Managing legitimacy in hybrid governance
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Abstract
Legitimacy of public administration and public policy is considered to rest on two pillars: output legitimacy and input legitimacy (Scharpf, 1997; Van Kersbergen en Van Waarden, 2001). Output legitimacy refers to questions of effectiveness and efficiency. Input legitimacy concerns the question of means, whether the steps taken towards some end are appropriate.

In recent years, innovation in the public sector has especially focussed on increasing output legitimacy. In a public sector blamed for overspending and inefficiency, there has been strong pressure for output oriented innovation. Together with the strong belief, in some circles, that markets are more efficient than bureaucracies, this has led to the introduction of market principles in the public sector and so-called public-sector hybridisation. With respect to the intended results of these innovations the jury is still out.

Meanwhile, mixing institutionalised governance regimes may also be regarded from the perspective of input legitimacy. From this perspective, there are at least two good reasons to suspect that in an output-oriented struggle for hybrid governance, input legitimacy may suffer. In first place, given that output legitimacy and input legitimacy may sometimes produce conflicting demands, efforts to improve the former, may lead to losses in the latter pillar. Secondly, as input legitimacy in markets and bureaucracies can be regarded as the result of a historical process of institutionalisation and deliberate design, the question is what happens when in hybrid forms of governance institutional building blocks from both sides are simply mixed.

In this paper the issue of input legitimacy in hybrid governance is investigated in a theoretical and an empirical sense, in which special attention is paid to the somewhat troubling concept of “legitimacy management” (Suchman, 1995).
1. Introduction

Legitimacy is the property of a situation or behaviour that is defined by a set of social norms as correct or appropriate (Scott, 1998). It especially concerns the evaluation by societal actors of individual decisions as well as the social acceptability of systems of governance.

Regarding governance, legitimacy is considered to rest on two pillars: output legitimacy and input legitimacy (Scharpf, 1997; Van Kersbergen en Van Waarden, 2001). Output legitimacy refers to the acceptance that some decision or some structure of governance “works”, “performs”, is able to “deliver the goods”. Input legitimacy concerns the question whether the outputs are reached in an appropriate and acceptable manner, a manner which contains appropriate checks and balances and which provides some form of accountability. A system of governance will be considered legitimate when it accords with the two pillars of legitimacy. A system which does not produce the goods to at least a certain degree or that is clearly unjust will loose its support rather sooner than later.

The conceptual separation between input and output legitimacy does not imply that both pillars are to be regarded as independent. Important interactions may exist between the two. On the one hand, both pillars of legitimacy may support one another. In general, a certain level of input legitimacy is required for any governance system to work and when a governance system produces positive outcomes this may be reflected in terms of a sense of input legitimacy as it reinforces the idea that governance has been in the right hands. On the other hand, both forms of legitimacy may also produce conflicting demands. As achieving input legitimacy may involve costs, e.g. in terms of special functionaries involved and time needed for deliberation with stake holders, it may adversely affect efficiency and effectiveness. An example is governance in crisis situations in which circumstances require swift and decisive action which may lead to bypassing of proper administrative procedure (Kuipers, 2003).

When it comes to the acceptance of governance structures, output and input legitimacy may be to some degree interchangeable. Governance systems that are lacking
in the field of input legitimacy may be accepted as legitimate because of their performance and vice versa.

2. Institutionalisation of legitimacy

Whether a certain governance structure is accepted as legitimate will depend in part on the specific issue at hand and on the specific experiences of important stakeholders and their authority. In any governance situation, individual citizens, political representatives or societal pressure groups may become convinced that certain practices are or are not legitimate and this may lead to political struggle and possible change. However, legitimacy is also highly institutionalised in terms of generic structures and practices that are endowed with some a priori legitimating. Examples of such generic structures are the (free) market model and the model of government bureaucracies.

The models of market and bureaucracy are institutionalised in our society, in the sense that they refer to countless beliefs, values and norms (formal and informal) about positions and rights of actors involved and about appropriate and inappropriate action. E.g. reference to the market model invokes ideas of private property rights and the civil liberties of individuals to come to individual agreements about the exchange of goods, while the bureaucratic model refers to ideas regarding the need for (democratic) authority in societal co-ordination, the rule of law and correct administration.

Markets and bureaucracies are also institutionalised in the sense that our societies have developed many implicit and explicit structures, which define, support and protect the legitimacy of these forms of co-ordination. E.g. in the form of constitutional rights, laws and regulations, courts, supervisory bodies.

As a result, the two institutionalised co-ordination mechanisms, market and bureaucracy provide some a priori input legitimacy in the form of intrinsic and institutionalised checks and balances and trust creating institutions. Input legitimacy in markets, for example, stems from an institutionalised respect for property rights and for the right of individuals to voluntarily enter into contracts, from contract law and competition regulation and from formal market regulators. In a bureaucracy, on the other
hand, power abuse is prevented by institutions such as the rule of law, the distribution of powers and systems of democratic accountability.

This rich institutionalisation of market and bureaucracy as mechanisms of coordination and governance thus provides some *a priori input-legitimacy* to concrete social behaviours. We accept *a priori* that private service providers may sell their services on the market. We accept *a priori* that government bureaucrats take important decisions that can affect peoples lives.

3. **Hybrid governance and legitimacy**

In recent years, we have witnessed the introduction in the public sector of hybrid governance: forms of governance in which different more ideal typical approaches to governance are combined (Considine & Lewis 2003; Kooiman 2003). A most prominent example of this hybridisation is the introduction of market principles as an addition to and partial replacement of public sector bureaucracy (LeGrand and Bartlett, 1993).

Reasons for such hybridisation are various and may refer both issues of input and issues of output legitimacy. The introduction of quasi-markets in fields like education and domestic care is generally promoted by both efficiency arguments and arguments of improved democracy and responsiveness; As a means of empowering citizens vis a vis existing, bureaucratic institutions.

Despite of this argumentation, however, the question is of course to what extent such innovations really bring the intended results. Does this hybridisation really lead to more effective and more efficient public services and does it really lead to more appropriate forms of deliberation and decision making in the production and allocation of these services? At this moment, the jury is still out.

With respect of the issue of output legitimacy of privatisations and hybridisation, many studies have been performed over the years, some of which show improvements and some of which do not. With respect to input legitimacy, however, such studies are much more rare, which is especially disturbing since from this perspective, there are at least two good reasons to suspect that with the introduction of hybrid governance, input legitimacy may suffer. In the first place, when we consider the institutionalisation of input legitimacy, the question is what happens when in hybrid forms of governance
institutional building blocks from both sides are simply mixed. Secondly, in recent years much government restructuring has focussed on increasing output legitimacy: maintaining or even increasing services levels in fields like elderly care and education, while at the same time constraining budgets. In these cases input legitimacy may especially suffer where it conflicts with the demand for efficiency. E.g. tasks may be transferred to the market in an effort to reduce bureaucracy and this may lead to a reduction of legal assurance and legal equality.

Especially in these cases of output-oriented hybridisation, a careful study of the effects of that hybridisation on input legitimacy seems warranted.

When, in a specific case, hybrid governance is introduced in order to achieve higher output legitimacy, what does this mean for input-legitimacy?

4. Studying the effects of output-oriented hybridisation on input legitimacy

In most circumstances the above question is of course too general too answer. It will require further specification, especially with respect to the issue of what is exactly meant by input legitimacy and how any important changes with regard to that concept may be detected and evaluated. In order to come to such a further specification, the distinction by Suchman (1995) between institutional and strategic approaches of legitimacy is of utmost importance and lead to very different types of analyses.

Within the institutional tradition, legitimacy refers to a set of constitutive beliefs, values and norms, which exist in the broader society and which form and give meaning to existing and emerging practices (e.g. DiMaggio & Powell, 1983). Thus, from this institutional perspective changes in governance, such as hybridisation, may be analysed and evaluated in terms of that broader, generally more stable, institutional setting, which lies outside the control of any actors directly involved in the concrete case under investigation. From this perspective, the question is to what extent the new, hybrid practice, corresponds with established ways of thinking (is understandable), established (moral) values and existing norms.
To what extent does the concrete form of hybrid governance under investigation adhere to any broader societal standards regarding input-legitimacy?

In an evaluation this issue may be subdivided further to include questions regarding input legitimacy, such as: Is the new hybrid form of governance understandable? Does it respect established rights of important stakeholders? Does it provide the same level of checks and balances? Does it adhere to any existing rules and regulations, formal and informal?

While asking such questions about hybrid governance is essential, it may also be noted that performing such an institutional analysis is inherently conservative in its references to established standards.

The strategic perspective on legitimacy, however, leads to a very different type of analyses. In the strategic tradition, which is associated with the work of Pfeffer en Salancik (1978), legitimacy is depicted as an operational resource (Suchman, 1995: 576), which is “conferred when stakeholders – that is, internal and external audience affected by organizational outcomes – endorse and support an organization’s goals and activities” (Elsbach and Sutton, 1992). Organizations require a certain level of legitimacy to operate and for this reason they actively seek and compete for legitimacy. This seeking and competing is thus an object of managerial effort and managerial control in the sense that purposive, calculated strategies may be deployed to gain stakeholder support. In order to evaluate a hybrid system from this strategic stakeholder perspective, the question of input legitimacy is thus rather different.

To what extent is the concrete form of hybrid governance under investigation, accepted, by important stakeholders?

Thus, a first analysis in this direction would involve identifying which in that specific case the stakeholders may be (e.g. political actors, individual citizens as clients, private firms), to what extent these stakeholder are important to the success of this hybridisation
(in terms of their control over resources) and to what extent each of them is accepting this hybridisation as a proper development.

However, having entered this domain of legitimacy as a strategic resource, submitted to strategic management action, further analysis is required. As managers seek stakeholder support and enter into “legitimacy management”, they may deploy a multitude of very diverse “legitimating strategies” which may be vary enormously in their nature and impact (Suchman, 1995). Not only may these manager try to conform to their environment and to existing models, ideals and demands and thus to more institutional requirements, they may also seek to establish stake holder support in more manipulative ways, e.g. in the form of undesirable preferential treatment (and even bribes) or obfuscation (c.f. Pierson, 1994). Thus, with regard to our central question of input legitimacy in hybrid governance an additional question within the strategic perspective should certainly be asked.

*To what extent and in what way is input-legitimacy managed by actors interested in this concrete form of hybrid governance under investigation?*

Further analysis along this line of reasoning should not only identify the individual strategies deployed, but should also go into questions of their legitimacy and further appropriateness. E.g. while buying off stakeholders may be effective in acquiring short term support, it may actually undercut further legitimisation.

The remainder of this paper will take these three questions above, as a first exercise, and apply them to one case: the use of hybrid systems of labour re-integration services in Dutch municipalities.

### 5. Case and method

Labour re-integration, in the Netherlands, involves different activities to get unemployed citizens back to paid work. It involves services like psychological testing and diagnosis,
social empowerment counselling, educational training, job searching and post placement coaching.

Traditionally, a large share of these services has been provided by public organisations: the municipal social service organisations and the regional labour exchange agencies. However, in recent years, the Dutch government initiated a major institutional revision of both social security and labour re-integration policy. Part of this revision has been the privatisation of labour-reintegration. Labour reintegration is now provided by private companies, which compete on a new market on which public social security agencies, such as the municipal assistance agencies, offer reintegration contracts.

After decades of disappointing experiences with public re-integration services, a strong conviction has developed that this type of service is better left to the market. It is thought that privatisation and competition will lead to a more effective and efficient system (Van der Veen & Trommel 1999). In this sense, the new hybrid approach of labour reintegration strongly focuses on increasing output legitimacy.

This case study focuses on labour reintegration of welfare recipients in one of the larger cities in the east of the Netherlands, which will be referred to as ‘Easttown’. Easttown has been among the first municipalities in the Netherlands to introduce the new approach to labour reintegration, in the beginning of 2001.

As there was no national regulation specifying the precise method of contracting out labour reintegration, the municipality had to find its own way. In this context, it developed a form of hybrid governance, in which it has tried to reconciling public responsibility for labour reintegration with the private production of services. This new approach is characterized by three important design choices.

First of all, the municipality itself operates as the local purchasing authority, and thereby applies a combination of the customary principles of service blocks, cost-per-case and volume contracts (Le Grand and Bartlett, 1993: 26). As discussed above, labour re-integration generally involves several successive activities, which could be purchased separately, but Easttown has chosen to only contract providers on the condition that they take responsibility for complete trajectories, from start to finish. Moreover, in a tendering
procedure at the beginning of the year, providers are expected to bid for contracts on a cost-per-case basis, for a predetermined volume of clients.

Second, while bidding on these contracts, providers may differentiate their offers, not only in price, but also in the contents of the actual services they offer, and in the so-called placement percentage they are prepared to stand for. This placement percentage indicates the proportion of trajectories the provider claims to become successful, in terms of leading to work and making the client independent from social assistance for a minimum of six months.

Third, although the use of predetermined volumes, may suggest a fixed assignment of clients to providers, it is important to understand that this is not what actually happens. Assigning individual clients to reintegration and to specific providers takes place during the contract year. This individual assignment is performed by municipal caseworkers, who also administer general assistance.

In the beginning of 2003, two years after the new approach started, Easttown commissioned an extensive evaluation of its new approach. A first part of this evaluation concerned a client satisfaction survey. A second part, conducted by the author of this article, focussed on performance and work practices and also involved a quantification of reintegration results and a number of interviews with staff, both from the municipality and from the reintegration firms.

Based on this research, on the data gathered as well of the interviews, it is possible to make a first evaluation of the legitimacy of this new, hybrid approach to labour reintegration.

6. Legitimacy of hybrid labour in Easttown: first findings

As discussed at the start of the article, the determination of legitimacy rests is thought to rest on two pillars: input and output legitimacy. Before turning to the latter, which is at the focus of this article, we take a brief look at output legitimacy, as this is certainly a major concern of the municipal leadership itself.
6.1. Output legitimacy

As far as output-legitimacy of hybrid labour re-integration is concerned, the signs are still uncertain in the Netherlands, as a whole, as there are stories of enormous costs involved with the privatisation and there is still much uncertainty about actual results that may be ascribed to the new integration firms. Especially because labour re-integration is very dependent on fluctuations in the economy, it is very difficult to determine whether the new hybrid approach is more effective and/or efficient than the former public sector approach.

For Easttown, the costs of buying trajectories on the market are clear and the problems of measuring output and outcome are also evident. However, based on a thorough measurement during the evaluation study, there is also some trust that the new system is actually producing results and creating savings in terms of reduced expenditures for municipal assistance. At the moment of evaluation, 2 years after the start of the new integration approach, about 50 percent of the over 600 trajectories started in the first year were still underway, while about half of the trajectories that had ended, had resulted in some form of reintegration of the persons involved (Svensson et al., 2003).

These output figures have played an important role in a recent decision by the town council to continue the current approach, which may be regarded as a clear indication that this hybrid project indeed has acquired some output legitimacy.

6.2. Input legitimacy and accepted standards

Concerning input legitimacy, we can first of all look at the question whether the new hybrid system is possibly affecting existing institutions: is it understandable, is it respecting established rights, does it provide appropriate checks and balances, does it agree with existing norms?

Answering these questions meant taking a very critical look to the Easttown approach and questioning this system’s institutional merits. Although, on a general level, it may be fair to state that the Easttown design has been rather careful, several crucial points could be identified in which the hybrid system of labour re-integration was thought to disagree with established standards of both markets and bureaucracies. Three prominent examples of such legitimacy issues were:
- **The allocation of citizens to private companies.** As discussed, in the Easttown design, the municipal caseworkers decide on the allocation of clients to different reintegration firms. Although this is understandable from a bureaucratic perspective, it is clearly conflicting with the basis for input-legitimacy in a free market, as in such a market the freedom of the client to choose is central. Thus, from this latter perspective, the compulsory allocation raises some issues of input legitimacy;

- **The tension between individual rights and aggregate results.** A traditional bureaucratic allocation of services to citizens is generally based on individual rights and entitlements: unemployed citizens are entitled to certain services. From the market perspective, however, it is the aggregate result that counts (the placement percentage), and it is the right and duty of the entrepreneur to decide how to achieve this result efficiently (this is at least the central idea used in the selection of reintegration firms). It is clear that in some cases, this contrast between the rights of the client and the duties of the reintegration firm will be incompatible, thus affecting input legitimacy in one way or the other. E.g. in a situation in which a firm does not expect a client to become successful, market standards dictate that the firm will stop investing in that client, while from a bureaucratic point of view this client will still be entitled to further services.

- **The use of sanctions to enforce co-operation by clients.** Under Dutch law, welfare recipients are obliged to actively co-operate in their labour re-integration and this obligation is enforced by a system of fines and penalties. A welfare recipient who does not co-operate may even lose his welfare entitlement. Under the new system, however, only the re-integration firms can determine the extent to which a client co-operates, and thus these firms are expected to see to it that clients who are not co-operating will be registered and fined. As a result, meting out bureaucratic penalties is at least in part transferred to the re-integration firms. The question is whether a municipality can legitimately delegate such invasive powers.

In sum, from a perspective of established standards, the hybrid system of labour re-integration may be carefully designed, but it still raises serious questions of input legitimacy.
6.3. **Input legitimacy and stakeholders**

When we look at input legitimacy from a strategic perspective, the most important stakeholders in this case are the town council and the responsible alderman, the management and staff from both the municipality and the private firms, and the individual re-integration clients. At this point in time, these stakeholders can make or break the hybrid project.

From the interviews with staff from both the municipality and the private reintegration firms involved, it is clear that frictions like the ones described, are indeed generating concerns. Municipal and firm staffs are well aware of many of the pitfalls surrounding their co-operation.

From employees of the firms involved, there are especially complaints about the fact that the municipality is sending them too few “clients” and “clients” who have no real chance on the labour market or who are clearly unmotivated to enter a reintegration trajectory (Svensson et al., 2003). Furthermore, there are questions about the precise distribution of responsibilities between the them and the municipal staff.

In the start of the reintegration project in 2001, municipal staff at street level were rather sceptical about the idea of sending their clients to private firms and for the firms this even resulted in a period of several months in which they received hardly any clients. However, this problem was largely solved by a somewhat stricter control from the town management and after two year most objections had largely disappeared, although there remain some doubt about the quality of work of some firms.

More in general, however, both staffs, from the municipality and from the firms, now seem to accept the new hybrid co-operation as a given and, in this sense, they are accepting the new approach and are prepared to make it work.

The survey conducted among the clients participating in the reintegration trajectories gives the impression that they too accept the new approach. There are relatively few complaints and in the evaluation the clients seem just as positive about the reintegration firms as about the municipal departments (I&O research, 2003).
As stated above, the most important stakeholders in this project, the responsible alderman and the town council have recently approved the continuation of the project. So, seen from a more strategic perspective, the hybrid approach has succeeded, at least for now, to generate the stakeholder support is required.

6.4. *How is legitimacy managed?*

The fact that, despite the legitimacy issues involved, the clients of the reintegration firms are generally accept the new reintegration approach as legitimate, is of course of great importance for the municipality, as well as for the private firms involved. Both have a strong interest in their actions being considered legitimate by their clients for at least two reasons. First of all, acceptance of their actions as legitimate is a prerequisite for their day-to-day functioning. Secondly, especially the firms have a stake in this system being maintained in the future. The last question therefore is how is legitimacy managed in this case? What do the municipality and the firms do to prevent the normative issues to manifest themselves in the re-integration practice?

Although this certainly requires more investigation, based on observation of the practices in Easttown, the following mechanisms may be identified, through which the observed friction between market and bureaucracy is managed in this case hybrid public governance:

a) *Intelligent design.* In Easttown, the management of possible institutional frictions has begun in the system’s design. It is clear that, in general, the municipality has put much effort in analysing the intricacies of mixing the bureaucratic and the market logic and has made some deliberate choices to reduce possible tensions. One example is that, according to the contract, reintegration firms are allowed to conduct an intake investigation of clients sent to them and to refuse a certain percentage of them as not acceptable, thus preventing more serious mismatches between clients and firms.

b) *Normative integration.* For a large part frictions between markets and bureaucracies may be expected because private firms and government bureaucracies are considered to operate according to different logics. However, as has been noticed before such discrepancies between organizations in a
collaborative setting puts pressure on the separate organizations to change (Evan, 1965; DiMaggio and Powell, 1984; Bekkers, 1998). Through contracts and as a result of interaction between parties, a certain degree of normative integration may be reached. Private companies can be made to adhere to some degree to public sector rationalities and vice versa, thereby reducing the amount of friction between the two systems. An example in Easttown is that reintegration firms are contractually and otherwise, pressed by the municipality to keep investing in clients they would otherwise have given up.

c) *Establishing correct procedures for dealing with - and perhaps covering up - debatable practices.* Where reintegration firms are entering into areas of decision that go beyond their authority, these decisions are formally administered and signed by municipal staff to make them conform to legal standards. E.g. municipal staff formally ratifies reintegration trajectories and municipal consultants formally mete out sanctions.

d) *Obfuscation of the public-private split.* In the implementation of a hybrid system, the border between public and private – bureaucracy and market – may be concealed in a number of ways, which may make it possible to hide certain frictions from citizens. Deliberate or not, Easttown has mastered the technique of making it difficult for clients to identify the exact nature of the transactions they undergo. Some of the private companies are intertwined with the municipality in a way that makes it very hard to identify exactly who are private sector employees and who are public officers. Some companies are involved in several roles and some companies even make use of desks and offices in municipal buildings. As a result, it is less likely clients will object to bureaucratic decisions made by personnel from the reintegration firms.

e) *Preventing conflicting information from surfacing.* One way that clients may become aware of issues of legitimacy, is when they receive conflicting information. In Easttown, this happened at the start of the new approach, when promises made to clients by municipal caseworkers, collided with private firm plans for those clients. Prohibiting the municipal workers to inform clients about the possibilities the trajectories solved this potential source of trouble.
Finally, an important reason why issues of imput legitimacy did not manifest themselves more clearly, is power. The actors in the field of labour reintegration clearly depend on each other and much power is concentrated in the municipality and its staff. The municipality can fine unwilling clients and also can make life very hard for individual reintegration firms. Therefore, without much additional management, many issues may be swept under the carpet.

7. Conclusion
In the provision of public services, legitimacy is a core value, which refers to ideas of effectiveness and efficiency but also to concepts of accountability and the control of power by checks and balances. Markets and bureaucracies as they exist today are highly institutionalised and it are these institutions which provide social actors with a sense of trust.

In search for a leaner, more effective and efficient government, hybridisation is now a popular strategy. Public programmes are governed by a mix of bureaucratic and market principles in an attempt to achieve the best of both worlds, at least in terms of output legitimacy.

The question, however is what these same hybrid systems imply for the other pillar of legitimacy. In output-oriented hybrid governance, input legitimacy may suffer and this merits thorough research.

As an illustration of how this research may be conducted and what this may deliver, this paper has focused on one case of hybrid governance: that of labour reintegration services in the Netherlands. From this case, several interesting observations can be made.

As shown, the question of whether a system of hybrid governance affects input-legitimacy can be investigated from an institutional as well as form a strategic perspective. In concrete practices these two perspectives may deliver very different and even contradictory insights. Where an institutional study of a new hybrid system may
reveal serious shortcomings in input legitimacy, this does not mean that these 
shortcoming necessarily undermine these hybrid systems in terms of stakeholder support. 

From a strategic perspective this stakeholder support may be the object of 
legitimacy management. This legitimacy management involves strategies and tactics 
deployed by actors involved in the innovation to make it adhere to existing standards of 
legitimacy, in reality or in appearance. 

As shown at the end of this article, legitimacy management can be observed in 
organizational practices involving new hybrid designs. In the case of the new system of 
labour reintegration in Easttown, several examples of legitimacy management are 
discovered, which – deliberate or not, help to convey the image to stakeholders that the 
new approach is as legitimate as the old. 

The question of the evaluation of this type of legitimacy management by 
organizations is an issue for further debate.

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