CFordham Urban Law Journal
June, 2001

Tenth Annual Symposium on Contemporary Urban Challenges

Redefining The Public Sector: Accountability and Democracy in the Era of Privatization

Article

*1611 THE NEW GOVERNANCE AND THE TOOLS OF PUBLIC ACTION: AN INTRODUCTION

Lester M. Salamon [FNa1]

.... [A] technological revolution has taken place in the operation of the public sector over the past fifty years both in the United States and, increasingly, in other parts of the world; but it is a revolution that few people recognize.

The heart of this revolution has been a fundamental transformation not just in the scope and scale of government action, but in its basic forms. A massive proliferation has occurred in the tools of public action, in the instruments or means used to address public problems. Where earlier government activity was largely restricted to the direct delivery of goods or services by government bureaucrats, it now embraces a dizzying array of loans, loan guarantees, grants, contracts, social regulation, economic regulation, insurance, tax expenditures, vouchers, and much more.

B. Definition and Classification: The Basic Building Blocks

1. Basic Definition

As a first step in this direction, it may be useful to specify more precisely what is meant by a "tool" or "instrument" of public action. This is no simple task since tools have multiple features and can be defined at any of a number of levels of abstraction. For our purposes here, however, the most basic descriptive level seems most appropriate. As used here, therefore, a tool, or instrument, of public action can be defined as an identifiable method through *1642 which collective action is structured to address a public problem. [FN76] Several features of this definition are particularly notable:

2. Tools as Bundles of Attributes

From what has been said it should be clear that although the concept of a tool of public action is relatively straightforward, in reality tools are often quite complex. Any given tool is really a "package" that contains a number of different elements. These include:

- A type of good or activity (e.g., a cash or in-kind payment, a restriction or prohibition, the provision of information);
- A delivery vehicle for this good or activity (e.g., through a loan, an outright grant, a voucher, the direct provision of a service, or the tax system);
- A delivery system, i.e., a set of organizations that are engaged in providing the good, service, or activity (e.g., a government agency, a nonprofit organization, a local government, a for-profit corporation); and
- *1644 A set of rules, whether formal or informal, defining the relationships among the entities that comprise the delivery system.

TABLE 5: COMMON TOOLS OF PUBLIC ACTION: DEFINING FEATURES

Tool	Product/Activity	Vehicle	Delivery System
Direct government	Good or service	Direct provision	Public agency
Social regulation	Prohibition	Rule	Public agency/ regulatee
Economic regulation	Fair prices	Entry and rate controls	Regulatory commission
Contracting	Good or service	Contract and cash payment	Business, nonprofit organization
Grant	Good or service	Grant award/cash payment	Lower level of government, nonprofit
Direct loan	Cash	Loan	Public agency
Loan guarantee	Cash	Loan	Commercial bank
Insurance	Protection	Insurance policy	Public agency
Tax expenditure	Cash, incentives	Tax	Tax system
Fees, charges	Financial penalty	Tax	Tax system
Liability law	Social protections	Tort law	Court system
Government corporations Quasi-public agency	Good or service	Direct provision/loan	
Vouchers	Good or service	Consumer subsidy	Public agency/ consumer

....

4. Evaluating Tools: The Criteria

So far as the first step in this process is concerned, the field of policy analysis has identified three criteria in terms of which public interventions are typically assessed: effectiveness, efficiency, and equity. The policy implementation and political science literature suggest two other criteria that also seem highly germane: manageability and political legitimacy. Taken together, this gives us five criteria in terms of which the consequences of tools can be assessed.

a. Effectiveness

Effectiveness is the most basic criterion for gauging the success of public action. It essentially measures the extent to which an activity achieves its intended objectives. Although considerations of cost can enter into this judgment, effectiveness judgments are typically made independent of costs. Using this criterion, the most effective tool is the one that most reliably allows action on a public problem to achieve its intended purposes.

Gauging the effectiveness of public action is far from easy, however. For one thing, as we have seen, program purposes are often quite ambiguous, either because precise indicators are technically difficult to locate or because conflicts exist about what the principal purpose really is. Indeed, such ambiguity is almost chronic in fragmented political systems like that in the United States, in which multiple perspectives have ample opportunities to influence the definition of program objectives. This makes the choice of tool all the more important because ambiguity at the point of enactment pushes the specification of program purposes into the implementation process, in which the choice of tool can have an even more decisive impact.

The effectiveness of different tools also varies with the circumstances. Not just the nature of the tool, but also the nature of the *1648 circumstances, therefore, must be considered when making tool choices. One of the major tasks of the tools approach, in fact, is to specify the circumstances in which particular tools are likely to be most effective. The tool of contracting has great advantages, for example, where a competitive market exists for the goods and services that government wants to buy. However, this is often not the case, so that the adoption of the contracting tool in such circumstances can lead to great disappointments. Because other considerations are often involved in tool choices, the "new governance" can hardly avoid such dilemmas. But at least it can clarify the risks and point out the trade-offs involved.

b. Efficiency

Where effectiveness focuses exclusively on results, a second criterion-- efficiency--balances results against costs. The most efficient tool may not be the most effective one. Rather, it is the one that achieves the optimum balance between benefits and costs.

The costs that are relevant to a judgment about the efficiency of a tool are not only the ones that show up on the ledger of the government that authorizes the program, however. The costs imposed on non-governmental institutions also are relevant, and for some tools these are far more immense. Regulation, for example, places heavy compliance costs on private businesses that never show up in the balance sheet of government. Indeed, with severe fiscal pressures on governments, there is a strong incentive to utilize tools that have precisely this effect. This suggests the need for a "double balance sheet" to assess the efficiency of various tools, one focused on the costs to government alone and one focused on the costs to other social actors as well.

c. Equity

A third crucial criterion in terms of which the consequences of tools can be judged is equity. The criterion of equity has two different meanings, however. The first of these involves basic fairness--the distribution of benefits and costs more or less evenly among all those eligible. A tool that facilitates the distribution of program benefits evenly across the country can thus be considered equitable in this "fairness" sense.

But equity also has a different connotation relating to "redistribution," to channeling benefits disproportionately to those who lack them. Achieving such redistribution is, in fact, one of the principal rationales for public action. In this view, government exists in *1649 part to remedy past inequalities and ensure equal opportunity and access to all. Students of policy thus distinguish between distributive programs, which essentially distribute benefits evenly among a class of recipients; and redistributive programs, which tilt the benefits toward the disadvantaged. [FN87] Some tools might be more likely to serve such redistributive goals than others might.

d. Manageability

In addition to the classic economic criteria of effectiveness, efficiency, and equity, recent research on program implementation suggests the importance of manageability, or "implementability," as an additional criterion in terms of which to assess tools. Implementability refers to the ease or difficulty involved in operating programs. The more complex and convoluted the tool, the more separate actors are involved, the more difficult it is likely to be to manage. Some tools are more cumbersome to operate than others are. Although they may promise great efficiency and effectiveness in theory, they are unlikely to deliver it in practice because of the managerial difficulties they pose. It was for this reason that Jeffrey Pressman and Aaron Wildavsky identified implementability as a first rule of program design. [FN88] Generally speaking, this presumably means choosing simpler, more direct tools.

e. Legitimacy and Political Feasibility

Finally, tool choices also can affect the political feasibility and perceived legitimacy of public action. They do this, in the first instance, by helping to determine which actors, and hence which interests, get to shape program implementation, and therefore which are most likely to support or oppose program passage. Clearly, no matter what the prospects for effectiveness, a program that cannot win political support cannot make headway.

Beyond this, tool choices also can affect broader public perceptions of the legitimacy of public action. As we have seen, some approaches are considered more legitimate than others in particular national settings regardless of their technical advantages. [FN89] Quite apart from such national styles, the choice of tool can affect the perceived legitimacy of public action in other ways as well. For one thing, some tools may facilitate accountability for the exercise *1650 of public authority or the spending of public funds better than others may, a matter of some importance in a democratic society where such accountability is highly valued. So, too, the choice of tool can affect the extent to which the public can perceive a link between the taxes they pay and the services they receive. The more this link is attenuated or broken, the greater the degree of alienation between government and citizens and the greater the risk to democratic participation. [FN90] Tool choices can thus affect the overall sense of legitimacy that government enjoys in the eyes of citizens.

....

[FNa1]. Lester M. Salamon is a Professor at the Johns Hopkins University and the Director of the Johns Hopkins Center for Civil Society Studies. This article is adapted from the introduction to The Tools of Government: A Guide to the New Governance (Lester M. Salamon ed., 2001).

[FN7]. H. Brinton Milward & Keith G. Provan, Principles For Controlling Agents: The Political Economy of Network Structure, 8 J. Pub. Admin. Res. & Theory 203, 213 (1998).

[FN8]. Id.

[FN9]. Id.

[FN76]. This definition is quite similar to that suggested by Evert Vedung, who defines public policy instruments as "the set of techniques by which governmental authorities wield their power in attempting to ensure support and effect or prevent social change." Evert Vedung, Policy Instruments: Typologies and Theories, in Bemelmans-Videc, supra note 36, at 21.

[FN77]. This usage is close to that suggested by the "new institutionalism," particularly in economics. As economic historian Douglas North puts it, institutions are "regularities in repetitive interactions.... [They] are customs and rules that provide a set of incentives and disincentives for individuals." Douglas North, The New Institutional Economics, 142 J. Institutional & Theoretical Econ. 231, 231 (1986). For a broader discussion of the "new institutionalism," see Walter W. Powell & Paul J. DiMaggio, Introduction, in The New Institutionalism in Organizational Analysis 1-38 (Walter W. Powell and Paul J. DiMaggio eds., 1991).

[FN87]. Theodore T. Lowi, American Business, Public Policy, Case-Studies, and Political Theory, 16 World Pol. 677 (1964); Peterson et al., supra note 78, at 15-20.

[FN88]. Pressman & Wildavsky, supra note 26, at 143.

[FN89]. Howlett, supra note 48, at 1-21.

[FN90]. Anne Larason Schneider & Helen Ingram, Policy Design for Democracy 5-7, 129-35 (1997); Stephen Rathgeb Smith & Michael Lipsky, Nonprofits for Hire: The Welfare State in the Age of Contracting 207-11 (1993) (describing reciprocal relationships between citizens and the state in the nature of contract).

28 Fordham Urb. L.J. 1611

END OF DOCUMENT