

学校编码: 10384

分类号 _____ 密级 _____

学号: 13920070153525

UDC _____

公共部门中代理机构的兴起

厦门大学

博士学位论文

公共部门中代理机构的兴起

The Rise of Agencies in the Public Sector

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论文提交日期: 2012年5月

论文答辩日期: 2012年 月

学位授予日期: 2012年 月

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厦门大学

2012年5月

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内容摘要

公共组织是公共行政实践的基础，为增进人类福祉而存在。长久以来，以等级关系为核心特征的官僚制被看作是公共组织唯一的组织方式，官僚制组织和公共组织基本上是同义语。在官僚制模式的提出者马克斯·韦伯看来，官僚制所内含的等级关系结构是行政理性的源泉，它使行政活动具备了准确、速度、连续性、统一、严格服从等优良品性。官僚制被早期行政学者奉为组织政府活动的金科玉律，并在它的基础上建立起一系列行政原则，如命令统一、控制幅度、命令链条、职能部门化、单一权威首脑指导下属行政单位等等。

官僚制模式在二十世纪的大半时间里主宰了多数国家的公共部门，然而，随着现代社会生活日益复杂化，这种模式的内在缺点逐渐暴露了出来。人们发现，等级关系结构并不必然带来以最低成本完成工作计算的行政效率，当两种或者更多种异质的职能被整合到同一个官僚制组织中时，生产要素混合在一起，反而可能会阻碍和损害净社会生产，牺牲行政的技术效率。^①此外，当把公益物品和服务的供给看成是公共行政的核心问题时，人们还发现，官僚制结构对于富有生产力、富有回应性的公共服务经济并不是充分的。^②从上世纪八十年代后期开始，对行政效率和服务质量的渴望导致一些国家走向了一种截然不同的组织设计方案，即半自主的代理机构（agency）。

代理机构在公共部门（public sector）中的历史比按官僚制模式组织起来的部门（department）的历史更为久远。早在 300 年以前，瑞典就开始设立半自治的代理机构负责政策执行，经过几个世纪的发展，这种组织形式早就成为该国公共治理的基本形态；在美国，独立监管机构也已存在了一个多世纪，它们集立法、行政和司法功能于一身，积聚的权力之大直接导致了“行政国家”理念的诞生；在其他国家中，代理机构虽不像在瑞典和美国那般瞩目和重要，但是也伴随着政府职能扩张而不断增长着。渐进的发展使代理机构种群极其复杂，在任何一个国家，一系列令人迷惑的法律形式和治理安排被用来承担广泛而复杂的职能。不过总的来说，在官僚制部门兴盛的年代里，这些形形色色的代理机构在多数国家只能作为部门的附属物栖身于政府的边缘地带，难以得到人们的关注。

^① 文森特·奥斯特罗姆：《美国公共行政的思想危机》，三联书店 1999 年版，中译本前言第 4-5 页。

^② 同上，第 26 页。

肇始于上世纪八十年代的“新公共管理运动”剧烈地改造了西方公共部门管理的实践模式，也将新的范式引进了公共部门的研究领域中。^①在这场范式改造过程中，代理机构这种历时悠久的组织模式作为一种改革公共部门的工具，被重新发现和塑造。以英国为首的西方发达国家在代理机构模式原有的自主性特征之上，添加了绩效合同和绩效管理等元素，将其作为新公共管理的一项核心内容加以实践。在某种程度上，代理机构行政体制是对传统官僚制行政体制的一种“颠覆”，因为后者相信集权的解决方案优于权威分散于多种决策结构的方案，认为权力越分散责任就越难追究。而代理机构模式恰恰以分散权力为其基本特征，而绩效合同的运用强调合同签订双方地位平行，这又进一步使纵向权威行使遭到弱化。

没有任何事物能够像思想观念那样如此便于携带。^②当几个发达国家出于改善行政效率的工具性目的而大量设置这种新型的代理机构时，世界上其他国家对此种组织模式的认同度也在不断地增加。代理机构不仅被视为一种富于创新的组织模式，而且开始被看作是一种有关政府行动方式的正确的思维方法。这一观念吸引了更多迫切希望改善政府绩效的国家，使“代理机构化”（agencification）运动从西欧进一步蔓延到中东欧国家以及亚洲、非洲和拉丁美洲。

如果说各国政府的初衷是把代理机构当做一种管理工具，希望通过将公共部门代理机构化来提高政府行动效率、改善公共服务质量的话，那么改革的实际结果则远不是管理学所能解释的，而是应当诉诸于“治理”的视角。公共组织和公共政策内容之间存在明显的联系，因为人们通常是以组织的名义来制定政策的，人们的组织隶属关系和组织背景深刻影响着他们的思维方式及行为。^③因此，当公共部门的组织和运作方式变化时，公共政策过程也将相应地改变。代理机构化导致政策系统中不同行为者的作用及彼此关系发生改变：尽管部门作为代理机构的主管，与后者之间存在着委托-代理关系，但这种委托-代理关系已不同于传统官僚制下自上而下的关系模式，而是由于绩效合同的存在而趋于平行；当代理机构与行政部门保持适度距离、不再受其直接控制时，它们与公众及公民社会的距

^① 陈振明：《理解公共事务》，北京大学出版社 2007 年版，第 2 页。

^② [美]W·理查德·斯科特：《制度与组织》（第三版），中国人民大学出版社，第 147 页。

^③ Christensen, T. et al. (2007). *Organization Theory and the Public Sector: Instrument, Culture and Myth*, London: Routledge, p.9.

离却拉近了,因为在过去,它们的合法性来自于层级制民主自上而下的委托授权,如今它们的合法性更需要仰仗公众对其工作的评判。

从“治理”的视角来看代理机构化的结果还会使我们认识到,“治理结构”而不是“政府”才是研究恰如其分的着眼点。一个国家或地方的行政管理并不仅仅局限于发生在那些被称之为“政府部门”的组织范围之内,表现为简单的等级制结构,大量分散化、位于核心政府外围的代理机构在公共服务过程中发挥着举足轻重的作用。在这些代理机构中,其中相当一部分兼具公共部门和私人部门特征,就其运作方式而言,已经很难区分出它们与非营利组织或私人企业之间的不同。

不过,尽管公、私领域疆界的模糊化已是不言自明的现象,但是两个领域各所独具的身份仍然有意义。公共部门和私人部门对特定问题往往有着全然不同但又是习惯性的的解决办法,领域的区分让公众便于理解对某一事务的所有权和责任归属。纵观当今社会,公私部门之间的差异经常成为公共辩论和公共政策制定的基础。从此意义上来说,明确代理机构的公共属性是至关重要的。

代理机构的公共性本质意味着,它要对公众负责。在传统层级制民主(overhead democracy)的设计中,主权经由选举的途径从公民流向他们的代表,再到行政部门的任命长官手中。严格的政治监控加上官僚制模式的等级控制是责任和回应性的保证,人们相信,这样一个系统的民主性是毋庸置疑的。然而代理机构的兴起使这一种设计很难再和过去那样发挥作用,因为代理机构与行政主管部门之间是一种“虚线”关系,与立法机构的关系则更薄弱。为了确保代理机构的民主责任,政府就需要设计一些新的问责机制。正因此,在那些实行了代理机构化改革的国家中出现了“监管爆炸”和“审计爆炸”,自上而下的政治问责制也得到了自下而上的公众与社会监督的补充。

美国早期行政学者沃尔多认为,马克斯·韦伯为他的时代提供了很好的写照,“但决不能相信这就是所有写照中最好的;他不能仅仅回头看社会曾经是什么样子,而是必须向前去看新的、迄今尚不为人知的社会类型。”^①虽然代理机构和

^① 转引自[美]乔纳森·R·汤普金斯:《公共管理学说史:组织理论与公共管理》,夏镇平译,上海译文出版社2010年版,第60页。

官僚制组织一样有着内在的缺点，绝不是一种完美的组织模式，但是它们的兴起是一场有意义的探索，标志着社会理性的重大进步。

本研究共分为七章。第一章介绍本研究的立题旨意和研究思路与方法；第二章从概念上对代理机构进行剖解；第三章介绍代理机构在新公共管理运动之前、新公共管理运动时期以及整体政府改革时期的发展变迁；第四章分析不同类别的代理机构并讨论如何在不同的类别之间进行选择；第五章深入分析代理机构的结构特征，来加深对这种组织本质的理解；第六章分析代理机构兴起所引发的政府治理变迁；第七章以发达国家和地区的代理机构模式为参照，讨论它对我国政府机构改革、公共服务体系的完善以及事业单位分类改革等的启示。

关键词： 代理机构； 公共部门； 治理； 改革

厦门大学博硕

Abstract

Public organizations set the scene for governmental activities and act as the guardian of the well-being of all social members. For a long time, bureaucratic type of organizations, characterized by its hierarchical structure, is deemed to be the only way to organize collective actions within a governmental apparatus. As a matter of fact, bureaucracy persists as an organizational dogma and as such is almost equated with the term “public organization”. For Max Weber, the founder of the bureaucratic model, the hierarchical relationship pattern inherent in a bureaucratic organization is the very source of administrative rationality, and can generate a number of virtues like conciseness, consistency, integration and obedience. Based on his reckonings, followers of Max Weber went further as to suggest a series of so-called “administrative principles” such as span of control, chain of command, functional departmentalization and so forth.

During the bulk of the 20th century, bureaucratic model has dominated the public sector in most countries. With the growing complexity of modern life, however, the weakness of the bureaucratic model gradually became manifest. It is argued that the hierarchical structure so applauded in the past does not necessarily bring about administrative efficiency, and when two or more heterogeneous functions are combined into the same bureaucratic organization, the mixing of varied production factors may adversely affect the net social production and reduce administrative efficiency. Besides, given that the provision of public goods and services is at the heart of public administration, people began to realize that the bureaucratic structure is inadequate for the goal of achieving responsive and productive public services. Since late 1980s, driven by a desire for higher efficiency and quality, some countries turned to a fundamentally different organizational pattern, that is, semi-autonomous agencies.

Agencies are not new. In the public sector, agencies even predated bureaucratic type of government departments. As early as 300 years ago, Sweden began setting up arms-length agencies to execute government decisions. The long history of agencies

has molded it into the basic governance model in that country. In the United States, a special sort of agency, independent regulatory commissions, had long existed in the public sector as well. Conferred with legislative, administrative and judicial power, independent regulatory commissions contributed to the emergence of an “administrative state” in the United States. Although agencies are not as notable as in Sweden and the United States elsewhere in the world, they grow in tandem with government’s functional expansion. As time goes, agencies have evolved into a very complex organizational species, featured by various governance arrangements, legal statuses and functions. Nonetheless, during the age when departments, organized along bureaucratic lines, prevailed in the public sector, the dazzling assortment of agencies is left largely unnoticed in the grey area of government.

The New Public Management (NPM) movement, launched in late 1980s, has transformed the public sector in a fairly radical way. Thanks to it, a new paradigm has been introduced in the field of public administration study. In this grand paradigm shift, “agencies” were rediscovered and reinvented as a reform instrument. On top of its autonomy, the concept of “agencies” has some genuinely new managerial features such as performance contracting and performance measurement. With the rise of agencies, the bureaucratic model is profoundly challenged, in the sense that the traditional doctrine that concentration of power is superior to diffusion of power is no longer accepted as given. When governments resort to the agency type of organizations, power will be diffused among semi-autonomous public bodies. This may cause problems of accountability and control, but governments believe it may also lead to higher administrative efficiency.

Nothing is more portable than ideas. After the United Kingdom agencified its public sector, the idea of agency began to be recognized by some other developed countries. Agencies are not only viewed as an innovative organizational model, but also as “the right way to do things”. Driven by such a belief, countries in different parts of the world began joining the “agencification” movement.

Although governments used agencies as a managerial tool, hoping to enhance efficiency and improve service quality, the implications of agencification are nevertheless more profound. A key assumption of organization theory is that organization form will affect the content of public policy. Those who participate in public decision-making processes act on behalf of formal organizations, and how they use their discretion is influenced by the constraints and possibilities offered by the organizations they represent. As a consequence, changes in organizational structure and process will result in changes in the public policy process. From this perspective, “governance” should be a more appropriate analytical lens of the agencification phenomenon instead of “management”.

The rise of agencies in the public sector has already brought about fundamental changes in policy process. Although departments continue to act as the “principals” of semi-autonomous agencies, their relationship is no longer strictly hierarchical; performance contracting has weakened departments’ ability to dictate what agencies should do. While agencies enjoy an enhanced leverage vis-à-vis their parenting departments, their relations with citizens and customers are further strengthened. This is because being semi-autonomous implies that agencies can no longer obtain their legitimacy by being subordinate to popularly-elected representatives in their parenting departments and the legislative branch, therefore they have to recoup their legitimacy from those they directly serve.

From a “governance” perspective, “governance structure” rather than “government” is a more appropriate focal point for public administration study. The agencification phenomenon has demonstrated that, administrative activities do not only take place within the confines of governmental departments organized along bureaucratic lines, but also happen in a large number of semi-autonomous public bodies scattered outside of the core of government. Some of the public bodies operate very much in the same way as a nonprofit organization or a private firm, which makes it very difficult to distinguish them from the latter two.

However, even when the mixing of public and private features is recognized as a good way to work out solutions to many social problems nowadays, it is still vital to appreciate the distinct identities of the two sectors. Historically, the two sectors have different and habitual ways of thinking when faced with specific problems. The distinction between the public and the private sector underlies many public debates and public policymaking, and a clear demarcation between sectors can help people understand who should claim the ownership and responsibility for a problem. As such, it is highly crucial to pinpoint the public nature of semi-autonomous agencies.

The publicness of agencies denotes that agencies should be accountable to citizens. In the conception of overhead democracy, sovereignty is transferred into the hands of popularly elected representatives from citizens, and then conferred to the bureaucrats. Strict political scrutiny and the hierarchical control of the bureaucratic model guarantee the accountability and responsiveness of bureaucrats. It is believed that a political system built up in this way is democratic. Nonetheless, the agency model challenges this traditional design, because the relation between an agency and its parenting department is deliberately weakened, and so is the relation between an agency and the legislative branch. Under such circumstances, governments must find out some ways to make semi-autonomous agencies accountable. Enhancing auditing and regulations within the governmental apparatus, facilitating participation of citizens and the civil society in agencies' decision-making, are some of the approaches used by governments for this purpose.

Agencies are by no means a perfect organizational model. The proliferation of semi-autonomous agencies in the public sector had brought about problems of coordination and control, forcing some countries to launch new reform initiatives such as "whole-of government", "joined-up government", horizontal management and the like. But to the extent that they offered new alternatives to public service provision other than departments organized upon bureaucratic principles, agencies represent a worthy step towards a better government and a better society.

The thesis is composed of seven chapters. Chapter 1 explains the objective and plan of the study; Chapter 2 seeks to establish a workable definition for agencies; Chapter 3 offers a chronological description of the evolution of agencies; Chapter 4 deals with the classification of agencies and the rationale behind choosing the proper type of agencies to fulfill a certain task; Chapter 5 looks more closely at the structural elements of the agency model; Chapter 6 interprets the impacts and implications of the rise of agencies in the public sector; Chapter 7 tries to draw some lessons for public sector reforms in China.

Key words: agencies, public sector, governance, reform

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