The (legal) design of hybrid organizations as institutionalization of good governance trade-offs between contradictory values.

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HYBRID ORGANIZATIONS
CONTRADICT. PUB.VALUES

Track 17

“Good Governance in terms of Properly Managing Contradictory Public Values”
GG-PM-CPV
HYBRID ORGANIZATIONS CONTRADICT. PUB.VALUES

Roadmap

1. Some basics
2. Types of interests and values
3. Institutional Environments
4. Legal Design Methodology – regarding norms
5. Better & Smart Regulation
6. Some conclusions

UNIVERSITY OF TWENTE.
Perspective: legal-administrative design methodology

Object: Public Service Organization (PSO)

Consider PSO in context: alignment

CPV as a matter of hybridity of organizations

Values x Interests: values normative criteria/guidelines to choice or evaluation of actions concerning interests
TYPES OF VALUES & INTERESTS

Interest scope
Personal/Particular ⇔ Societal (society as a whole)
- Sec or also Public (government)
  - general (societal fabric)
  - specific (alloc. of services)

Value scope
Follows scope of interest
Public or private interests - values
- private: personal + societal sec
- public: public sec
Social interaction pattern + value-interest combination

- Structures, mechanisms, processes

Institutional sphere of social action;
operating as if ‘real’; e.g. ‘the market’

- As modes of governance: actor influence & allocation achievement
Hierarchy
– publ. office; unilateral; publ interest/values

Network
– societal org; cooperation; soc’tal interest/values

Market
– firms; compet. bargaining; trade interest/values

Ideal type – in reality intertwined and overlapping
Societal acceptance of institutional environments (IE’s)

Each IE = unique type of societal value configuration

acceptance concerns legitimacy, justice, effectiveness and efficiency of an IE as a value configuration related to particular service allocation

With 3 IE’s no contradictions between value configurations only between individual values
DIMENSIONS OF SOCIETAL VALUE CONFIGURATIONS (AS IN IE)

Legitimacy – *id quod*
- ‘What can legally be done by who?’

Legal validity – *modus quo*
- ‘How may/shall or can something legally be done?’

Effectiveness – *achieving objectives*
- ‘What can practically be done?’

Efficient – *most effective or least of means*
- ‘How can something be done?’
ACKNOWLEDGEMENT: ALIGNMENT

Organizations (e.g. PSOs): institutional social practices with element of normativity
- employer-employee; management-operations

Interactions with other organizations require acknowledgement of organizations (and their actions): as players – value alignment

Society : Institutional Environments : Organizations
- societal acceptance -
- alignment -
Basic organization characteristics: ideal type

Personality – cap’ty to act; 3 legal conditions; prelim.*
Mission – publ.task – private profit – community service
Control – publ.auth. – investors+ - professionals
Response – publ.good – competition – members resp.

*Types of legal persons: associations – corporations – foundations: multi-applicable
GG-PM-CPV
ORGANIZATIONS: ALIGNMENT

Ideal type alignment Organization – IE
- friction free on Legitimacy-Justice-Effectiveness-Efficiency

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<th>Hierarchy</th>
<th>Network</th>
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<td>Control</td>
<td>Publ.auth.</td>
<td>Profession</td>
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<td>Alignment</td>
<td>L-J-E-E (1)</td>
<td>L-J-E-E (2)</td>
<td>L-J-E-E (3)</td>
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Possibility of plural alignment – versatility in legal personality; non-contradictory and shared values in IEs
CONTRADICTORINESS
STRUCTURE: NORMS)

Ideal types combine different values – configurations alone do not contradict

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<td>Value B</td>
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<td>Value D</td>
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1+2 contradict on A+B, 2+3 on D; C is shared by all 1-3

At best partial contradictions.....
HYBRID ORGANIZATIONS

A departure from ideal type alignment in two types:

**Singular** (‘1 characteristic’) (partial multiple)
Ambivalence in Mission or Control or Response
Across H-N-M: 9 (double) + 9 (triple) = 18 hybrids*

**Multiple** (‘2 or 3 characteristics’)
Ambivalence between Mission and/or Control and/or Response
Across H-N-M: 21 (double) + 6 (triple) = 27 hybrids*

Governance: setting of rules of the game
- behavior patterns – empirically
- rules to be adhered to – normativity

Management: setting a game plan within the rules of the game
- selecting best action possibilities
- structuring relations and processes

Gov’ce and man’t apply to both environments & organizations
Besides players – principal parties (e.g. found.fathers; CEO’s)
No contradictory values within ideal type environments, nor within ideal type organizations, nor between environments and their ideal type organizations.

At most contradictions possible between individual values across environments and organizations.

In ideal type setting no challenge of GG-PM other than safeguarding setting.
What remains: hybridity – anomaly poses value clash between hybrid organization and ideal type environment

Anomalies are possible challenge to alignment (if contradictory) with environment and to societal acceptance of environment

Alignment and acceptance can be resolved in creation of hybrid environments – shifts in L-J-E-E; contradictory values; involving trade offs (e.g. unilateral=>$contractual: voice=>exit)
HIERARCHY HYBRIDS: EXAMPLES

Examples of shifts towards hybrid environments
Concerning public values - Hierarchy hybrids

Liberalization to regulated markets (H-N: 9)
- competition but regulated allocation

Autonomization to regulated social enterprises (H-M: 9)
- bestowment of public authority

Public-Private-Partnerships (H-M-N: 6+1)
- e.g. certification (3rd party regulation);
- theoretically (1) ‘superhybrid singularity’?
HIERARCHY HYBRIDS: CONTRADICTORY PUBLIC VALUES?

Hierarchical-Hybrid environment: also + fully public interest + accompanying public values

Alien interests & values must be commensurable: public!
Not only when public authority
No go areas: cartel-analogy (compete & cooperate)

Sui generis regimes of administrative law
Fragmentation = Challenge to societal acceptance

Beware of free radicals!
ISSUE OF CONTRADICTORY PUBLIC VALUES

Issue of safeguarding related to ideal type hierarchy – government relationship

Issue of feasibility of hybrid environments accommodating hierarchical-hybrid organizations (such as PSO’s)

Issue of control over free radicals

Challenge of Good Governance & Proper Management