

AGENCIES

In this entry, the concept of “agencies” will be defined, and a short review of its history and relevance for public administration practice will be given. Finally, some key issues that have emerged from the ever-growing literature on this topic will be discussed.

Definition

Agencies are the organizational emanation of administrative decentralization in the public sector, by which large monolithic core departmental bureaucracies are “unbundled” into the smaller executive organizations that operate at a distance from the center of government. There are many descriptions of the administrative species “agency” in the international literature, such as “non-departmental public bodies”, “quangos”, “non-majoritarian institutions”, “quasi-autonomous public bodies”, and “arm’s length agencies”, only to name some. For reasons of clarity, the term “agency” will be used throughout this entry. There is, however, a variation in the interpretation of the concept “agency” in different countries. Some argue that what an agency is, and what functions it does, may vary considerably across national cultures, legal systems and political systems. Although the definition of an agency, or the way in which “agencies” are conceptualized, may differ from country to country, there are some common features by which agencies can be characterized. Firstly, in most cases agencies are public law bodies. This means that they are subject to at least some public law procedures. Secondly, agencies have some capacity for autonomous decision-making with respect to their internal management and/or policies. Thirdly, agencies are structurally disaggregated from the centre of the governmental apparatus (core ministry). This means that in most cases, agencies are not directly subordinate hierarchically to the oversight authorities like the central administration of government, or the minister. Still, fourthly, agencies are formally under at least some control of ministers and

governmental departments, as there often is a (larger or smaller) degree of political responsibility for what the agency does. Fifthly, in most cases agencies are (at least partly) staffed with civil servants and (at least partly) financed by the state budget. In the literature, the distinction is made between internally autonomous agencies and externally autonomous agencies. Internally autonomous agencies have a quasi-autonomous status within the central governmental department. These agencies are often labeled as “ministerial agencies”, as they do not have a legal personality of their own (they are part of the legal person of the government, the ministry or the department). This implies that the hierarchical relationship with the minister remains unchanged, and that the minister remains responsible for the organization. Internally autonomous agencies do have extended managerial flexibilities however, compared to the core governmental organisations (from which their “autonomous” status is derived). Examples of internally autonomized agencies are the Next Steps Agencies (UK), the “Agentschappen” (Netherlands), or many federal agencies in the USA. Externally autonomous agencies are often labelled as “non-ministerial agencies”, because of their own legal personality and the fact that they are structurally detached from the core of the governmental apparatus. In most cases, the legal personality implies that agencies are controlled and steered by an intermediary body (like a board of governors). The existence of a board implies that the ministerial responsibility towards the agency decreases, and often is only political in nature. Examples of externally autonomous agencies are the so-called non-departmental public bodies (UK), the “zelfstandige bestuursorganen” (ZBO’s, Netherlands), or the Independent Administrative Institutions (Japan).

Historical, theoretical and empirical context

Agencies: not something new at all

With the rise of New Public Management as one of the dominant administrative doctrines of the last decades, many countries started reorganizing their administrative apparatus. One particular

reform that could be observed in a lot of countries was the so-called unbundling of the traditional large monolithic bureaucracies. In the UK under Mrs. Thatcher, the Next Steps Program for example disintegrated the central bureaucracy in dozens of smaller executive agencies that were responsible for the implementation of public policies. This example was followed by similar initiatives in other countries like the Netherlands, or more recently Belgium (Flanders). However, not only in the heartland of NPM (including many Anglo-Saxon countries), or in the broader Western world, this kind of public sector reform can be observed. Agencification-programs in developing countries (e.g. Tanzania, Jamaica), in East-Asian countries (e.g. Thailand), or in Central and Eastern European countries (e.g. Latvia) have been documented extensively in the literature. Notwithstanding the fact that the 1980's and the 1990's were characterized in many countries by the establishment of many arm's length agencies, the existence of agency-type administrative entities is not new at all. For example in Sweden, already for centuries, the central government consists of a small core bureaucracy, responsible for policy-making, and many executive agencies at arm's length, responsible for implementing policies. As a second example, in the 1970's (so before NPM came into its heydays), Hong Kong's central government was unbundled into a lot of small arm's length executive agencies. Also the federal government of the USA has a long tradition of working with agency-like public organizations that are structurally disaggregated from the core of government.

Why agencies?

The popularity of the agency-like administrative species in many governmental reforms is the result of the normative NPM-driven belief that this type of public organization is better suited to deliver public services in an efficient and effective way. As such, establishing agencies was considered by many governments as part of the solution in search of an answer to the crisis of the state in the 1970's and 1980's. Agencies are presumed, according to NPM-advocates, to be the better performers compared to traditional bureaucratic organizations, because they operate closer

to the citizens/clients and hence are more responsive to the client's need, because they are more flexible because of their high levels of managerial discretion, and because their (quasi-) independent status encourages them to behave more efficiently. The theoretical justification behind this – often normative – point of view can be found in rational economic theories such as property rights theory and principal agent theory. Agencies, according to these lines of reasoning, are assumed to operate more efficiently and effectively compared to core-departmental bureaucracies, because their autonomous status enables them to make their own managerial choices. The fact that agencies have the discretionary power to handle to a certain extent their own resources (personnel, finance etc.), creates an incentive to use these resources efficiently and effectively (“let the manager manage”). On the other hand, the enlarged discretionary managerial competences on behalf of the agencies, creates a need to control these agencies by their principals, i.e. the political and administrative oversight authorities (“make the manager manage”). In sum, according to NPM-advocates, the creation of agencies is something rational, underpinned by rational-economic theories, as agencies are presumed (due to their quasi-autonomous status) to be better deliverers of public services, compared to large core-departmental bureaucracies. Recently however, some scholars argued that the agency-phenomenon is more than an answer in the search for better public service delivery. These scholars argue that the agency-phenomenon is a trend, a practice which is copied. There is a growing body of literature that shows that the creation of agencies, as part of public sector reform processes, is not always a rational decision. In many countries, the creation of agencies on a large scale is the result of processes of mimetic, normative, or even coercive isomorphism. The last decades, public sector reforms that included some kind of “agencification” were considered as a best practice. Governments often tend to copy best practices from each other. Besides that, many international institutions (like World Bank, IMF and OECD), and multinational consulting-firms have been very active in promoting NPM-like public sector reforms, including agencification-programs.

Diversity

Despite the fact that there often is argued that one is 'converging' towards the agency-form all over the world, what is also the truth to a certain extent, one should recognize that the agency-form maybe is not that homogenous as one sometimes might think. It can be argued that although the numerous similarities among these organizations that have been created all over the world, there is also a great deal of variation, mainly due to differences in national cultures, legal systems and political systems. The variation occurs along a number of dimensions such as their governance structure and their relation with ministerial authorities, their degree of autonomy, and the variety of tasks they perform. In some models, agencies are organizations that are more or less directly linked to the core of government (central ministries). In Anglo-Saxon countries like the U.K., the chief executive of the agency is responsible to an administrative oversight (a ministerial Department), rather than to a corporate body like a board. This implies that the hierarchical bonds between agency and oversight are much stronger, compared to the Scandinavian model e.g. In the U.S., the typical agency is a public law legal person of its own, but still subordinate to the department within which they are located. Next to such agencies, established by Congressional act, there are also agencies that are established by and within a department. In other models, agencies have much weaker bonds to ministries, and have a strong autonomy and independence. In Scandinavian countries (Sweden e.g.), agencies are responsible for implementing policies that are issued by small ministries responsible for policy formulation, although the agencies are also active in policy-making themselves, through their own corporate body, that has a lot of autonomy vis-à-vis the political and administrative oversight authorities. Also in some cases, private organizations performing public tasks are considered as agencies. Governments may move out some functions of their control (e.g. privatization), but still have the ultimate responsibility for basic services the public expects (e.g. privatization and break-up of British Rail).

Key Issues

Roles and functions

Agencies typically implement policies. They are, in most cases, responsible for delivering public services and public goods, like public transport, public infrastructure, public security, and so on. This makes that agencies can be observed in virtually all policy fields or areas for which government is responsible. The observation that a lot of agencies deliver public goods and services is in line with some NPM-like doctrines that advocate a so-called “primacy of politics”. According to such doctrines, politicians are democratically legitimized to decide on (the content and scope of) policy, while administrative actors (like agencies) have as their main role to implement these policies. This strict dichotomy between policy (politicians) and operations (administrative actors) should be nuanced on at least two points. Firstly, in reality we can often observe in many countries that agencies have a large role to play in regulatory policy. In many policy domains in a lot of countries, it is agencies that are the responsible actors to regulate the market in important policy fields like energy-supply, telecommunications, and postal services for example. These “regulatory agencies” have thus a strong policy-element in their task and role (setting standards and norms, controlling market-players, (helping to) defining the regulatory framework in the policy field and so on). Secondly, recent research shows that a lot of agencies that mainly implement policies (delivering public goods and services), often have a large policy role to play too.

Key variables: autonomy and control

Agencies are generally spoken characterized by two key variables: their autonomy vis-à-vis the political and administrative oversight authorities, and the way in, and the extent to, which they are steered and controlled by these oversight authorities.

Autonomy

Autonomy of agencies is about the discretion these agencies have to take decisions of their own, or the extent to which the agency can decide itself about issues it finds important. In this sense, making an agency more autonomous involves the shifting of decision making competencies from external actors (like the oversight authorities) to the agency itself. The level of organizational autonomy of agencies (or the extent to which the agency can take decisions of its own) is determined by the scope and the extent of these decision making competences. Two different scopes can be discerned. Firstly, agencies may have decision making competences that are delegated to them from the oversight authorities concerning the choice and use of inputs or organizational resources. This is the *managerial autonomy* of agencies. An agency can have managerial autonomy with respect to several types of organizational inputs or resources such as financial resources, human resources, or other production factors like logistics, organization, and housing and infrastructure. The second scope of organizational autonomy refers to decision-making competences of the agency in policy-issues, or the *policy autonomy* of the agency. The extent to which an agency enjoys policy autonomy will depend on the extent to which the agency is steered by its oversight authorities on processes, outputs or effects. Having policy autonomy means that the agency can take decisions about the about the choice of policy instruments, about the outputs that should be delivered by the policy and about the desirable societal effects of the policy. According to NPM-like doctrines, the ideal-typical agency has a lot of managerial autonomy, in order to fulfill the promise of “let the managers manage”, and to ensure that the first part of the equation [more managerial competences = better organizational performance] is ensured. Policy autonomy, however, is low in an ideal-typical agency. As already suggested above, according to NPM, agencies are mostly expected to implement policies, not to design policy (the exception may be regulatory agencies, cf. supra). In reality, however, a lot of agencies that primarily implement policies, also have a large influence in designing and evaluating policy. This may not surprise, given the fact that many agencies, as day-to-day policy implementing actors in the policy field, are true experts in the field, and have a clear vision on what is happening in the

policy field. A final issue concerning the autonomy of agencies, is the difference between formal (legal) and real (empirical) autonomy. Formal or legal autonomy is the level of autonomy the agencies enjoys according to the laws, executive decisions and decrees that deal with the establishment of the agencies. In these (legal) documents it is formally described to what extent and under what circumstances agencies enjoy their own decision-making competences. In reality however, many agencies enjoy more or less autonomy than is formally described. Research has shown that this may be due to the (political) salience of the task the agency performs. In a politically sensitive policy field, agencies may be scrutinized more intensely by politicians, compared to agencies in a politically less salient policy field.

Control

The other side of the coin is the extent to and the way in which agencies are controlled by their oversight authorities (which may be political, e.g. ministers, or administrative, e.g. ministries). The way agencies are controlled/steered by the oversight authorities can be very diverse. Firstly, agencies may be controlled ex ante ('before the facts'). Ex ante control is the formulation of rules and standards that give direction to the actor so that the desired output (from the viewpoint of the oversight authority) will be achieved. Oversight authorities thus control the agency on beforehand. They can do so by setting general or detailed rules that constrain the autonomy of the agency in using the inputs. In this sense, ex ante controls take the form of authoritative mandates, rules, or regulations that specify what the agency can do. Or the oversight authority can control the agency by taking the major decisions itself, or by making the decisions of the agency subject to approval by the oversight authorities (e.g. nullification-rights, or veto's). Secondly, ex post control or results control is in essence checking whether the intended organizational goals have been achieved by the agency (and whether there is a need for corrective future actions). Result control involves the setting of the desired organizational results (norms), checking whether the organizational results meet this norm or not, and eventually the adaptation or continuation of the

organizational practice. The intention of these ‘after-the-fact controls’, is to motivate the agency to perform well and to make good decisions. As such, agencies are made responsible for the consequences of their decisions (“let the managers manage”). Some argue that result control can be regarded as a cycle that consists of interrelated subsystems: a planning system (setting organizational goals and norms for the agency), a monitoring system (to measure the organizational results ex post), and an evaluation and feedback system. The last decades, alongside the rise of the NPM, a shift toward contractualization in the controlling of agencies by their oversight authorities can be observed. In many instances, newly established agencies have performance contracts or management contract with their oversight authorities, in which the rights and duties of both parties are agreed upon. Generally, the commitment of the agency is to deliver goods and services, on behalf of the oversight authorities, with a high level of efficiency, quality, and customer-friendliness. Indicators are developed to be able to measure the results achieved by the agencies. The commitment of the oversight authorities generally has to do with ensuring that the agency has the necessary means (financial, personnel, infrastructural) to be able to reach good results. Also agencies that exist already for a longer time often see their control-regime shifting from ex ante control on inputs, to ex post control on results, and have to agree on performance or management contracts with their oversight authorities too.

Accountability and performance

Earlier in this entry a rather normative justification for the trend towards agencification in the public sector was discussed. NPM-advocates often argue that smaller single-task executive agencies are better vehicles to deliver effective and efficient public services, and have better chances to behave innovatively and customer-friendly, compared to large monolithic bureaucratic organizations. The practice of performance contracts, it is often argued, also enables to really assess whether agencies are performing well or not. However, it is not sure whether the promise of better performance has been fulfilled. Scientific evidence is at least inconclusive. One question

is what “performance” is. In a public sector context, performance is a broader concept than just (economical) efficiency. No doubt that in many agencies, financial efficiency may have increased due to, amongst other, a better focus on the job. But other values that are of importance in a public sector context like equal treatment and impartiality in service delivery are much harder to grasp in indicators, hence to measure for performance. The point is that increased efficiency not always has to result automatically in increased performance on other aspects of the job agencies perform. Secondly, it is – from a methodological point of view – extremely difficult to compare performance of agencies with performance of other governmental organizations (like bureaucracies). This is due to, amongst other, the scarcity of public functions/tasks that are in reality performed by organizations of different types in the same country (the exception are schools, public and private). Or the lack of null-measurement of the performance of the function before it was shifted to a new organizational form (e.g. postal services before and after privatization). In sum, most commentators agree that some economical gains may be observed with agencies, but that this does not necessarily imply that gains can be observed on other aspects of performance like democracy, quality, and impartiality (which are important too, especially in the public sector).

This brings us to a final key-issue to be discussed here. Performance of an organization also has to do with the accountability of this organization towards its key-stakeholders. The issue of accountability is an important one, because one has to be aware that in search for the economic gains of working with agencies (efficiency, this is why they are created), there is also consideration for possible political or societal costs because of the lack of control of these arm’s length agencies. In the case of agencies, the key-stakeholders are the oversight authorities, the citizens that receive public services and goods of the agency, and ultimately the general public or the society as a whole. Agencies are put at arm’s length of the government, which makes control of the agency by government (the oversight authority) more difficult. Some authors argue that

therefore, the so-called vertical or upward accountability (towards the oversight authorities) may be weakened. In turn, it can be argued that agencies develop mechanisms of so-called horizontal or downward accountability, which is directed to the citizen/client of the agency (e.g. customer surveys, reporting on results, ombud). Whether downward accountability can replace upward accountability or not, remains a point of debate. Other observers argue that vertical accountability is large, given the fact that many agencies are subject to a multitude of control practice (nullification-rights, performance contracts, audits, parliamentary hearings etc.). In such cases, lack of accountability seems to be a lesser problem.

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Cross-references

- | | |
|------------------------------|--------------------------|
| - Accountability | - Decentralization |
| - Autonomy, administrative | - Delegation |
| - Bureaucracy | - New Public Management |
| - Contracting, public sector | - Principal-agent theory |

Further readings and references

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