, simply refers to the process of utilizing data to drive or inform decision making processes. Data driven decision making is not a new phenomenon, but advancements in data warehousing and processes capabilities have vastly expanded the type of questions that can be addressed with data analytics, as well as the speed with which organizations can answer these questions (Partnership for Public Service, 2011). For example, in a case study of data analytics efforts in the federal government, the Partnership for Public Service highlighted the work of the U.S. Internal Revenue Service in using data analytics to identify tax fraud. As an initiative of the IRS Office of Compliance Analytics, the agency selected tax return data from a sample of tax preparers and through data analytics, was able to identify potentially fraudulent claims which resulted in savings to agency of approximately \$100 million in 2012 (Partnership for Public Service, 2012, p. 9).

While data analytics can be thought of as the process of using existing data to identify trends or relationships that can aid in the managerial decision-making process, predictive analytics goes one step further by building upon analytical practices to predict future outcomes in a given sphere, and in turn, using these predictions to inform decision-making processes (Reavie, 2018). One area of predictive analytics that has received a great deal of attention in recent years has been the use of predictive analytics in the criminal justice system. In a 2016 report, the investigative organization ProPublica highlighted how judges were increasingly using offender risk assessments, built upon predictive analytics, to inform decisions that judges make on such issues as prison sentence length and bond amounts (Angwin et al., 2016). Unfortunately, as the investigative reporters pointed out, the predictive risk assessments were found to be unfairly biased against African American defendants and often wrong when compared to future outcomes.

Artificial intelligence builds upon predictive analytics through the use of self-learning software programs which use algorithms to both predict outcomes within certain contexts and learn how to become more accurate with later predictions (Zielinski, 2017a). As a result, AI is often thought of as a tool for not only informing decision making processes but also a decision-making tool in those cases where human decision-making may be inaccurate, inefficient, or biased.

Predictive analytics and AI have been applied in a wide range of organizational contexts, across multiple sectors, where data informed decisions can be utilized to improve organizational performance. While these tools are often referenced in the context of organizations seeking to influence market outcomes by predicting customer behavior, increasingly, these tools are being adopted within the context of human resource management processes, where one of the greatest challenges for organizations is the hiring and retention high performing employees. In meeting this challenge, two of the most difficult decisions that organizations must make is (1) how to effectively and efficiently assess a large pool of talented candidates and (2) who to hire from a list of candidates deemed qualified on the basis of a given assessment system.

For many organizations, the processes employed in assessing candidates and making hiring decisions is still one largely driven by individual actions on the part of hiring managers and human

resources staff. For example, it is not uncommon for organizations to receive hundreds, if not thousands, of applications due to the effectiveness of their e-recruitment practices, but then have to rely upon manual processes (e.g. in-person interviews for a select group of qualified candidates) for assessing candidates and selecting hires on the basis of their potential performance. While there is a considerable research field devoted to the practice of assessment and selection in hiring systems, it is not difficult to see why the use of data analytics and AI technologies to inform or guide hiring decision could become increasingly attractive for organizations, especially those receiving high volumes of applications, or seeking to streamline and improve upon their management operations.

In recent years, the Society for Human Resource Management has highlighted the growth in these technologies, as well as some of the concerns that are uniquely relevant for public employers. Driven by the development of software products from a growing number of technology firms, organizations are now advertising and selling software platforms which utilize predictive analytics and AI to carry out such tasks as interviewing candidates and predicting individual employee retention utilizing organizational human capital data (Zielinski, 2017a and 2017b).

For example, HireVue, a HR software company founded in 2004, has promoted and sold its AI software platform to a diverse range of organizations across multiple sectors, including the Hilton Corporation and the Atlanta public school district. Though the company maintains multiple product lines, its AI based assessment tool is critical to this discussion. In advertising its assessment tools to organizations, HireVue states that

by leveraging artificial intelligence within a video interview, coupled with data collected from gameplay, HireVue provides your hiring teams with key insights into a candidate's work style, how they work with people, and general cognitive ability. These data points are analyzed by our proprietary machine learning algorithms, which help to quickly prioritize candidates to ensure you engage with the highest quality candidates first...Because leveraging AI allows your hiring teams to accurately predict future success in a single step, you can speed up time to hire and dramatically increase your recruiter's efficiency.

*(HireVue, 2019)*

In practice, HireVue's technology requires candidates to record assessment (interview) videos on its platform and then complete a series of cognitive, game-based assessments. These interviews are not with a live recruiter or hiring manager, but require the candidate to answer, in a recorded video, scripted interview questions that are asked of all candidates for a particular occupation. Once data from both the interview and cognitive assessments are processed through the platform's predictive algorithm, the platform can provide hiring managers with a list of candidates it deems most suitable for the organization's open position. Of particular note is that data gleaned from the recorded candidate interview is based upon the platform's ability to assess word usage, candidate expressiveness and emotions using facial recognition software (Larsen, 2018). Ultimately, this approach to assessing candidates means that instead of an interview taking place for a limited number of candidates following an assessment, organizations can conduct an automated interview for an unlimited number of candidates that can then be fed into a candidate's assessment score. Equally important, the platform can be revalidated by feeding post hire employee performance data back into its learning algorithm.

At present, HireVue is one of many organizations seeking to leverage the capabilities of data analytics and AI in new and unique settings, but it safe to assume that such efforts will only expand as both the technology associated with them improves and organizations become more comfortable with relying up increasingly sophisticated algorithms to supplement or replace human decision-making processes. Just as the prospect of driverless cars quickly transformed from implausible to inevitable in the public mind, the field of human resource management is now

facing the prospect of talent acquisition systems whose core processes are automated up to and including the point of candidate selection. Although in its early stages, existing technology could conceivably enable an organization to use its existing employee performance data to construct an algorithm which both identifies the attributes of an ideal job candidate and uses these attributes as the core of a fully automated recruitment, assessment and selection process that provides hiring managers with a single or limited group of candidates for hire.

### **Critical Implications for Public Sector Management Systems**

Feasible though it may be, the full automation of talent acquisition processes raises critical questions for both public administrators and public administration scholars. First, as emphasized in the introduction to this chapter, public employment systems in the U.S. have been traditionally grounded on the ideals of merit-based selection, fairness, equity, and transparency. In seeking to live up to these ideals, public employers have been at the forefront of efforts such as the recruitment of candidates from diverse applicant pools, the use of hiring mechanisms to promote the hiring of underrepresented population groups (e.g., women, minorities, and the disabled) and special categories of employees (e.g., military veterans). A commitment to these ideals is often the reason why many public employers are thought of as preferable alternatives to more biased or discriminatory private sector labor markets. A move in the direction of automated hiring systems, which are unable to emphasize these values due to a reliance upon data driven, algorithmic-based decision processes, could drastically erode the existing character of public employment systems. This potential was echoed in a recent commentary by Stacey Harris, an IT management consultant, who states that

because AI analyzes and learns from patterns, there is a danger of the software replicating biases in recruiting or promotion processes...For example, if a company's highest performers historical have been identified as white males between 30 and 40 years old – because those individuals were frequently promoted into next-level jobs – that bias can inadvertently become built into algorithms that learn from talent management patterns

*(Zielinski, 2017a)*

Second, and related to the point above, the potential for data analytics and AI to contribute to and improve public management systems is ultimately dependent upon the quality of the data used in building predictive algorithms. If the underlying data used in these systems is flawed, biased or simply unreliable, then, at best, the potential benefits of such systems are minimal and at worst, their use may be harmful (Anastasopoulos and Whitford, 2019). Technology consultant Brian Sommer highlights this issue when he observes that “algorithms are only as good as the data sources they rely upon” (Zielinski, 2017b).

### ***Directions for Future Research***

Moving forward, it is imperative that public administration scholars and practitioners engage in research that not only tracks the growth of AI in the public management sphere, but also assesses the overall impact of these efforts on such key outcomes as organizational performance and employee diversity (Desouza, 2018). As with related AI adoption efforts, the true driver of how these systems will impact organizations lies with unique characteristics of the algorithms upon which they are built, the contexts in which they are used and the data that is fed back into their self-learning systems. While by no means exhaustive, the following questions and considerations

should serve as a starting point for developing research in this area, both from applied and more theoretical perspectives.

From an applied perspective, practitioners should be thoughtful in exploring which types of occupational and organizational contexts are most appropriate for the initial utilization of AI in the talent acquisition process. Similar to past research on the applicability or suitability of merit pay systems on an occupational basis (Perry, 1986), research in this area should begin the process of identifying public service occupations that may benefit from the promise of AI and those occupations that may be more appropriate for traditional or 'high touch' hiring methods. For example, algorithmic hiring systems may be better suited for occupations with clearly defined and easily evaluated knowledge, skills, and abilities (e.g., prison guards); however, occupations with less structure and more ambiguous requirements (e.g. city managers) may not be ideal for early adoption of algorithmic assessment practices. Additionally, there may be relevant organizational characteristics, such as employment size and fiscal capacity, which can serve to facilitate or impede the use of AI in talent acquisition actions. For example, one can envision a large, well-funded organization with a relatively homogeneous occupational base (e.g., a school system) being well suited to leverage the potential benefits of AI; whereas, a small, poorly funded organization with relatively few overlapping occupations (e.g., a small municipality) might not be able to readily take advantage of the same benefits. In the case of the latter, however, there may be potential opportunities to pool resources across multiple organizations or jurisdictions to better leverage technologies not designed for use in limited cases.

Second, and related to the point above, practitioners should also begin to address what type of human capital data can and/or should ideally be utilized to leverage developing AI capabilities. As previously highlighted, the promise AI and predictive analytics can only be realized with the availability of vast quantities of high-quality data appropriate for the context in which it is being used. For the purposes of identifying ideal job candidates, this presupposes the presence of robust data on existing employee performance which can then be linked to identifiable candidate metrics. While conceptually concise, the on-the-ground reality of identifying, collecting and utilizing such data will no doubt be a challenge for organizations, whether public or private.

Third, it is imperative that organizational leaders considering the use of AI in talent acquisition systems, as well as researchers studying the impact of such systems, be able to fully account for how these systems are constructed and the assumptions underlying them. While this task is difficult due to the current proprietary nature of many of these technologies, public employers have traditionally been held to higher standard, oftentimes statutorily, in terms of the transparency required of them in explaining the rationale for how candidates are selected for employment. For example, it is not an uncommon requirement for public employers, especially U.S. federal government agencies, to explicitly share the assessment methods and factors used in rating their job applicants and which factors (e.g. Veteran's Preference and/or educational attainment) were used in the selection of a particular candidate for a particular vacancy. For public employers operating under an expectation or requirement of transparency, they will not have the ability to simply adopt off-the-shelf AI systems without fully accounting for how these systems rate applicants and how they, in turn, use these ratings in the selection of candidates.

From a more theoretical perspective, the potential use of AI in hiring systems places heightened emphasis on enduring questions related to merit, employee performance and person-organization fit, questions that, in many respects, have not been sufficiently addressed under existing public sector hiring systems. More specifically, the use of algorithmic hiring assumes that organizations have a firm grasp of what defines merit in identifying talented candidates, that they have identified clear assessment factors for selecting candidates on the basis of merit (i.e. construct validity) and last, that these factors are positively related to employee performance (i.e., criterion validity).

While it is the ultimate goal of organizations to utilize hiring systems that consistently identify and hire candidates that will later become high performing employees, creating and adopting such systems are often influenced by such factors as organizational resources, the complexity of occupations to be filled and the expertise of hiring managers and human resources staff. Ultimately, the growing use of AI in this arena should encourage researchers to explore the extent to which these new systems are more or less effective at identifying high-quality candidates, the impact of these systems on person-organization fit, and the long-term impact of these systems on organizational performance.

## Conclusion

In sum, this chapter has sought to introduce a topic of growing relevance to public administration scholars and practitioners, the use of data analytics and AI to influence or drive public management decision making in the realm of human resource management. While these tools are destined to impact all facets of administrative decision making, their use in the talent acquisition process is worthy of heightened attention due to the critical role that public employment systems play in promoting such democratic ideals as fairness, equity, and transparency. These technologies hold the potential to greatly streamline the hiring process and transform how agencies administer merit-based hiring systems. However, left unexamined, these technologies also hold the potential exacerbate existing biases and shortcomings within public employment systems, while providing an illusion of greater effectiveness and efficiency. It is imperative that both practitioners and scholars in the field of public administration take steps to understand how these technologies might influence traditional decision-making processes and develop comprehensive evaluation systems to ensure that their implementation does not come at the cost of eroding those ideals and values that public employment systems have long promoted.

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# Public Administration and Regenerating the Policy Cycle

# 21

## THE POLICY CYCLE AND POLICY THEORY

### From Theory-Building to Policy Making

*Catherine Althaus and David Threlfall*

#### Introduction

This chapter explores the surprising and contested longevity of the policy cycle, a heuristic built off the policy stages approach of Harold Lasswell. We document the history and context of the policy cycle, and attend to debates around its status as framework, theory, or model. The cycle, as an evolution of the policy stages approach, is frequently derided as a simplification—it does not account for the complexity inherent to policymaking (e.g. Lindblom 1968; Sabatier and Jenkins-Smith 1993, p. 3; Howard 2005; Colebatch 2006). Proponents argue this simplification is a necessary and deliberate feature. The cycle serves as an idealized model to organize a complex process into a manageable series of steps, simultaneously introducing rigor and integrity into this process for those learning it. Overall, despite decades of rejection by many theorists and practitioners, the policy cycle remains a touchstone against which to align or arc away. As a sensemaking point of departure, even its detractors admit other theories still fail to surpass its scope and application to practice. We scrutinize this paradox. In short, we argue there remains value in utilizing the policy cycle to understand the policymaking process, especially those unfamiliar to its practice.

But what *is* the policy cycle? If we refer to Ostrom’s (1999, pp. 39–41) delineation of *frameworks* from *theories* and *models* of the policy process, the cycle hews most closely to that of a framework. As Ostrom demands, the cycle offers a means to “organize diagnostic and prescriptive inquiry” and in its scope provides “a metatheoretical language that can be used to compare theories”. Our purpose here is not to revisit longstanding debates about the cycle’s classification (Schlager 1999, p. 239) but rather focus on the core reason for its longevity—its application in practice. While the cycle (at its least developed) may lack predictive power and descriptive nuance within each stage, it presents those new to the policymaking endeavor with an operational guide for their task (deLeon 1999, p. 29). Understood in this light, the policy cycle or stages approach is a *heuristic*—a “process or method” by which someone can “discover or learn something for themselves” (Oxford Dictionaries 2019).

Accepting the cycle as such acknowledges the continued relevance of the idea at its heart—provision of an ideal model with which to help guide policymaking. The policy cycle does not explain the wider operation of government and its institutions, or the finer craft of governance. Rather, it offers practitioners a means to conceptually and practically guide an issue methodically through the policy process. It speaks also to the importance of making theory for *practitioners*, in addition to advancing theory for theorists. Practitioners need multiple theoretical instruments; one of the key skills they must develop and deploy is consciously or unconsciously picking and choosing theories or elements thereof to advance good practice (as well as can be hoped given

myriad constraints). Theorists don't face the same pressure of action. Their pressure is one of reflection; they can afford to be purists.

There is a place for this reflective purity but we believe that, both for theory and practice, it is better to operate on the basis that it is unhelpful to pit theories against each other in some sort of 'policy shootout' (see Cairney 2013, p. 3). We believe there is merit in building a body of knowledge and appreciating alternative perspectives, comparing and contrasting, integrating and differentiating in order to serve or promote better public administration and policymaking. Duetting theories devolve more easily into a dialogue of the deaf rather than leading to the creation of insight (Cairney 2013, p. 17).

We argue that the longevity of the policy cycle is tied to its heuristic benefit. It endures because it prioritizes the practice needs of policymakers, who are always searching for sensemaking ideas to help them navigate the challenges and opportunities of policy work. The policy cycle reminds us that public administration scholars have a central role to play in making theory speak to practice. They are not alone, however, because practitioners also play a critical role in this translation task.

Theory-building as well as practice improvement is a *shared enterprise*. The more we can bring this joint enterprise to the surface and the more we encourage both parties to exercise their agency, the better for policy processes and outcomes.

### Historical Evolution of the Policy Cycle

'Policy cycles' is not the best term for what I want to discuss now because it implies more neatness of pattern than I really mean to suggest. I can't think of another appropriate term, however, and I do want to build on the notion of a 'round of events or phenomena that recur regularly and in the same sequence' (a dictionary definition of 'cycle')

(Jones 1970, p. 120)

The official birth of the field of modern public administration is attributed to Woodrow Wilson (Brownlow 1956). Of course, we know that a vast history precedes this birth story (see, for example, Kane 2003; Dunn 2018, pp. 32–34). It is a tale of how philosophy, political theory, ethics, religion, law, science, economics, and human affairs generally interweaved, broke apart, and reintegrated in new ways. This history sometimes elevated philosophy and ethics (such as in the Greco-Roman period with Aristotle), at other times law (during the Enlightenment with Rousseau and Kant), before turning more recently to science.

For the great majority of this evolution, the story has been dominated by Western history and thought. Eastern traditions—especially those of Confucian and Islamic origin expressed in China and the caliphates (particularly during the Moorish period)—and 'traditional' systems (such as those of Indigenous civilizations) presented alternatives to how governance and administration could be conceived. But the relentless trajectory of Western history and its embedded concepts, over time, has proven a universalizing force and become the 'gold standard' of the modern era (Drechsler 2015). It is here that we start our narrative.

The ideas of Woodrow Wilson preceded those of Harold Lasswell and Herbert Simon. Wilson prepared the ground for Lasswell to apply the logic of scientific rationality to administration, and for Simon to put bounded principles around such rationality. These pioneers of modern public administration held in common a commitment to the virtues of rationality and order in the face of uncertainty.

Wilson proclaimed public administration as a *science* (Brownlow 1956). He argued in favor of a clear distinction between the policy decision making of democratically elected officials on the one hand and implementation carriage responsibilities of public servants on the other: bureaucracies

were seen to be neutral instruments of political authority (Kane and Patapan 2006, p. 714). The Wilsonian vision was premised on a belief that politicians carried the task of the messy negotiation of competing values whereas career bureaucrats served the public good through impartial, technocratic adherence to logic and evidence. The ‘science’ of public administration would save society from the illogical machinations of politics.

The hope for a rational ordering of policymaking led to the development of policy cycle approaches. Lasswell argued that a common pattern could be discerned across domestic, international, and transnational policymaking fields (see Ronit and Porter 2015). This pattern could be characterized by a number of stages:

- i intelligence;
- ii promotion;
- iii prescription;
- iv invocation;
- v application;
- vi appraisal; and
- vii termination

*(see Dunn 2018, p. 43 for a description of each stage)*

These stages later became amended in the works of Charles Jones (1977) and James Anderson (2010) to be referred to as:

- i agenda setting;
- ii policy formulation;
- iii policy adoption;
- iv policy implementation;
- v policy assessment;
- vi policy adaptation;
- vii policy succession; and
- viii policy termination.

This pattern has been amended, debated, and discarded since, but the key point is that Lasswell ‘did not see the model as the ultimate answer to the policy process’ or as ‘a permanent classification’ (1956, quoted in Ronit and Porter 2015, pp. 1–2). The stages approach, or policy cycle, as we see it, is a heuristic.

Lasswell’s sequence developed into a significant research program (e.g. Jones 1970; c.f. Weible 2014a, pp. 7–9; Althaus, Bridgman and Davis 2018, p. 4, pp. 16–17). Theorists took up its ideas, engaging with them or rejecting them in turn. Charles Lindblom (1959) developed incrementalism as an alternative. John Kingdon (2003) proposed garbage can theory and multiple streams analysis as a more authentic reproduction of the messy, complex world of policy development. Meanwhile Paul Sabatier (1988, 2007) and colleagues promoted the advocacy coalition framework (ACF), an explanation of policy change as spurred by actors competing to set the policy agenda. Social constructivism (see for example Colebatch 2006) later emerged as another model to replace the stages approach. Nevertheless, the stages approach persisted. This helps explain why Cairney and Heikkila (2014), in their assessment of theories of the policy process, do not list the policy stages or rational comprehensive approach to policymaking as a theory. As Ostrom argued, it comes closest to the concept of a framework.

Questions of theoretical classification notwithstanding, practitioners and students saw value in its sensemaking capability and as an organizing tool. An abundant number of textbooks emerged

over time including prominent classics such as Hogwood and Gunn (1984) and Birkland (2016). According to Weible (2014a, p. 8):

The policy cycle also served the public policy community and beyond in teaching and outreach by providing a clear and understandable depiction of the policy process. The policy cycle continues to operate as an organizational schema used by authors of some of the leading policy process textbooks.

Specific versions of the stages approach also appeared, including a number of country-specific depictions including, for example the text *Policy Analysis in Australia* (Head and Crowley 2015) and *The Australian Policy Handbook* (Althaus, Bridgman and Davis 2018) targeting aspiring and actual policymakers in that continent as well as speaking to scholars and students of public administration.

Many rail against the implicit tenets and underlying scientism of the stages approach. The cycle does not accurately describe reality. It discounts politics. It should not act as a normative ideal. It excludes important actors and processes from its vision and calculations. It is too rigid, divorced from societal and historical contextualization, and lacks attention to dynamic forces at play in policymaking. The list goes on (see, for example, Everett 2003; Howard 2005; Ronit and Porter 2015). We don't necessarily disagree with these critiques. We applaud them. What we highlight, however, is that the stages approach to policymaking persisted in spite of the critiques. Something important is embedded in a policy cycle approach to *making sense* of policymaking. There is something attractive about having an idealized sensemaking tool with which to approach the labyrinth of the policy world. It is to this sensemaking dimension that we turn.

### **Application of the Policy Cycle and Comparison with Other Theories**

In short, before we discard a useful friend—in this instance, the policy process or policy stages framework—we need to make sure, first, that it really does warrant a place in the dustbin of abandoned paradigms; second, that we have a better, more robust framework on which to rely; and third, that even in our quest for the theoretical, we have little use for the operational. None of these criteria (or the alternative models) argues decisively or even very strongly for abandoning the policy stages framework.

*(deLeon 1999, p. 29)*

There are many ways to compare and contrast the policy cycle against other theories. Cairney and Heikkila (2014), for example, use theory-based comparative criteria to assess a variety of theories including scope and level of analysis, vocabulary, explicit assumptions, identified variable relationships, active research program, and explanatory power. But on these criteria (as with the definitions set down by Ostrom), the policy cycle does not qualify as a theory. Instead, then, we turn to a broader comparative criterion: that of context. Dunn (2018) provides a helpful starting point, here, by explaining that the policy sciences, of which the stages approach is a component, are aimed at progressing theoretical aims to advance social science simultaneously with pragmatic practical problem solving.

For Lasswell, the stages approach embedded a particular connection between the social sciences and policymaking. This embraced a role for policymaking for both the advancement of knowledge about policymaking as an end in itself (theory) as well as knowledge creation to improve policymaking, to meet real-world challenges (practice). Lasswell's commitment joined the intellectual activity of policy analysis with its social context.

Yet many would now argue this connection is lacking. This is because of the influence of policy analysts emerging from outside the social sciences after World War II. Whilst the systematic study of *public policy* grew out of public administration (then a field within political science), the methods and techniques of *policy analysis*—as distinct from its theory and methodology—grew out of engineering, operations research, systems analysis, and applied mathematics (Dunn 2018, p. 38). Analysis took on the underlying ethos and objectives of specialists, brought on subsequent to World War II to assist the causes of governments faced with large-scale policy needs. These specialists were trained outside the social sciences and sought to technocratically ‘decompose problems’ into smaller units, divorced from the contextual, value-driven, multidisciplinary perspectives brought by the policy sciences more generally. This was further cemented by the rise of economics in policymaking which promoted an even stronger technical, rational policy approach (Pusey 1991). The decoupling of public administration from politics took a further hold than perhaps even Wilson had anticipated.

Why does this matter? Whereas Lasswell saw each sequenced decision as a purposeful (teleological) act, impacting the values being embraced or rejected or amended by decision makers (and thus society) at any particular time, later iterations of the stages approach decoupled purpose from decisions. By default, this created a vision of the policy cycle as representing a mere application of depersonalized rules to any given problem (see Dunn 2018, pp. 42–46). It is particularly against this latter application of the policy cycle that critics take issue. While Lasswell’s stages approach linked teleology with decision at each stage, later iterations did not. The Australian Policy Cycle (as we will see) veered in a different direction, linking the cycle, as a heuristic, with decisionmaker in an applied sensemaking endeavor that demanded the practitioner to establish teleology not on a stage-by-stage basis, but case by case.

So one way of assessing the value of the policy cycle against other theories is to consider its connections between theory and practice and between its connections with social sciences as opposed to science per se. There is another comparative measure that springs from this first way of comparison. A related second way the policy cycle can be assessed against other theories of policymaking is the way it engages with uncertainty. When we use this prism of analysis, we can begin to articulate differences in the way that the policy cycle framework diverges away from its theoretical counterparts (for example the punctuated equilibrium model) because it prioritizes practical sensemaking over theoretical explanation or prediction. The policy cycle, at least as it is deployed by *The Australian Policy Handbook*, engages with uncertainty in particular ways because it allows space for practitioners to apply their own judgement.

The autonomy of this approach deliberately encourages practitioners, especially those new to the field, to navigate their way through the policy maze they confront in their professional lives. As such, the audience the policy cycle intends to serve is that of the practitioner. Its purpose is to be helpful, as opposed to theoretically accurate. It is for this reason that later editions of the *Handbook* describe its role as akin to that of the London tube map: while not a perfect representation, it does help you get from A to B. Theoretical arguments against the policy cycle miss the point; it may not be an elegant or complete theoretical piece, but elegance or completeness is not its purpose. Instead, its objective is to provide a simplified entry-point into policymaking. It is a way to learn, a means to internalize a series of manageable steps and processes which can be applied, if helpful and appropriate, depending on circumstance and need. The application of judgement on the part of the practitioner is what is key. The policy cycle is no set of rules, but rather a tool to help practitioners conceptualize and act in the policymaking domain. In this regard we are in sympathy with the work of authors such as Mayer, van Daalen and Bots (2004) who similarly contribute a practice-oriented conceptualization of policy analysis. They suggest diversity of perspectives, application of practitioner judgement, and interactivity of a variety of ways—as opposed to one best way—of doing policy, are hallmarks of policy analysis.

The realm of heuristics thus becomes our focus. How well does the policy cycle fare compared against ideas about heuristics? Herbert Simon (1972, p. 171) framed his conceptualization of *satisficing* as a heuristic, arguing that “moderate changes in heuristics often make order-of-magnitude changes in search effectiveness”. In this way he proposed that satisficing could be conceived as a mechanism for dealing with information overload combined with uncertainty. As he put it, heuristics in the satisficing world consist of securing: “the rare solutions in enormous spaces of possibilities to be sought and found with moderate amounts of search effort”. Heuristics, in other words, have their role to play in policymaking. For example, when analysts identify or are presented with issues, their diagnosis of the state of policymaking and analysis may be influenced by heuristic devices attending to questions across the policy cycle such as: have political decisions recently been made? When was the last significant round of consultation or engagement with stakeholders? What is the state of knowledge about the problem? What is known about how well the policy has been working? Is there a credible implementation strategy?

Tversky and Kahneman’s (1974) work on heuristics and biases surface the problems of such cognitive shortcuts or proxies as they apply to human judgement. They argue that heuristics are highly efficient and often effective but can lead to systematic and predictable error in certain situations. The classic problems of heuristics identified by Tversky and Kahneman can be themed as:

- 1 representativeness (people calculate probability inaccurately by turning to judgement by representativeness, a problem illustrated by people often categorizing instances rather than assessing their actual characteristics);
- 2 availability (people turn to memory-based judgements of frequency or probability rather than actual instances, leading to problems such as overestimating risks that are easily available in their memory); and
- 3 anchoring and adjustment (people make estimates by starting from an initial value that is adjusted to yield a final answer, but the initial value is often the result of partial computation, thereby leading to miscalculations).

Overall, heuristics lead to miscalculations, not because of wishful thinking or the distortionary effects of incentives but rather because human judgements contain errors in everyday life because we do not normally apply statistical reasoning with enough rigor to our decision making.

Tversky and Kahneman’s work is often viewed as common sense but it was heavily critiqued by Gigerenzer (1996) as failing to provide evidence to support “these heuristics as distinct cognitive processes that might afford precise algorithmic explanations of distinct judgement biases” (quoted in Fiedler and von Sydow 2015, p. 151). Gigerenzer and colleagues developed their own post-Kahneman-Tversky heuristic toolbox (see Fiedler and von Sydow 2015). Termed the ‘adaptive toolbox’ this array of cognitive shortcuts is meant to convey strategic intelligence, using particular cues on the part of the decision maker and within the definitions of Simon’s bounded rationality, as opposed to the cognitive malfunctioning of Tversky and Kahneman. The adaptive toolbox includes:

- 1 take-the-best heuristic (which suggests people pursue a valid cue to make a prediction or choice in cases where only one cue is clearly valid);
- 2 tallying (where people pursue choice according to applying weights across different cues when many similarly valid cues are present); and
- 3 recognition heuristic (where people exposed to two options in a choice task assess the value of each option based on whether they have experienced or recognized the option before and choose the familiar or recognized option over the unfamiliar or unrecognized ones, thereby explaining why lay people who rely on a feeling of recognition can sometimes outperform



experts turning to more cues beyond recognition and giving unwarranted weight to invalid cues).

While the adaptive toolbox is based on transparent algorithms, experimental evidence supporting human cognitive processes following these specific algorithms remains scarce (Fiedler and von Sydow 2015, p. 153). Attempts to reconcile the fallibility heuristics of Tversky and Kahneman with the bounded rationality information processing of the adaptive toolbox approach have been challenged by two different approaches to information processing and decision making; one suggesting the inevitability of bias, the other focused on establishing rationality under certain conditions. Regardless of the details of this contestation of ideas in psychology and the lack of confirmatory evidence, the impact of heuristic and bias research has led to an undisputed resonance across theory and practice: that lay people and experts alike are subject to cognitive biases and illusions (Fiedler and von Sydow 2015, pp. 154–157).

Why should we care? In the realm of policymaking, the implications of the heuristics literature are that policy practitioners will succumb to error in judgement even armed with the evidence of an infallible theory. From our perspective this means that the abstraction of theory, coupled with the precision of application, is steeped in a teleological learning environment, rather than a mere quest for technical perfection. Unfortunately, it is tempting to frame this teleological learning environment as a battlefield. If we accept that error and continuous learning are part of the policymaking norm, then we can hopefully turn more to cooperation, taking positive risks, and working together across and within scholarship and practice rather than splintering into divisive camps either pitted against each other or paying no attention to what others have to say.

### **Synthesis and Conclusion**

If anything has endured regarding the study of policy processes, it has been an understanding that these phenomena are messy and that theory is necessary to help disentangle them.

*(Weible 2014b, p. 392)*

What we know from both theory and practice is that policymaking is complicated (i.e. involving multiple, challenging interconnected parts that are not easily understandable but take time and effort to work through) and complex (i.e. embedded within broader systems of relationships and connections that mean that solutions may not be possible, let alone available). The policy cycle is a particular framework within a multitude of models, frameworks, and theories that all seek to help scholars, students, and practitioners to understand and/or explain this complication and complexity.

Part of the beauty of theory is its ability to simplify, to provide structure to the otherwise amorphous ‘soup’ that might otherwise confound practice. In providing such simplicity, a trade-off is often made in favor of amplifying certain parts or angles of the policymaking endeavor. Meanwhile, practitioners provide the rich color and texture of reality to the bones or architecture of what theory brings. Their iterative interchange is essential to moving the state of theory and practice forward. Scholars and practitioners have different roles to play in a shared enterprise of making sense of policymaking and improving it for the benefit of societies.

We should acknowledge these complementary but distinct roles and seek to build greater understanding of the different frameworks, models and theories that serve policymaking. Future work might propose a spectrum of these sense-making and analytic tools and the myriad policy-engaged scholars, practitioners, and learners to whom these tools are relevant. In their own way, each of these frameworks, models and theories adds their particular perspective to the policy-making endeavor. Some are aimed at explanation. Others at prediction. Some inject sense-making

capability and improvement. Others influence decision-making and action. To pit them against each other is to lose the insightful potential of the whole—deployed variously, never in sync, but part of a well-functioning policymaking system.

An opportunity to move from longstanding debate about the relevance of the policy cycle to the creation of such a spectrum would be a great contribution to the field. To this end, classification of the policy cycle should note the policy-cycle heuristic is useful for considering or informing:

- a how policymaking can work;
- b the capacity of institutions to deal with different requirements of policymaking and implementation;
- c what policy analysis and planning might cover or attend to; and
- d potential desirable skill-sets of analysts.

Like the London tube map, it may not be accurate to scale or scope, but it might help inform a policymaker traveler decide what point A they are at, what point B they might seek to reach and avenues for how to get between each point. Does this stop a policy analyst from using other theories? Definitely not. And preferably not. Taking our travel analogy further, travelers use multiple tools to plan and execute journey itineraries including weather forecasts, packing lists, visa sites, ticket timetables, and money exchange services. They also reflect on the purpose behind their journey, who they are travelling with and what mode of transport they will take. Similarly, policymakers should turn to a diverse range of scholarship and the experience of other practitioners to gain insights into their policymaking tasks.

The enduring nature of the policy cycle, we believe, is due to its accessibility as a heuristic device and its role among many other theories, models, and frameworks to help policymakers with the challenges and opportunities of their work. Cairney (2013) and Cairney and Heikkila (2014) have begun to contrast the utility of different theories and how to use them in unison to expand understanding and insight. They outline the possibilities of synthesis, complementarity, or contradiction as approaches to compare or combine theories.

We might posit that there is some theory that serves only theorists (see Cairney 2015) and which is of no, or limited, use to practitioners. This is the theory that is aimed at understanding and not at shaping practice. Does this make the theory irrelevant? No. It could be that the knowledge generated by this type of theory is just knowledge that exists before its time; the time is not yet ripe for the theory to be put into practice (for example feminist public administration theory). Or it could be that this particular theory might never have application. It helps observers to assess what is going on rather than practitioners within to make their judgements or take action (for example postmodern public administration theory). Or it could be that practitioners are actually utilizing the theory but they don't use the same terminology to describe what they are doing (for example punctuated equilibrium theory).

And then there is the theory that elevates so-called common sense and application pragmatism. This type of theory is taken up by practitioners because they find it useful and accessible. They find it helpful for making sense of the policy world and for shaping decision making and action. This occurs even while such theory can simultaneously be besmirched by scholars. Practitioners in public administration are essentially pragmatic. They exercise judgement that oscillates in a delicate translation dance between induction and deduction, universals and particulars, abstractions and realities, generalizations and specifics. They can, and should, take advantage of whatever is available to them to develop coherent and transparently defensible framing of any given policy task involving the expenditure of public money or the deployment of public authority.

What we are essentially encouraging is that we look at the purpose behind theory and practice and what we are trying to achieve by assessing both. In the case of the policy cycle, we believe there is merit in this framework because practitioners tell us that it helps do better policy work. While this is not the only test that should be applied to theory that serves practice, it certainly is one of the tests that should be applied. If the policy cycle has helped even one policy practitioner shape a policy outcome that has improved society then we believe it is worthwhile. If the policy cycle—in and of itself—can be shown to have diminished policy outcomes, then we should take stock. Fundamentally, what is an important distinguishing factor of the policy cycle is that it relies on practitioners to apply it. In management, they say ‘culture eats strategy for breakfast’ and we might equivalently say ‘practice eats theory’. Instead, in believing in the power of both, we think perhaps it is time for public administration to start questioning the purpose of theory and practice as complementary forces aimed at a higher end, that of serving societal improvement.

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# AGENDA-SETTING IN COMPARATIVE PERSPECTIVE

## Contrasting Policy-Making in France, the United Kingdom and the United States

*Emiliano Grossman and Friederike Richter*

### Introduction

The quest for designing efficient and coherent processes for the development of public policies has a long tradition in the public policy literature. Public policy analysts have developed several models of the policymaking process in order to better structure policy development. The “policy cycle” was initially proposed in the seminal work of Harold Lasswell (1956) and subsequently adopted by other scholars, notably Gary Brewer (1974), William I. Jenkins (1978), Judith V. May and Aaron Wildvasky (1978), and Peter deLeon (1989). Lasswell broke down the policy cycle into seven stages: intelligence, promotion, prescription, invocation, application, termination, and appraisal. At present, there seems to be a consensus in the public policy and public administration research community that the model should be divided into five major stages: agenda-setting, policy formulation, decision-making, policy implementation and policy evaluation (Howlett, Ramesh, and Perl 2009). Although all five stages are important, three of them – namely agenda-setting, formulation and implementation – are crucial for better understanding why and how public policies are made.

Regardless of the version of the model of the policy process, *agenda-setting* is the very first stage in the policy cycle. Agenda-setting is defined as the process by which social conditions that belong to the private sphere evolve into public problems that become the focus of public debate. Given that those dynamics have a decisive impact on the whole policy process and the public policies resulting from it, agenda-setting is a critical stage in the policy cycle (Baumgartner and Jones 1993; Cobb and Elder 1971; Kingdon 1984). This is particularly true since public administrators cannot attend to all problems at the same time: attention is a rare good and competition for the attention of decision-makers on behalf of stakeholders is fierce. It is thus crucial to understand how information is prioritized and attention allocated to some problems rather than others. For this very reason, the students of agenda-setting focus on this particular stage of policymaking only.

Most of their research leads to the conclusion that agenda-setting is a socially constructed process in which individuals and institutions play a fundamental role in determining the problems or issues requiring action on the part of the government. They also show that agenda-setting is not just a stage of the policy process. Rather, it is a lens through which policymaking processes can be disentangled and their evolution understood over time, both within and across political systems.

The aim of this chapter is to examine how new problems are identified and how new understandings of issues may or may not be accepted in different political systems. We show that the agenda-setting perspective and – more particularly – the *comparative policy agendas* perspective allow for more sophisticated empirical studies in comparative public policy, thus improving our understanding of policymaking at the cross-national level. In order to do so, we first briefly review the literature on agenda-setting. We then explain how political attention can be measured and compared across countries and over time, focusing on France, the United Kingdom (UK) and the United States (US). This serves mainly the purpose of illustration, exemplifying some regularly encountered phenomena. The conclusion provides a more general perspective of the importance of agenda-setting for public administrations and an agenda for future research.

### **Agenda-Setting: A Crucial Lens for Understanding Policy Processes**

The aim of agenda-setting studies is not to analyze how policies are formulated and implemented, but to determine why actors, who are involved in the policymaking process, deal with certain issues and neglect others. The underlying assumption of all agenda-setting studies is that no political issue directly derives from objective facts (1). Two additional assumptions are shared by a majority of empirical studies: political attention is necessary to change the status quo (2); changing the status quo is, however, not straightforward because there are limits, in terms of time and resources, to what individuals and institutions involved in the policymaking process can accomplish (3).

First, agenda-setting scholars assume that no objective fact is a problem in itself (Cobb and Elder 1983; Dery 1984). Any “problem” is a social construction which depends on the perceptions, interests and values of the individuals and institutions involved in policymaking. An increase in attention to a certain issue is consequently very likely to turn a social condition into a public problem (Gusfield 1981), and therefore also a strong signal for a potential change in the status quo of public policies (Baumgartner, Green-Pedersen, and Jones 2006). What societies consider to be a problem that should be addressed by the government may hence not only differ from one country to another, but also vary over time.

Second, political attention is a pre-condition to decision-making and, thus, required for changing the status quo. As Green-Pedersen and Walgrave (2014, 6) state:

When issues are not noted, political actors do not develop preferences to deal with them, the public does not care about them, interest groups do not bother with them, solutions to the problems are not formulated, political pressure does not mount, and no decision regarding the issue will be taken. In short, without political attention, the status quo is extended.

To the contrary, if issues are noted, political pressure may mount and decisions may be taken, thereby changing the status quo. Part of this prioritization process is non-deliberate and unconscious; another part, however, is deliberate and based on the actor’s perceptions, interests and values.

Last but not least, political attention is rare because there are limits, in terms of time and resources, to what individuals and institutions involved in the policy process can accomplish. Policymakers – like all human beings – are rationally bounded (Simon 1957), and can therefore not attend to all societal problems at once. This implies that they are not able to constantly evaluate which issues need to be addressed first, and which existing public policies have to be adjusted (and how this should be done). Simon’s “bottleneck of attention” illustrates the cognitive and emotional constraints of individuals, but also characterizes the political system as a whole. Indeed, depending on internal rules, norms and procedures, political institutions may have more or less leeway for redefining existing issues and raising attention to new ones. For this very reason, most

policymaking is delegated to policy subsystems, i.e. officials from any level of government but also non-governmental actors including academics, consultants, engaged citizens and journalists, for instance, who share concerns about a particular social problem. This delegation of policymaking allows institutions to process problems in parallel and, thus, deal with – and potentially address – a greater number of issues at the same time.

Why is it crucial for public administrators to understand policymaking processes – at home and abroad – through an agenda-setting lens? The fact that political attention is a rare good and that competition for the attention of decision-makers on behalf of stakeholders is fierce implies that political systems can handle many routine, but only few non-routine items, at the same time (Kingdon 1984). In John W. Kingdon's "primeval soup", many ideas appear, float around different policy communities and then fade. As Anthony Downs (1972) before him, Kingdon (1984) has argued that the policy process is chaotic and that attention spans of those involved in decision-making are rather short, with key problems leaping into prominence before disappearing from the center of public attention. Given that government agendas are the result of a collective, political process in which certain actors have a tremendous impact on issue definition and policy change (Schattschneider 1960), the scope and salience of any issue depends on the ability of actors to make a good case for the problem they want to tackle. Public administrators, like non-governmental actors, may thus not only hinder new issues from being part of the public debate (Bachrach and Baratz 1962, 1970), but also influence which non-routine issues get – and potentially stay – on the government agenda (Kingdon 1984).

Kingdon additionally shows that public policies are often created or changed because three streams – namely problems, proposals, and politics – converge toward a short-lived "window of opportunity". This window of opportunity, which is an adaptation of the garbage can model, initially introduced by Michael D. Cohen, James G. March, and Johan P. Olsen (1972), simultaneously focuses attention on the problem and a solution. Put differently, problems that do not have an obvious solution, e.g. long-term unemployment, are unlikely to remain at the center of attention for a long time. Similarly, problems for which solutions are not backed by a significant fraction of the political arena are also likely to fade over time.

Since it is not always predictable when problems, proposals and politics come together, Kingdon (1984) underlines that policy entrepreneurs have to be prepared for the window of opportunity to open in order to gain that chance and push for their proposals. The "survival" of such proposals mainly depends on five criteria: (1) the technical feasibility, (2) the acceptability within the policy community, (3) overall costs, (4) public acquiescence and (5) the receptivity among elected decision-makers, having the power to introduce major policy changes (Kingdon 1984). This implies that public administrators, as well as other policy entrepreneurs, should advance solutions for social problems they deem worth being added to the agenda and persuade politicians, whose time frames are usually short because of electoral cycles, to respond to those problems during their time in office.

Although Kingdon's framework is useful for understanding the policymaking process and conditions for policy change, it is often criticized for not having paid sufficient attention to institutional variation and, in particular, to the ways in which policy processes are organized in different societies. Kingdon's framework also gives very little credit to the role of the media, presenting journalists as objective messengers rather than shapers of the news. Though, political attention is very likely to be affected by when and how the media reports on a social problem. News coverage is a business and therefore likely to be based on what the media expects public interests to be. The media consequently frames the news, promoting some perspectives and excluding others (Iyengar and Kinder 1987; McCombs and Shaw 1972). Last but not least, empirical evidence, which allows the students of public policy to test Kingdon's framework, necessarily has to be drawn from interviews with people directly and indirectly involved in the policymaking process and/or a



qualitative analysis of government documents, party platforms, media coverage and public opinion surveys. The operationalization of his framework is consequently not straightforward from a methodological point of view, in particular for longitudinal, cross-sectional and cross-national studies.

### **Measuring Political Attention: The Comparative Agendas Project (CAP)**

For precisely this reason, Frank R. Baumgartner and Bryan D. Jones launched the Policy Agendas Project in the 1990s. Their initial aim was to systematically analyze and compare policy agendas in the US. Baumgartner and Jones hence started to code issue attention to a set of 20 different US public policies with 224 subtopics (cf. Baumgartner, Jones and MacLeod (1998) for an account of methodological issues). The scope of this national project was to generate a data set with time series that were long enough to study agenda-setting in the US across issues and over time. Even though one may argue that each topic has different analytical demands, the use of similar coding procedures enabled Baumgartner and Jones (1993, 2005) to demonstrate that policy processes in the US are characterized by stability and change. They thus concluded that policy dynamics are not gradual or incremental, but disjoint and episodic. Based on this result, Baumgartner and Jones put forth Punctuated Equilibrium Theory (PET) according to which most policies are, most of the time, stable (= negative feedback). These periods of stability, however, can be interrupted by bursts of frenetic change (= positive feedback, also referred to as “bandwagons”, “escalation”, “slippery slopes”, “waves” etc.).

Although this quantitative approach to agenda-setting was initially developed to study policy processes in the US only, the coding scheme has since been adapted to other countries and is now frequently used for cross-national analyses (Baumgartner, Green-Pedersen, and Jones 2006; Baumgartner, Breunig, and Grossman 2019; Green-Pedersen and Walgrave 2014). There are currently research groups in over 20 countries collecting and comparing data on political agendas, such as budgets, laws, media coverage, parliamentary questions and government speeches, for example.<sup>1</sup> Since the content of political activities is coded according to common categories across those different national projects, the frequency of issues cannot only be analyzed across venues and over time, but also between various political systems, thus covering different kinds of variation in public policy outputs.

Compared to Kingdon’s (1984) framework, the main advantage of the Comparative Agendas Project (CAP) is that students of public administration and public policy can more easily follow several issues – such as environmental or judicial problems – in the same political system. Moreover, they may analyze, for example, if agenda-setting procedures changed over time or if elections or political crises affected those procedures. They may also decide to follow the development of a single issue across several political systems which, in turn, should allow them to shed light on the impact that different cultural, historical and institutional settings may have had on the policymaking process. An early comparative study, for instance, compared the way “moral issues”, such as abortion or same-sex marriage, are dealt with across countries (Engeli, Green-Pedersen, and Larsen 2012).

In this chapter, we use CAP data to track government action and policy processes in France, the UK and the US over time. Given that the US, the British and the French political systems differ greatly from one another (in terms of regime type and institutions, patterns of government control, etc.), we expect country-specific long-term trends and consequently significant variance across the policy processes. Those differences are *inter alia* due to institutional friction which refers to decision and transaction costs that are introduced into the policymaking process by formal institutional structures (Jones, Larsen-Price, and Wilkerson 2009).

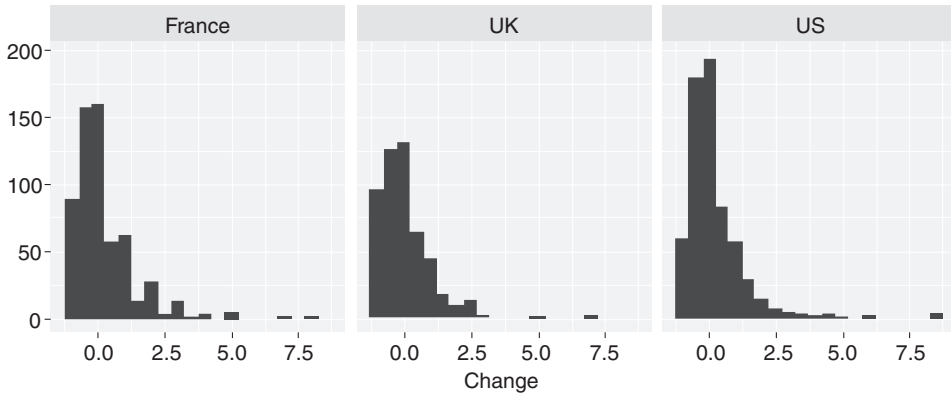


Figure 22.1 Policy change in France, the UK and the US

Figure 22.1 looks at annual changes in laws in France, the UK and the US over a period of 35 years. If policy change was a proportional reaction to real-world events, the frequency distribution in our figure should look like a bell-shaped Normal curve (Jones et al. 2009). However, Figure 22.1 clearly shows that this is not the case. In all three countries, we find many small policy changes around the central peak, representing *no* change. As matter of fact, a very substantial fraction of issues do not change at all – even using yearly data, as we did here. In addition, Figure 22.1 shows a few large changes in the tails, and medium-sized policy changes in between. Such a distribution suggests that punctuated equilibrium characterizes all three political systems. This means that policies are stable most of the time, but sometimes change radically. Figure 22.1 also specifies that incremental policy changes are relatively less common in the US than in France and the UK. The US features moreover more data points, simply because the US Congress adopts a lot more bills than either the UK House of Commons or the French *Assemblée nationale*.

### Media and Laws: Relation between Public Space, Media and Law Making

How are the law and the media agenda linked? The role of the media in policymaking is assumed to be central. One of the early works on media influence on foreign policy stated that the media “may not be successful much of the time in telling people what to think, but it is stunningly successful in telling its readers what to think about. The world will look different to different people” (Cohen 2015, 13). Most of the work on media and politics to date has focused on media influence on electoral outcomes. A scholarly tradition starting in the 1940s has accumulated substantial knowledge and developed a host of approaches on how the media affects political competition (Iyengar and Kinder 1987; Lazarsfeld, Berelson, and Gaudet 1944; McCombs and Shaw 1972). A lot less is known about the degree to which it may influence agenda-setting, policy formulation or implementation.

From the literature discussed above (Baumgartner and Jones 1993; Cobb and Elder 1971; Kingdon 1984), we may assume that media does play some role in the policy cycle. It may help create “windows of opportunity”, favor certain actors’ over others or help popularize certain policy solutions. While there are many case-studies on how the media may have played in specific circumstances, there have been few attempts to systematize our understanding of how media affect policymaking processes.

Classical approaches to policy networks (Marsh 1998; Marsh and Rhodes 1992) assume that those in charge will try to restrict access to policy communities to keep control of the policy

process as “private” as possible. In line with Schattschneider’s classical argument (1960), actors will tend to avoid “socialization” of conflict and favor “privatization” for as long as they expect to be able to benefit from it. The media, in this context, may be understood as a potential danger, increasing the group of stakeholders beyond the initial policy community. At the same time, salience may be sought for by excluded actors who may seek attention as an attempt to force their way into an existing policy community.

In order to study the relationship of media and policymaking we will look at media-policy relations across France, the UK and the US. The role of the media in politics can only be understood within a wider perspective. An influential line of work has insisted on the *systemic* aspect of media-politics relations (Hallin and Mancini 2004; Curran et al. 2009). The media may be more or less critical, more or less professionalized, more or less close to political parties etc. In the cases that we are looking at, the situations are rather diverse. While the US embodies the archetypical example of the “commercial” model of media, with little or no direct government influence on media, France and the UK both possess very sizeable public media and, more particularly, public broadcasting networks.

We will examine how media and policymaking interact for two different policies, i.e. environmental policies and security-related issues. Environmental policies were at the heart of Downs’s original article (1972) on “issue attention cycles”. The environment, from that point of view was a “new” topic and Downs predicted that it would eventually fade (!). The cycle could be divided into five successive phases: pre-problem, discovery/enthusiasm, realization of cost, decline of interest and post-problem.

Figure 22.2 represents the evolution of political attention (here adopted laws) and media attention for France, the UK and the US on this particular issue over time. The panels feature political attention, embodied by the share of laws adopted during each period and media attention, embodied by the relative attention of media.<sup>2</sup>

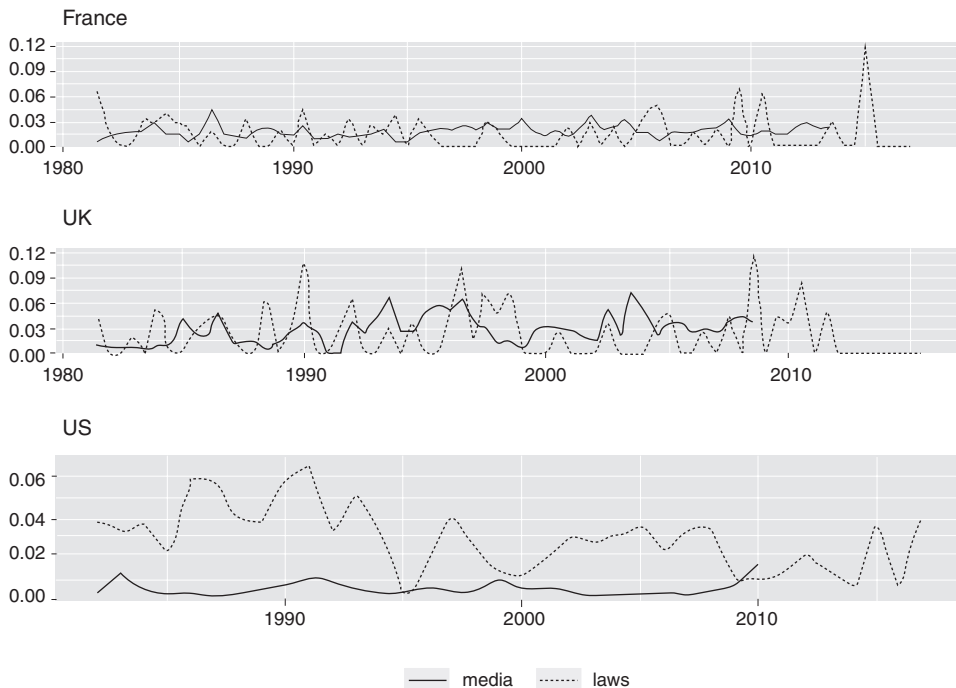


Figure 22.2 Political and media attention to environmental issues

None of the three countries present a clear pattern concerning attention over time, disconfirming – if at all necessary – Downs’ (1972) prediction of the fading of interest in environmental issues. That being said, the curves certainly reveal a cyclical pattern in political attention, reminiscent of the logic of punctuated equilibrium discussed above.<sup>3</sup>

All three countries additionally feature peaks of attention to environmental issues at different times followed by periods of less or no activity. France and the UK, moreover, do not present a clear long-term trend in political attention to environmental issues. The US is somewhat different here with higher levels of political attention in the 1980s and the first half of the 1990s, followed by a relative decline of attention to environmental issues.

Regarding the interaction between media attention and political attention, those curves do not reveal straightforward patterns. While they appear close at some times, the relation appears to be random most of the time. In order to look deeper into this, we ran a series of separate analyses.<sup>4</sup>

In those analyses, the case of the UK reveals no clear patterns, either. Rather, past legislation affects present legislation positively and past media coverage predicts current media coverage. In the case of France those relationships are little more interesting. Again, it is essentially past legislation that affects current legislation (negatively). Regarding the media, however, there is a clear “indexing” effect (Bennett 1990) to the extent that adopted legislation is covered systematically in the media. Put differently, political attention determines media attention, rather than the other way round.

Figure 22.3 presents results for police-related and judicial issues over time. Compared to the environment, levels of attention are – unsurprisingly – much higher. In the French and the British case, political attention features a similar pattern as the environment with regular ups and downs and greater peaks every now and then.

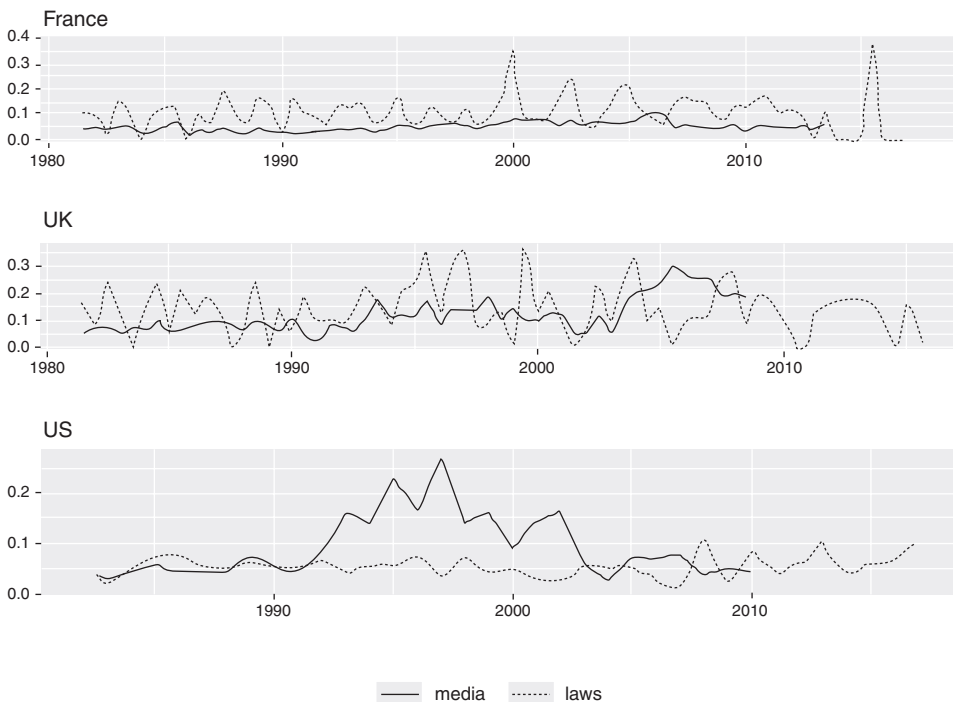


Figure 22.3 Political and media attention to police and judicial issues

The French and the British data do not reveal any clear trend, even if there are periods with more intense activity. This is true for the mid-nineties in the UK; in France, however, attention to security-related issues peaks regularly since the year 2000. The US stands out, like before, but this time especially for its comparatively lower levels of political attention.

Media attention follows rather diverse patterns across the three countries. In the UK, average attention has increased over time. In the US there is an attention peak in the second half of the 1990s with a subsequent decrease. In France, there is a – very slight – increase in media attention over time.

Concerning the mutual influence of the two agendas, we can confirm the results for environmental issues.<sup>5</sup> In the UK, media do not have a very significant impact on the timing of law adoption, while media attention is to some extent structured by previous media attention. The results for France are very similar, possibly indicating that media and policymaking are part of mutually autonomous “streams”.

This does obviously not mean that there is *no* interaction between media and policymaking. Rather, as much literature has shown, the effects of these agendas on each other are at best conditional (Green-Pedersen and Stubager 2010). Only multivariate analyses or in-depth case studies will provide the required detail to study those interactions. The data from the Comparative Agendas Project allows for such research strategies and methods.

## **Conclusion**

Political change is slow and not proportional to effective problems and societal demands. A variety of approaches have demonstrated this, ranging from Cobb and Elder’s “agenda-building” approach (1971) to Kingdon’s policy streams (1984), as well as the various uses of “path-dependency” in public policy analysis (Bebchuk and Roe 1999; Pierson 2000).

Much of public policy scholarship has tried to specify the conditions under which change was likely to happen or the qualities that were required for a policy entrepreneur to succeed. The focus on policy agendas allows to go beyond conceptual work and case studies. It has generated a whole new research tradition pointing to a series of repeating patterns. Periods of “frenzy”, i.e. radically heightened attention to issues, end up convincing political leaders of the necessity for government action. The spike in attention then leads to bursts of frenetic and disproportional change which is meant to make up for insufficient prior policy adjustments. Such major policy changes may be caused by a change in the policy image or by steadily increasing attention from one or several powerful players, or by a focusing event.

Public administrators, who are players in the policy development process, may have a direct impact on public policy development and the diversity of government agendas. In order to do so, they have to understand how information is prioritized and how attention is allocated to some problems rather than others. This is particularly important given that public administrators, just like any other actor in the policy cycle, cannot predict when change is going to happen. They consequently have to be prepared for a window of opportunity to open to push their proposal. This implies identifying actors inside and outside of government who share concerns about the same or a closely connected issue as well as monitoring their agendas to be aware of the different alternatives being discussed. By doing so, public administrators may hinder an issue from being part of the public debate, but also influence which non-routine issues get – and potentially stay – on the agenda.

The policy agendas perspective, moreover, allows to take into account system-level dynamics. Change is not just conditioned by sector-level dynamics, but depends at least as much on the organizational and cognitive limits of those actors that are most directly involved in change. There is thus a limited aggregate potential for change. Change puts stress on organizations and

the individuals that compose them, thereby using up attention and resources. The comparative policy agendas approach can study those aggregate dynamics at the level of institutions and across countries (Baumgartner et al. 2019). It can examine the role of different agendas on each other, as illustrated above, but also allows for the study of potential trade-offs between different topics. Often economic downturns, for instance, may not simply turn budgets away from other issues, but also attention. Many of these processes are only starting to be explored. Future research should broaden existing research infrastructures or use existing data to better understand those “macro-dynamics” of policymaking.

## Notes

- 1 Most of the data is available on the website: <http://www.comparativeagendas.net>.
- 2 The media series concern the front page of *Le Monde* for France, the *Times* for the UK (Vliegthart et al. 2016) and a dataset with TV news for the US (Uscinski 2009).
- 3 The shape of the curves for the US is certainly smoother, but this is simply due to the fact that we have not been able to aggregate the data at the same level for the US, due to data issues. France and the UK present half-yearly data, while the US panel aggregates yearly data.
- 4 We realized vector-autoregressions (VARs) for the relation between media and laws going back three time periods. Analyzes can be made available on request. We did not run the same analyzes for the US here, due to the fact that at the time of writing, it is not possible to calculate sub-yearly averages for this data, because of a formatting problem.
- 5 Again, we exclude the US here (cf. previous footnote).

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# THE POLICY CYCLE

## From Heuristic to a Theory-Informed Research and Advice

*Evert A. Lindquist and Adam Wellstead*

### Introduction

Most policy scholars concur with Cairney's (2015) lament on how academic-practitioner discussions of policy-making still rely on the simple notion of the 'policy cycle' (for details on its emergence, see Althaus and Threfall, Ch. 21, this collection,) which, for decades, has been rejected and discredited by policy scholars favoring more sophisticated concepts, theories, and frameworks to describe and explain the complex world of policy-making. The argument for discarding the policy cycle (stages) for more robust alternative approaches was most famously made by Paul Sabatier over 20 years ago. He summarized six major complaints leveled against the policy cycle literature, namely it was not causal in nature; it did not provide a basis for hypothesis testing; it was descriptively inaccurate by assuming that policy making follows a series of discrete steps; suffered from having a top-down legalist focus; ignored inter-governmental relations; and was unable to incorporate policy learning and policy learning (Sabatier, 1999, p. 7). Others have leveled similar criticisms in introduction to policy textbooks (John, 2013; Rinfret et al., 2018).

However, for practitioners and those teaching the art and craft of policy analysis, leaving their 'policy-cycle comfort zone' is problematic: the policy literature is often written in difficult theoretical terminology, foreign and detached from day-to-day practical experiences. Conversely, the policy cycle remains a durable heuristic and entry point for many policy instructors whether for students or practitioners. For university students we have textbooks like Howlett et al.'s (2020) *Studying Public Policy: Policy Cycles and Policy Subsystems*, Birkland's (2019) *An Introduction to the Policy Process: Theories, Concepts, and Models of Public Policy Making*, Hill and Varone (2016), *The Policy Process*, and Wu et al. (2017) *The Public Policy Primer*. The successive editions of Althaus et al. (2018), *The Australian Policy Handbook*, conceived for training practitioners, relies on the policy cycle as an organizing framework. In Canada, the Newfoundland and Labrador government set out the policy cycle as a point of departure to describe to staff how the policy process and briefing works (see <https://www.policynl.ca/policydevelopment/policycycle.html>), and the Canada School of Public Service uses it as a heuristic in its "How Public Policy Implementation Works" course.

The tension between users and even the advocates of policy cycle versus those pointing toward more advanced policy process approaches overshadows a more pressing concern for both camps: understanding the root causes of policy change and how to intervene to further public policy objectives. Neither the policy cycle or the more sophisticated policy process frameworks have explicitly addressed the first of Sabatier's concerns, namely the role of causality (Lindquist and Wellstead,

**Elaborating the Policy Cycle in Practice and Academic Contexts**

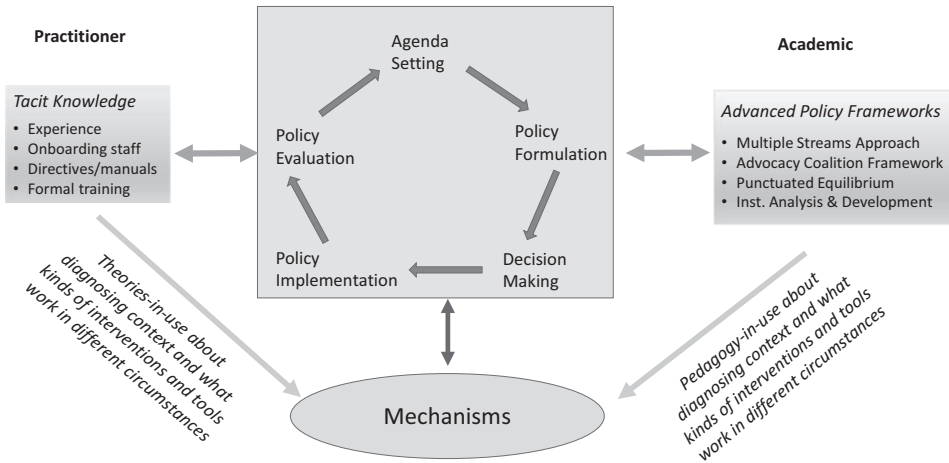


Figure 23.1 “Chapter Roadmap”

2019). Weible (2018) reiterated the importance of ‘causal drivers in continuing Sabatier’s legacy of developing scientific theories of the policy process. Cairney and Weible (2017) critically conclude that “policy analysis research is often conducted with an insufficient appreciation of basic science, and policy process research is often esoteric and detached from practice” (p. 620). This is particularly true of the policy cycle.

In this chapter, we suggest that scholars and practitioners have in varying degrees implicit or explicit theories of good analysis and how to achieve influence and, if so, they should begin identifying and employing causal mechanisms underlying their respective approaches. The mechanisms concept has been widely employed in history, political science, and sociology but until recently has received scant attention in the fields of public administration and public policy (Lindquist and Wellstead 2019; van der Heijden et al., 2019; Wellstead et al., 2019). By delineating causal mechanisms, practitioners and scholars alike should be better able to understand the policy process at a more granular level and to apply new methods and tools, such as process tracing, to produce more sophisticated and grounded policy analysis.

What follows has four sections (see Figure 23.1). The first explores the different ways in which the policy cycle is typically used as a heuristic and a point of departure in courses for university students and professional development for public servants, for more disciplined contextual analysis and ascertaining where to invest analytic energies, a form of tacit knowledge which carries its own theories-in-use (Polanyi, 1966; Schon, 1983). With the goal of moving toward workable tools from theories-in-use as well as scholarly frameworks, the second section introduces the meaning of causal mechanisms and their role in explanation. The third part scans and considers the broad literature on the policy process and different areas of practice, identifying opportunities for sharing more theory-informed practical advice. We conclude by suggesting a research agenda for public administration and policy scholars to consider.

**Peering into the “Grey” Box of Policy-Making with the Policy Cycle**

In this section we consider how the policy cycle heuristic is used in textbooks and by instructors to engage students (whether novices or practitioners) about analyzing policy-making and doing policy analysis. While the policy-cycle heuristic seems primitive to most contemporary policy

theorists, it continues to occupy a central place and point of departure for more sophisticated understandings of how the policy process works and what constitutes good policy analysis. We start by sketching out the components of many textbooks which, to this day, rely heavily on the foundational elements of the policy cycle. We suggest that good instructors use the heuristic to explore how policy-making and policy analysis work in different contexts. We also argue that experienced practitioners, whether explicitly using the tools or not, use similar reasoning as part of their need to identify workable strategies and policy interventions. We end by indicating that there is considerable craft and tacit knowledge inherent in how the policy cycle is used in textbooks, courses, and as points of departure for undertaking research and analysis on policy challenges and regimes in place.

### ***Textbooks and the Policy-Cycle Heuristic***

Despite a scholarly consensus that the ‘policy cycle’ does not qualify as a theory and, on its own, a workable framework for accurately describing the policy process or how policy analysis should proceed, it nevertheless permeates many of the mainstream textbooks on policy analysis and policy-making. Some books explicitly follow a policy-cycle approach, setting out chapters on problem definition, contextual analysis, assessment of pertinent policy actors and networks, policy instruments or options analysis, decision-making, implementation, evaluation or perhaps performance monitoring, and sometimes, termination. Others, of course, are less systematically committed to the heuristic but nevertheless approach sharing the material by focusing on essential elements of undertaking policy analysis, such as problem definition, providing analysis to policy-makers, considering implementation challenges, and evaluation or appraising the performance of policies. Almost all textbooks have sections devoted to identifying stakeholders and undertaking different kinds of consultation or engagement with them. Depending on the text, they will provide some contextual background on organization and complexity of government and the evolving governance environment in which they work and advice must be proffered. Finally, and perhaps most importantly, the textbooks vary with respect to their focus on imparting knowledge, theory, or skills for understanding the policy process or for undertaking policy analysis, recognizing the latter often requires some background in the former.

Whether or not these textbooks are inspired by or explicitly cite the policy-cycle literature, they refer to elements of various versions of the policy cycle found in the literature. Whatever its origins in the not-so-distant past (1950s and subsequent decades), and whether remembered or acknowledged, its categories continue to be found useful for scholars writing textbooks to support teaching public administration and public policy courses: at the very least they serve as organizing devices or points of departure for describing and analyzing the complex landscape for public policy-making and discipline of policy analysis. In what follows we suggest that these elements – however linearly presented in tables of contents – are usually accompanied by more sophisticated understandings.

### ***How the Policy-Cycle Heuristic Helps Understanding the Policy Process***

As a heuristic for courses on the policy process and policy-making, the elements of the policy-cycle serve as a de facto ‘table of contents’, indicating to students the range of topics which will be covered, but in the hands of a master instructor serves as a point of departure for a more organic understanding, emphasizing different entry points, directions, time lags, and serendipity. Only the most inexperienced or idealistic instructor would suggest that the policies would proceed from ‘agenda-setting’ or ‘problem definition’ – even with the arrival of a new government. Instructors should explore how even activist governments with policy platforms and priorities inherit

hundreds if not thousands of policies and programs in varying states of maturity. Governments seeking to introduce new policies or policy mixes consistent with their priorities (or at least until unanticipated pressures or crises overtake them) need to appraise whether pertinent policies and programs exist, whether they can be levered, overhauled or terminated. They ought to develop some appreciation of whether recent consultations have occurred, and, if available, whether insights from recent evaluations and performance monitoring might warrant review. From this pedagogical vantage point, then, the policy cycle is applied at a macro level, helping students appreciate the challenges for governments as they take power and proceed with mandate planning, and usually providing a backdrop for focusing on the trajectory of specific policies and associated programs.

Instructors usually have their courses focus on the development and evolution of particular policies, whether calibrated for a new leader taking over a single or suite of policies and programs, or for an early-career recruit working in their first policy-related assignment. The common challenge for both, interestingly, is that they must develop a sense of the maturity and status of policies. Are these policies new, early in implementation? Or are the policies well into implementation, so that performance monitoring, audits, and formative evaluations are material and might inform adjustment of the policies and associated programs? Have the policies run their course, either due to sunset provisions or operating environments which have significantly shifted, requiring rethinking of the need or design of the policies? Does the department or the government have any sense of the views of key stakeholders about the performance and delivery of the policy or policies? Have consultations been undertaken or feedback received on the performance of the policies and programs?

Asking such questions essentially serves a diagnostic purpose and does not presume that policies develop in more or less consistent or predictable ways – the goal is to take stock and locate where matters stand. As we discuss much later, one can invoke more sophisticated analytic frameworks and more granular information to explain circumstances, but the policy cycle as heuristic provides useful ‘first-cut’ questions to work through. What the new leader or recruit does with the answers lead us more into the domain of policy analysis.

### ***How the Policy-Cycle Heuristic Informs Policy Analysis (and Policy Work)***

The questions flagged just above presumed that a policy was in place, either relatively new or well-established. But how might the policy-cycle heuristic be material to responding to requests to address a problem, crisis, or request from elected leaders or other stakeholders for a new policy or overhaul existing ones? This takes us squarely into the realm of guidance on how to conduct useful policy analysis for policy-makers, which involves not only considering what constitutes a professional approach to policy analysis but also understanding how it might fit into policy-makers’ needs in the policy process.

It is well-known that policy analysis involves first understanding the problem as presented by a client, a precipitating incident or claim, or demands from key stakeholders, and then generating workable options for policy-makers to consider. The policy-cycle heuristic provides a useful list of bases to cover for would-be and working analysts when undertaking analysis: gathering data; exploring available research, policy work, and reports on the problem and associated policies; identifying relevant authorities and actors in the policy space; ascertaining whether consultations were held recently and key findings; re-defining the problem with this information; identifying options to be considered for developing a short-list of workable options for policy-makers to consider; delineating criteria against which options can be reviewed and compared, including budget and capacity requirements; what forms of engagement might be desirable; and identifying implementation considerations (e.g. lead-times, capacity and coordination issues, engagement and

communications, project tracking and milestones, performance monitoring, checking in with key stakeholders, etc.).

One could interpret this list as a recipe, to be followed in a precise order. However, experienced instructors and analysts know that the analytic enterprise is iterative, idiosyncratic, and often time-bound and resource-constrained. Much depends on the issue, its scale and scope, who the client is and what other policy actors must be negotiated with, and the political context. Early determinations could lead policy-makers and advisors to move in very different directions, such as launching consultations, focusing on only a couple of options, limiting interventions to only one or two policy instruments because of budget constraints or the limited authorities of the client, etc. In other words, early cuts and interactions successively re-define the problem and condition what the final round of analysis will focus on. The key point is that the range of topics embraced by the policy-cycle heuristic constitute a set of diagnostic questions to ask, reflect on, and debate before – in no particular order – before focusing effort in certain directions, but still informed by another round of similar questions.

Having arrived at and moving forward with certain options for consideration, policy analysts have to work with policy advisors to position advice so it fits as much as possible with the larger gyrations of the policy-making process, the budget cycle, and phase of government mandates – in other words, moving from policy analysis to strategic analysis of the policy process – often forcing reconsideration of the premises and definition of problems, as well as the scale and policy mix for interventions. Such considerations will also temper and even re-shape the nature of the ‘ask’ of policy-makers.

### ***How the Policy-Cycle Heuristic Informs Building Policy Capacity***

Undertaking policy analysis and navigating the policy-making process requires skills and competencies and, quite often, a team of analysts and other experts to get the work done. When at the University of California at Berkeley during the 1980s at the Graduate School of Public Policy, one of the authors of this chapter heard repeated reference to the ‘garden-variety’ analyst: a jack-of-all trades and generalist who could size up a problem, ask the right questions, and take reasonably good first cuts at solutions, recognizing that the processes of analyzing and advising were themselves iterative and contested, leading to more investment in thinking, data, and sharpening of arguments and solutions. Such a dynamic interpretation of the policy-cycle heuristic informed curriculum design and professional development, delineating the different skills and sensibilities (questions to ask) required for undertaking good policy analysis, however iterative and idiosyncratic the problem at hand, bearing in mind, too, the iterative nature of the broader policy process noted above.

The nature of this challenge shifts dramatically, however, as the problems become bigger along with larger the governance system and supporting bureaucracies involved. In such systems we are no longer talking about the ‘garden-variety analyst’ but, instead, larger policy analysis units (often called ‘policy shops, often with several located in the same department), populated with diverse skills, capacities, disciplinary and professional expertise, and leveraging diverse streams of data from different departments and agencies. Likewise, there are more forms of professional expertise material to policy analysis and advising – specialists in different forms of engagement and stakeholder analysis, quantitative analysis, data-gathering and manipulation, literature and systematic reviews, intergovernmental affairs and negotiation, converting policy ideas into legal language, visualization and graphics display, communications, and advising top executives and politicians (e.g., Mayer et al., 2004).

Here the policy-cycle heuristic provides a useful point of departure for gauging the extent to which a given analyst or team of analysts have the right skills, dispositions and lens for ‘seeing’

and addressing a policy challenge (e.g. Desveaux et al., 1994). This implies that leaders might anticipate – depending on the nature of the next problem to be addressed or shifting streams of analytic work – the nature of the work produced by staff with certain skills and disposition and how to compensate for it, what analytic gaps and competencies might be top-of-mind when recruiting for new staff, and when consultants might need to be retained (Lindquist, 2018). For individual analysts a variation of the ‘policy-cycle’ wheel can serve as a competency framework to guide taking on new assignments or professional development to round out skill areas (Mayer et al., 2004).

### ***Moving from Heuristic to Evidence-Informed Practice***

This section has not fixated on the policy-cycle *per se* as a framework; rather it has explored how textbook-authors, instructors and practitioners deploy it as a *heuristic* for iteratively assessing the policy-making context, gathering information and diagnosing problems and issues, and assessing the skills and capabilities of policy analysts and larger policy teams. In doing so, this section has surfaced – albeit at a very high-level – the tacit knowledge of authors, instructors, analysts, and policy managers on the teaching, analyzing or managing policy work, all seeking to illuminate the nitty-gritty world of policy analysis, congruent with the findings and observations of a succession of scholars exploring ‘policy work’ over the years in an ever-changing governance and public administration context (e.g. Meltsner, 1976; Wildavsky, 1979; Good, 1980; Feldman, 1989; Howard, 2005; Colebatch, 2006; Radin, 2013; Howlett et al., 2017; Dobuzinskis and Howlett, 2018).

The questions we want to take up in the rest of this chapter, however, are as follows: Can we better lever the more granular and situation-specific tacit knowledge of practitioners with the evermore sophisticated theoretical frameworks developed by policy scholars? In turn, can these theoretical frameworks be further sharpened and made more robust for doing so? Can we point to particular circumstances or vantage points when certain analytic strategies ought to be used? Can we narrow down what might trigger certain kinds of strategies or repertoires? In our view, there is no end of relevant scholarship which can inform the many domains of policy-analytic practice, but making progress on these fronts requires taking seriously for better delineating causal mechanisms, not only for the purposes of sharper theorizing to inform more systematic research but also to provide language and insight that practitioners can reliably use. The next section provides an overview of the causal mechanism movement.

### **Grounding Theories: Causal Mechanisms for Theory and Practice**

There is surprisingly little granular reference to causality or causal mechanism in the policy cycle literature, or in the more systematic accounts of the policy process. At best causation is often implied or sketched (Yee, 1996; John, 2003; Steinberg, 2007; Real-Dato, 2009; Nowlin, 2011; Kay and Baker, 2015). Bunge described such incomplete theorizing as a “gray box theory” where causality is assumed but the mechanisms are poorly described and hypotheses are often infrequently tested. Instead, we need to develop a “translucent” box that identifies the specific details about mechanisms or the cause and effect relationships in the policy cycle literature. When the nature of the mechanism is understood, inferences can be made and rigorous methods can be applied. All scholars should be interested in causality, but also focus on practical steps.

To do so, requires a simple definition of causation, but few exist beyond the identification of actions or entities which produce a regular series of changes from a beginning state to an ending (McAdam et al., 2008). Such discussions of change usually “invoke some form of ‘causal agent’



assumed to have generated the relationship between the entities observed” and “are analytical constructs that provide hypothetical links between observable events” (Hedström and Swedberg, 1998). Elster defines mechanism as “frequently occurring and easily recognizable causal patterns that are triggered under generally unknown conditions or with indeterminate consequences” (1998, p. 45). Simply put, scholars interested in studying mechanisms are focused on the connection between cause and effects (Beach and Pedersen, 2016). This can be a difficult task because mechanisms are often unobservable or hidden phenomena. They are sensitive to variations in context and triggering activators such as events, occurrences, or decisions that trigger or stimulate mechanisms (Pawson and Tilly, 1997). Thus, assessing the logic of association helps us to make theory-driven causal inferences (Falleti and Lynch, 2009).

Identifying mechanistic nature of causality requires to uncover empirically traceable processes which will uncover how X produces Y under specific conditions by describing “properties of the relationships among phenomena with the potential to recur, which helps explain why X causes Y” (Hall, 2013, p. 21). Context is also crucial in these causal relationships. Initial conditions play a key role in determining how mechanisms are triggered. Identifying the context and the mechanism is important when formulating hypotheses. Key aspects of a “setting” influence when and how certain mechanisms are triggered and how they play out. Context is also critical because similar initial conditions may lead to dissimilar outcomes (multifinality) and outcomes can be reached from any number of different developmental paths (equifinality) (Biesbroek et al., 2017). Various scholars have adopted Pawson and Tilly’s well-known “context-mechanism-outcome” (CMO) approach: namely the observed patterns of (un)intended outcomes can be explained by identifying the plausible causal set of mechanisms within the situational context of the process (Pawson and Tilly, 1997). Pawson and Tilly (1997) applied the CMO approach to explain the impact of policy interventions to explain larger social changes.

We go one step further, to argue that we can use a CMO approach to make sense of the ways in which policy process theories explain specific types of policy change. At first glance, there are different broad mechanism types: structural (e.g. environment, institutions), cognitive (e.g. individual perceptions and ideas), and relational (e.g. network connections between people). Second, mechanisms can span between micro-level (individual) and macro-level (structural) phenomena (Bunge, 1997; Checkel, 2006). Given the multi-level nature of policy making these mechanisms are particularly important. These are illustrated in Figure 23.1. “Situational” mechanisms occur when social structures or environmental phenomena constrain individuals’ action or shape and beliefs. “Action-formation” mechanisms link individual micro-level activities or behavior to their actions. Transformational mechanisms are those in which individuals, through their actions and interactions, generate intended and unintended outcomes. Third, mechanisms have temporal features which are often overlooked (Pierson, 2003; Beach and Pedersen, 2013). For example, some slow-moving causal processes result in a threshold event that results in a sudden change. In the policy and social sciences, there are many examples of mechanisms that fit these broad categories.

Identifying high-level and abstract mechanisms in policy theory still leaves the understanding of the causal factors in a gray causal box (Sartori, 1970; Falleti and Lynch, 2008). Machamer et al. (2000) argue that mechanisms are often nested hierarchies that contain “lower level entities, properties, and activities” that “produce higher level phenomena” (p. 13). There are “the components that are accepted as relatively fundamental or taken to be unproblematic” as far as the observables in the data (Morgan and Winship 2015, p. 239). Machamer et al. (2000) draw from molecular biology and find that mechanisms “bottom out in descriptions of the activities of macromolecules, smaller molecules, and ions” (p. 14). So identifying mechanisms helps us describe key dynamics in the policy process (Figure 23.2).



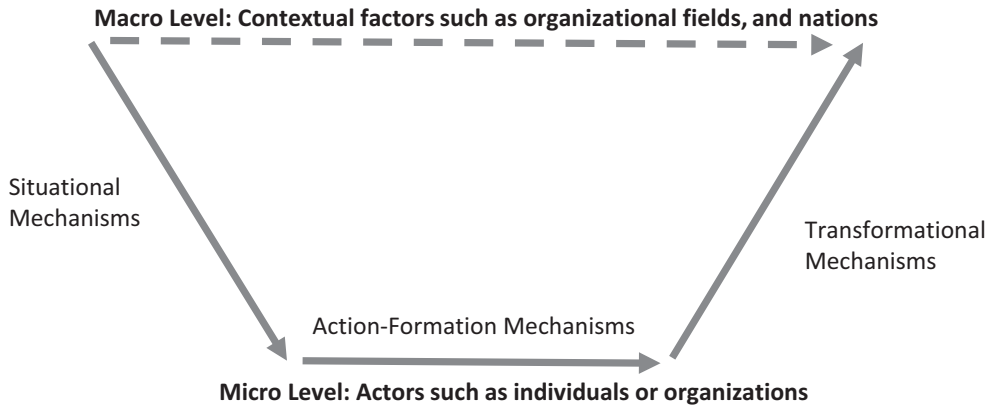


Figure 23.2 On “The ‘bath tub’ approach for identifying different levels of mechanisms”  
Source: Adapted from Hedström and Swedberg (1998).

### ***Mechanistic-based Policy Analysis: Process Tracing and Counterfactual Analysis***

A mechanistic-based analysis style is critical because “when the procedural sides of a policy making or decision-making process have been thought through properly, it will greatly increase the likelihood of substantive problems being resolved” (Mayer et al., 2004). The policy research and analysis communities should be interested in testing policy mechanisms so as to measure policy-oriented causal inferences and explain outcomes in more practical terms. Typically, qualitative methods are associated with small N between-case and within-case studies, which are so prevalent in policy process research (Steinberg, 2007). When the mechanisms are known, analysts can collect diagnostic evidence, theorize variables and empirical proxies, and test hypotheses which then provide a narrative explaining how a particular outcome or set of events came about (Kay and Baker, 2015).

Rather than testing for probability, mechanistic policy analysts begin with considering necessary and sufficient conditions, which is derived from Boolean logic, as their criteria (Kay and Baker, 2015). Necessity refers to the situation where a causal factor (X) is a necessary condition if the outcome (Y) occurs only if X exists whereas sufficiency refers to the situation in which a condition (X) itself can produce the outcome without the help of other conditions. Process tracing is central to the empirical and theoretical development of mechanism research (Mahoney, 2015). Process tracing, which is more of a general approach than a specific method, can investigate understanding a simplistic change of events related to a single phenomenon, the convergence of a number of conditions, or complex interactions causal factors (Meyfroidt, 2016; Trampusch and Palier, 2016). This is often achieved by converting narratives into mechanistic explanations.

Beach (2017) argues that analysts can develop minimalist or systematic understandings of mechanisms. A ‘minimalist’ approach considers only diagnostic evidence. A systematic approach explicitly unpacks the causal process and delves into understanding the empirical fingerprint that the mechanism makes and revealing its constituent parts. In part, this can be a function of the variety of information sources collected (archival documents, interviews, reports, memos) that are accumulated over a given period of time are referred to as causal process observations (Charbonneau et al., 2017). Beach and Pedersen (2013) identify three approaches to process tracing, namely: theory-testing, theory building, and explaining outcomes. Theory-testing process

tracing is employed when a phenomenon X is causing outcome Y is known but the mechanism is not specified. Since mechanisms are portable concepts they can be applied by policy researchers to further elaborate the long-term nature of policy change (Falleti and Lynch, 2009). Theory-building process-tracing is undertaken when the relationship between X and Y is detected but the researcher cannot identify the mechanism or when the outcome (Y) is known, but X is unknown. In both cases, the researcher develops a new mechanism.

Beach and Pedersen (2013) describe Janis' (1983) development of "groupthink" mechanism as the cause of the Bay of Pigs fiasco. Theory-building requires considerably more time and effort than theory-testing. In explaining outcomes, 'process-tracing' the outcome Y is known but X is unknown or the researcher is interested in fully explaining why Y happened. In each type of process tracing, the analyst will develop a causal mechanism. The second step involves operationalizing the mechanism based on "observable manifestation" from different types of evidence. The inferential weight of the evidence and the hypotheses can be assessed using four well-known tests that apply set-theoretic analysis of events (straw-in-the-wind, hoop, smoking gun, and doubly decisive tests) (Van Evera, 1997; George and Bennett, 2005). These tests examine necessary and/or sufficient conditions for inferring evidence from the hypotheses exist. The principles of certainty and uniqueness of the evidence reflect the necessary and sufficient conditions. The straw-in-the-wind test supports or weakens a hypothesis but does not exclude it. The smoking-gun test confirms the hypothesis but does not exclude other hypotheses. Hoop tests reject a hypothesis but do not influence other hypotheses and a double-decisive test confirms a single hypothesis and disconfirms other rival hypotheses. Finally, analysts can apply more formal probabilistic Bayesian perspectives that use set theory and necessary/sufficient conditions (Ulriksen and Dadalauri, 2016).

Theories of the policy process have been presented to the scientific community as helpful guiding frameworks that recognize and distil the bewildering world of politics (see, for example, the contributions in Weible and Sabatier, 2018). This is a positive step. Ironically, although causality is assumed, very little is actually understood about underlying mechanisms in these approaches thus relegating them to causal gray boxes (Lindquist and Wellstead, 2019). However, a significant pay off can be achieved by incorporating causality, inference, and hypothesis testing as part of this research agenda. Policy scholars should take up the challenge and identify more specific mechanisms via process tracing in existing social science theories or develop new mechanisms. This, we argue, may lead to improving, changing, or refuting the broad and sometimes vague assumptions about existing theories and frameworks. By employing methods such as process tracing, a new avenue for analytical policy capacity can be realized. Thus, the policy scholar, the student, and civil servant can benefit from deeper understanding of causal mechanisms. Causal mechanisms have been overlooked because they are usually hidden and sensitive to variations in context. A toolkit equipped with well-elaborated mechanisms would not only be useful for precision and depth to understand the generative processes of existing theoretical models but also valuable for empirical research and enhancing policy-making decisions (Tranow et al., 2016).

Counterfactual thinking and analysis have long played an important role in the efforts of social scientists, particularly historians, to assess causal hypotheses. However, such approaches are infrequently employed in studies of the policy process or by policy analysts (Kay and Baker, 2015). Counterfactual analysis makes causal claims about events that did not occur; that is, non-observations (Fearon, 1991). By making claims about events that did not occur, Fearon (1991) argues that counterfactuals play a necessary and fundamental, if often implicit and underdeveloped, role in the efforts to assess the hypotheses about the causes of the phenomena. Similarly, a theory that specifies the consequences of both X and not X tells us more about the empirical world than a theory that specifies only the consequences of X (Kay and Baker, 2015).

## **A New Policy-Cycle Heuristic: Portals on Policy Frameworks and Mechanisms?**

In recent years considerable interest has been evinced in delineating a range of theoretical frameworks material for studying policy-making and the policy process (e.g. Weible and Sabatier, 2019). Despite the scholarly interest in description, hypothesis-testing, and explanation, some scholars see the potential of these frameworks to assist practitioners in their day-to-day work (Weible and Cairney, 2018, special issue). But these frameworks – Multiple Streams Approach (MSA), Advocacy Coalition Framework (ACF), Narrative Policy Framework (NPF), Cultural Theory (CT), Policy Learning (PL), Institutional Collective Action (ICA), Institutional Analysis and Development (IAD), and Policy Innovation and Diffusion (PID) – do not, despite their number, capture all of the relevant applied theoretical and practical knowledge available in the policy literature, which the policy-cycle heuristic reminds us about in a handy and comprehensive manner. In this section, using Weible and Cairney’s (2018) special issue as a point of departure, and drawing on Lindquist and Wellstead (2019) and van der Heijden et al. (2019), we first review the potential of these theoretical frameworks for mechanism-based skills in policy and process analysis, and consider other practice domains covered by the public policy and administration literature.

### ***The Potential of Policy-Process Frameworks for Policy and Process Analytic Tools***

Despite the ostensible divide between scholarly inquiry and professional practice in public policy-making, there can be no doubt that two generations of policy scholars have developed several theoretical frameworks to capture various complexities and realities of contemporary practice contexts, and the impacts of interventions of one kind or another:

- the *multiple streams approach*, originally inspired by the insights of John Kingdon (1984) which modeled and captured the gyrations and serendipity often experienced by decision-makers, policy advocates, and policy analysts in the policy process (Herweg et al. 2018);
- an interesting complement to this is the *punctuated equilibrium theory* framework, which seeks to explain episodic and fundamental shifts in policy and administrative regimes, and conversely, why stability persists over long periods despite mounting evidence and dissatisfaction with existing policy and administrative regimes (Baumgartner et al. 2018);
- the *advocacy coalition* and various *narrative policy* frameworks which, though with important differences in emphasis, focus on the interplay of contending beliefs, values, and narratives held by different groups of actors and how they shape and limit the impact of evidence in the policy process (Jenkins-Smith et al., 2018; Shanahan et al., 2018).
- several *policy diffusion*, *policy transfer*, and *policy learning* frameworks (Rose, 1991; Bennett and Howlett, 1992; Dolowitz and Marsh, 1996; Berry and Cox, 2018) track not only how noteworthy policy practice travels from one jurisdiction to others, but also how they get adapted by government working in different political and governance contexts; and
- several *policy network and community* frameworks which seek to capture and model the diversity and often bewildering array of actors directly involved or monitoring the actors wielding power across sectors and levels of government (Kickert et al., 1997; Lecy et al., 2014; Kapacu and Hu, 2020).

All of these frameworks are useful for educating would-be policy analysts about the fluidity, complexities, and frustrations associated with policy-advising and policy-making, and, likewise, provide important language for experienced political and administrative leaders to analyze and

compare their experiences with policy development. However, it is fair to say that, following the distinction of Lasswell (1970), these frameworks were primarily developed as part of a worthy agenda of improving “knowledge of” the policy process, and less geared toward “knowledge in” the policy process in the sense of tools.

Some effort has been made to consider how these analytic frameworks can serve as tools for policy and administrative practitioners. First, some scholars working from the MSA perspective have explored how ‘policy entrepreneurs’ can activate or further proposals from the problem or policy streams (Herweg et al., 2018, pp. 20–35). Second, almost all of the policy-process theoretical frameworks model system-level changes – such as changes in government, crises or significant shifts in economic conditions – as drivers of change in policy-subsystems or administrative domains, and so, one way to effect sub-system change would be to precipitate or take advantage of change at this higher level. Third, the advocacy coalition approach – following earlier work of Olsen and others (e.g. Olson, 1965; Jenkins-Smith et al., 2018, pp. 154–157) – suggests that better coordinating and informing coalitions of like-minded actors inside and outside government will counter the work of other coalitions of actors and perhaps further its own ambitions through readiness to promote and implement proposed policy initiatives. Fourth, though seemingly rationale and old-fashioned these days, there remains the hope – best associated with ACF and the evidence-informed policy movement – that better data, research, and analysis can lead to better debates, deliberation, decision-making, implementation, and oversight. Finally, potentially running across these other ways into furthering policy ideas would be suggestions from various narrative scholars about how to develop and hone better accompanying narratives and stories for sharing evidence and experiences, and advocating policy proposals. Such suggestions – though not explored in detail here – would be moving toward mechanistic thinking in the sense that a tool, when wielded, should have a reasonably well-defined cause-and-effect or at least some expectation of what can be expected under the right conditions (Lindquist and Wellstead, 2019). However, none of them guarantee success or significant changes in policy (whether incremental or fundamental), given the many different factors at play in policy-making contexts and that other actors may of course be employing similar strategies (Figure 23.3).

### ***Scoping Policy-Cycle Domains: Additional Instruments to Consider and Assess***

Such frameworks and accompanying interventions are not the only material ones for considering how to intervene in furthering initiatives in different policy and administrative domains. Indeed, the domains associated with the policy cycle alone suggest several significant realms of practice with established repertoires and the complex fields in which they are considered and deployed have been captured by scholarship, with potential to benefit from or inform mechanistic thinking. In what follows, we identify several well-known practice domains:

*Problem Definition.* When problems arise, or new governments arrive with new priorities, then policy advisors and analysts inside and outside the public service mobilize to further diagnose ‘the problem’, refine what aspects should be tackled in light of existing authorities, and propose solutions congruent with those assessments, along with budget and program considerations. This is well-known but our purpose here is to suggest that there are well-known repertoires within government bureaucracies for doing so: reviews of responses to similar challenges in the past; surveys of how other jurisdictions have handled such challenges; Google and variously more systematic searches of the state of practice; and, the larger the problem or commitment, greater canvassing across departments and agencies within a given level of government,

Policy Cycle	Policy Theory	Causal Mechanisms
Agenda Setting	Multiple Streams Approach (MSA)	Policy windows opening leading to searching for alternatives
Agenda Setting	MSA	Arrival of policy entrepreneurs willing to take advantage of window
Agenda Setting	MSA Advocacy Coalition Framework (ACF)	Presence of policy brokers
Policy Formulation	ACF	Bounded rationality leading to the devil shift (blame shifting, strategic rhetoric)
Policy Formulation	Narrative Policy Framework (NPF)	Better structured policy narratives could further policy learning or dampen effect of technical information
Decision-making	Punctuated Equilibrium	Positive policy feedback loops
	Theory (PET)	(sudden crisis changes government decisions)
Decision-making	PET	Negative policy feedback loops (incrementalism)
Decision-making	MSA PET	Garbage can model (non-linearity)
Agenda Setting Decision Making	ACF Institutional Analysis and Development framework (IAD)	Negotiation and/or anticipatory behaviour and strategies
Implementation	IAD	Norm constrained deliberation Rule-triggering, rule-making/negotiation Rule-making-on-the-ground/frontline
Implementation		Task sequencing
Evaluation	ACF PET MSA	Changes in environmental context and systemic change (eg. change in government, crisis)
Evaluation	NPF ACF	Social (policy) learning is complex and requires significant events or outstanding policy or political communicators
Evaluation	ACF	Goal attainment (model)
Termination	ACF PET MSA	Changes in government, policy or program failure, significant change in public attitudes

Figure 23.3 Linking policy theory with causal mechanisms for the policy cycle

along with consultation other levels of government, usually relying on established bilateral or multilateral channels or more formal committees. Such searching, assessing, and refining can be contested – as a result of different political and expert views – but leads to different bases from which policy solutions are forwarded, decisions made, and set in motion. Our argument here is that different repertoires would be relied on by governments depending on the urgency, gravity, and scope of the challenge or commitment. Problem definition is not something that policy analysts undertake working in isolation from each other, but rather, are observable functions and responsibilities of policy advisory systems, and are done with varying degrees of skill and competence (e.g. Craft and Halligan, 2020, on their assessment of how four systems handled the COVID challenge).

*Implementation.* Long before the policy-cycle concept was imagined, governments announced policies and sought to implement them, with varying degrees of success. Indeed, one of the first insights of the policy sciences and policy analysis movements was that implementing announced policies could be highly problematic (Pressman and Wildavsky, 1973), leading to an extensive literature chronicling and analyzing implementation efforts (e.g. Mazmanian and Sabatier, 1983, to name but a few of that era; Hill and Hupe, 2009, which provides a comprehensive survey of the literature). Recognizing these failures and implementation risks, governments over the years have identified various coordination and oversight repertoires for implementing major policies and projects (Management Advisory Committee, 2004; Lindquist, 2006a,b; Barber, 2007). Although Lindquist and Wanna (2015) have observed that much of this literature does not speak directly to practitioners, they were confident that numerous insights could be gleaned about expectations for implementation success as well as implications for leaders seeking to choose and improve implementation strategies and repertoires, such as what kind of central authorities and capacities might be required, the extent to which delegating authorities and oversight to lead departments or other governments might be prudent, whether the lead coordinating entities have the leaders and staff with sufficient skills and competencies to handle the new challenges associated with implementing the policy in question, and what performance monitoring, reporting, and adjustment systems are put in place. Once again, there is considerable professional tacit knowledge and scholarly work from which to identify the menu of mechanisms associated with this domain, to suggest when their selection makes most sense, and to make informed forecasts of the extent of success.

*Evaluation and Performance Monitoring.* Like the implementation domain, this ground is professionally and scholarly well-trodden (Bouckaert and Halligan, 2008). Governments at the political and top administrative levels have long sought to monitor and appraise whether policy implementation and associated programs are on track and provide good value-for-money, and opposition parties and observers seek to hold governments to account for how well the policies work and are administered. There are, of course, numerous ways to do this: project management teams and repertoires in central agencies and departments (the most recent being ‘deliverology’, Barber, 2007; but previously ‘gateway reviews’ for big projects, Lindquist, 2006a,b); performance reporting regimes; internal audit of projects; external audit by auditors general; and formative and summative evaluations commissioned by governments. Once again, these instruments are well-known but scholars have yet to ascertain under what circumstances which are most effective, what the value-for-money of different oversight approaches are, and to lever the literature on research and reporting utilization (e.g. Weiss, 1977; Nutley et al., 2007; McDavid and Huse, 2012) to venture assessments of about the likely use and impact of reports might have on changing the trajectory of implementation and presumably the ultimate success of animating policies, knowing full well that, expect under exceptional circumstances, review and influence of such reporting and appraisals will be modest.

*Consultation and Deliberation.* It has long been understood that there are range of engagement instruments which governments can use to variously ‘listen to’, ‘engage’, and share information with citizens, groups, and other governments (Arnstein, 1969). Moreover, there is no shortage of instruments available for more genuine deliberation, with varying degrees of input from experts and time allocated for dialogue (Lindquist, 2005; Longo, 2017). These instruments can be deployed by governments at different phases of developing and managing policy – from exploring the nature of problems as they arise, to generating different strategies for addressing them, to testing the short-list of purported solutions, to assessing how to ensure a proposed policy might work, to guiding and monitoring implementation, and, finally, to appraising how well policies in place have worked and whether they should be modified or jettisoned. While there continues to strong interest in certain quarters for more transparency and deliberation (i.e. Bingham et al., 2005), it remains that higher orders of government have tended to less interested in deliberative models and extensive consultation exercises, largely because they become sites for contestation and conflict (Hendriks, 2002; Kane and Bishop, 2002). While there have been various efforts to enumerate consultation instruments (e.g. Turnbull and Aucoin, 2006; Lindquist, 2005), there have been surprisingly few efforts to consider what forms of consultation work best under what circumstances, what their respective value-for-money in terms of financial outlays and returns with respect to quality of information and insight (Lindquist, 2005). Our sense is that advisors to governments have a very good idea of which instruments carry the most political risk, yields of good information, and public confidence, and thus have practice-informed theories-in-use and tacit frameworks for appraising these instruments which should be surfaced. We think this might explain why, after decades of calls for more deliberative forums, they surface more regularly at the local level and/or usually on more selective issues, or in extraordinary circumstances.

*Termination (Winding Up Programs).* All policies and programs – as originally instituted – run their course, either evolving into new forms, gathered up and superseded by new policies and program mixes, or terminated. While many policies and constituent programs become anchored or ‘locked in’, usually protected by ‘instrument constituencies’ or associated ‘policy networks’, many – and even the most protected – can be challenged and dispensed with as a result of defined funding horizons or sunset provisions, changes in government, new delivery possibilities arising from technological change, significant budget pressure, and feedback from various feedback mechanisms. Our point here is that governments often have established repertoires and styles for handling reviews in response to changes in government, budget pressures and crises, and significant shifts in external context. These vary across jurisdictions and governance systems, and with respect to the properties of the policy, program, and context, and governance traditions and sometimes statutory requirements which may require different kinds of review, levels of public participation, and use of evaluation and the forms of performance monitoring information. Moreover, there are understandings in practice and scholarly research about when such repertoires are more successful, and what conditions are more likely to ensure some degree of success.

When considering various theories of the policy process, those working in the causal mechanism movement – as we have – often suggest underlying assumptions and purported propositions in the models they outline have been insufficiently specified. However, we must acknowledge that these frameworks are *sui generis*: they provide points of departure and guidance for scholars and practitioners exploring *any* policy domain, and so much snaps into better focus when considering specific issues, prevailing instrument mixes, and instrument constituencies and networks, and the recent history of agenda-setting and engagement. Then, when one considers debates over new evidence and policy options, it should become clearer where they and associated



narratives might get traction against prevailing policy images and belief systems, and what level of external shift might be required to dislodge current arrangements and to successfully modify or set in motion a new policy mix (or termination), and whether certain modes of engagement might be advisable. From a causal-mechanism perspective, there is likely considerable tacit practitioner knowledge and empirical evidence from scholars to more systematically delineate specific mechanisms and instruments and venture views on conditionality and expectations for meeting policy objectives.

Such analysis could be taken another important step forward with respect to granularity: to venture informed views on challenges, timelines and risks for policy adoption, implementation, and monitoring requires thorough understanding of various “administrative policy” domains arising from central strictures and those of particular departments and agencies involved with moving the policy forward through various stages. These include the following administrative policy domains:

- human resource management;
- information management as well as information technology systems;
- purchasing and contracting regimes;
- partnership, commissioning, and oversight regimes;
- budgetary and financial management regimes;
- values and ethics regimes;
- feedback and complaints systems;
- communications, polling and social media;
- reviews of the state of knowledge and evidence; and
- innovation and experimentation systems.

Like the policy-cycle domains reviewed above, each of these domains have portfolios of instruments and well-established repertoires, with tacit professional knowledge about what works best in different circumstances and with different levels of effort, (e.g. cost, amount of information gathered, time horizons for reports, control over process and reporting once set in motion, etc.) and potential to affect policy outcomes. In all these domains, this tacit knowledge is accompanied by substantial theoretical and empirical studies from scholars.

In short, there is much to explore at this level of analysis, with great potential to be categorized and assessed from a mechanistic perspective. Indeed, this brings us full circle to the precursor to the policy movement: traditional public administration which, as it was galvanizing as a field saw these domains as core areas of practice and scholarship, and provides another opportunity to better connect them to the theoretical frameworks associated with policy studies.

### **Concluding Remarks: Agenda for Further Research**

This chapter has shown that, notwithstanding the recent interest in applying causal mechanistic standards and analysis to policy-process theoretical frameworks, there is an associated family of practice and scholarship domains amenable to this form of analysis. Indeed, and not surprisingly, the literature on policy instruments has long considered more closely cause-and-effect linkages of specific instruments and, more recently, whether policy mixes are coherent and effective as ensembles, or work at cross-purposes (Howlett and Rayner, 2007; Capano and Howlett, 2020). These, along with appraising how broader policy-process theoretical frameworks, ought to be integrated with higher-level theorizing, and benefit from practitioner insight on the ‘theories-in-use’ about which instruments and interventions make sense under what conditions. This would likely

sharpen the theorizing and predictive quality of scholarly work and advice, but also might in a modest way inform the thinking and strategizing of practitioners.

We have agreed that, while the policy cycle heuristic does not stand as a theory per se, it stands as a useful organizing device, and argued instead that experienced practitioners and observers often use variations of it as a point of departure for developing and sharing their ‘theories-in-use’ about how to anticipate, react, and appraise recent developments in policy-making, and respond to the needs of different governments, to take the longer view about work done but not used, to ascertain readiness to provide advice, and to inform the building of capacities in teams and competencies in individuals. Moreover, in the policy and administrative domains embraced by the ‘policy cycle’ heuristic we reviewed (problem definition, implementation, performance monitoring, engagement, and termination), there is no shortage of tacit knowledge about when different repertoires and instruments might be used, as well as their value and effectiveness. We have also argued that we could turn to many more functional administrative domains (human resource management, information and information technology management, budgetary and financial management, purchasing and contract management, ethics and values management, partnership management, innovation management, communications and public opinion, feedback and complaints systems, etc.) to further enumerate pertinent instruments and more systematically canvass the profession theories-in-uses and available scholarship for mechanistic assessments about which tools work best, under which conditions, for what costs and benefits, and why.

This no small agenda for research, but one that promises to integrate a great deal of scholarship which has been proceeding on many tracks over the decades. It promises to highlight ‘what works’ under what conditions, and how actions at various levels of analysis (system-level, subsystem or policy domains, policy cycle and instrument mixes, and functional administrative domains) condition, rely on, and intersect with the others. More importantly, will reiterate the relevance of practice knowledge to theory, and increase the potential of sophisticated theory and empirical work to provide language and advice for practitioners to consider.

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