Guardians of Public Value

How Public Organisations Become and Remain Institutions

Edited by
Arjen Boin · Lauren A. Fahy · Paul 't Hart

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"As our public life frays at the edges, you might wish a book would come along explaining how some public organizations manage to beat the odds to become enduring beacons of public value. Well it is here! Through a study of twelve public organizations ranging from the Election Commission of India to the Australian Competition and Consumer Commission, this edited volume pinpoints four patterns of institutionalization that ensures public excellence and integrity."

—Christopher Ansell, *Professor, University of California, Berkeley, USA*

"This is an intriguing book. Drawing on the seminal work of Selznick and Goodsell, editors Boin, Fahy and 't Hart have assembled a team of top-notch scholars to address one of the fundamental questions in the social sciences: how do organizations become, and remain, institutions? Combining detailed analysis with storytelling, the substantive chapters tease out key factors explaining how institutions evolve and sustain their aura, their standing and their legitimacy. This volume should be required reading across the social sciences."

—Jon Pierre, *University of Gothenburg, Sweden*

"There is a world of institutions we hold in high esteem—businesses, media, authorities or non-governmental organizations we would be proud to work with, eager to learn more about and whose valuable service and standards are beyond any doubt. The present volume is precisely about this type of institution. The editors and authors do an amazing job in reminding us of three things—the wide range and scope of high-performance institutions in almost every area of public life, from the fine arts to hard-core monetary oversight; the effort, the spirit and the wisdom necessary to create and to maintain values, trustworthiness and reputation; and the pivotal importance of such landmark achievements for the stability and sustainable development of democracy, progress in science, economic prosperity and social justice. In times of anti-institutionalism rampant among populists across the political spectrum, this book is an eye-opener when it comes to the linkage between public values and institutional integrity."

—Wolfgang Seibel, *Professor of Political and Administrative Sciences, University of Konstanz, Germany*

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Guardians of Public Value: How Public Organizations Become and Remain Institutions

Arjen Boin, Lauren A. Fahy, and Paul 't Hart

Institutions as Enigmas

It's an institution—a phrase we have all come across or may have used. We intuitively understand what it means. The Louvre is not just a museum. Ascot is not just a horse race. The Ryman Auditorium in Nashville is not just a music venue. Wembley is not just a stadium. Cambridge University is not just a university. These are *institutions*. There is something special,

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perhaps mythical, about them. We value these institutions. We may even find it hard to imagine a life without some of these institutions.

Some public organizations, too, have achieved this special 'institutional' status: organizations that—in the words of Philip Selznick (1957: 17), the pioneering scholar of institutions—have become 'infused with value beyond the technical requirements of the task at hand'. Institutions embody and safeguard certain values that are important to a society (Hendriks 2014). Institutions guard these values against overt attacks and the forces of erosion.

The average citizen may never wonder about the critical importance that these public institutions play in their lives. At the same time, academics hardly ever question the importance of institutions. It is simply assumed. This combination of limited public interest and academic conventional wisdom has done little to further research into the way institutions emerge and persevere. In their efforts to protect their institutions, leaders cannot fall back on a full body of academic research findings.

Such protection is increasingly necessary. Government agencies as well as other public sector organizations today face a climate where performance expectations are relentless, transparency and accountability regimes have thickened, and there is little tolerance for failure. Critical factors in the broader environment—technology, economic tides, societal beliefs and values, political fault lines and 'rules of the game'—change constantly, sometimes rapidly and deeply. No institution, however powerful and well-regarded, is immune to 'events' and to the churning tides of public opinion. Even long-standing institutions face reputational and sometimes existential crises.

Yet, even in this volatile environment, some public organizations remain deeply valued by the public. They have not just survived challenges and controversies; they have found ways to thrive. They have adapted in the face of crises, preserving their institutional character while meeting newly imposed demands. They have become iconic features of the public landscape. That's why we call them public institutions.

This volume is about these public institutions. We have selected twelve organizations that have met Selznick's definition for at least a significant part of their lifespan. We examine each of these twelve institutions in some depth to understand their nature, formula and impact. We seek to show what scholars and organizational leaders can learn from them, warts and all. The overarching puzzle that drives the case studies collected here is simple:

Why do some public organizations develop into institutions, proving remarkably adept at becoming and remaining publicly valued over relatively long periods of time?

In this introductory chapter, we explain how in Selznick's work and of those that have followed in his footsteps institutions differ from organizations. We then describe the key conceptual and analytical tools that have informed the case studies in this volume, and briefly introduce each of the cases. Next, we present a thematic preview of the institutional patterns that emerge when we look across the twelve case studies. We offer these patterns as pointers for classroom discussion, but also as starting points for more empirically informed theorizing about how and why public organizations become institutions (and how they can also 'deinstitutionalize'). Finally, we ask a pertinent and perhaps uncomfortable question: can public organizations that effectively and authoritatively guard public value and receive widespread recognition for doing so, continue to flourish in our turbulent and more unforgiving age?

How Do We Know an Institution When We See One?

We use the concept of institution to describe a particular category of organizations. An organization is, in essence, nothing more than an established way of cooperation between two or more individuals (Barnard 1938). What sets an organization apart as an institution is its pursuit of aims that are widely considered to fulfil a societal need, its reliable performance over time, and its exemplary conduct as perceived by societal constituencies. The cases in the book provide powerful illustrations of these institutional characteristics:

- The *BBC* has been producing a judicious and widely respected mix of news and entertainment, has built itself into a global media brand while adapting successfully to major technological (such as satellite and online television) and regulatory changes (introduction of commercial broadcasting).
- The scientific centre for particle physics research *CERN* has gained international recognition as the hub in its field, has kept on pushing the boundaries of knowledge, has educated generations of influential researchers and has sparked the public's imagination both through its mammoth underground research facility (the Large Hadron collider)

and its discoveries (the Higgs Boson particle) as well as through its spinoff technologies (such as the World Wide Web).

- *Médicins Sans Frontières* (Doctors Without Borders) has been much acclaimed for its fearless commitment to providing medical care to populations caught in complex and devastating conflicts around the world. It has become a beacon of courageous behaviour in very challenging and dangerous circumstances. Moreover, it has repeatedly called attention to the follies and excesses of the humanitarian aid industry, and in doing so has become its moral conscience.

These examples suggest that there is something special about institutions: they are regarded as more valuable than just any organization. Goodsell (2011a: 477) refers to *mission mystique*, which he defines as an organization's 'aura of positive institutional charisma that is derived from the nature of its mission and how well it is carried out'. Aura is, of course, a matter of perception: people must recognize something special in what an organization does and how it performs its tasks. This subjective dimension of institutions makes it challenging for social scientists to arrive at a more systematic way of establishing why and to what extent an organization can be categorized as an institution. But it is a challenge that has to be met.

Selznick's (1957) classic distinction between organizations and institutions provides a helpful tool in this endeavour. He formulated three criteria that can help us identify the institution in a population of organizations (see Fig. 1.1). Selznick's framework can also help us track and interpret institutional trajectories: how an organization takes on institutional characteristics and how an institution may deinstitutionalize. Let's have a look at these three criteria.

Distinct identity and unique competence. An institution has a clearly developed and widely recognized identity that communicates to both its members and the outside world what it seeks to achieve and why, what the dominant practices in the organization are, and how it addresses conflicts that occur in the pursuit of its aims. Mark Moore (1995)— a self-confessed Selznickian—speaks about identity in terms of a 'value proposition' and refers to institutional competence as the 'operational capacity' of an organization. An institution's identity and competences are well-suited to meet societal aspirations and expectations. An institution has fostered a strong alignment between the rationale for its existence and the day-to-day strategies and practices it deploys. This alignment is
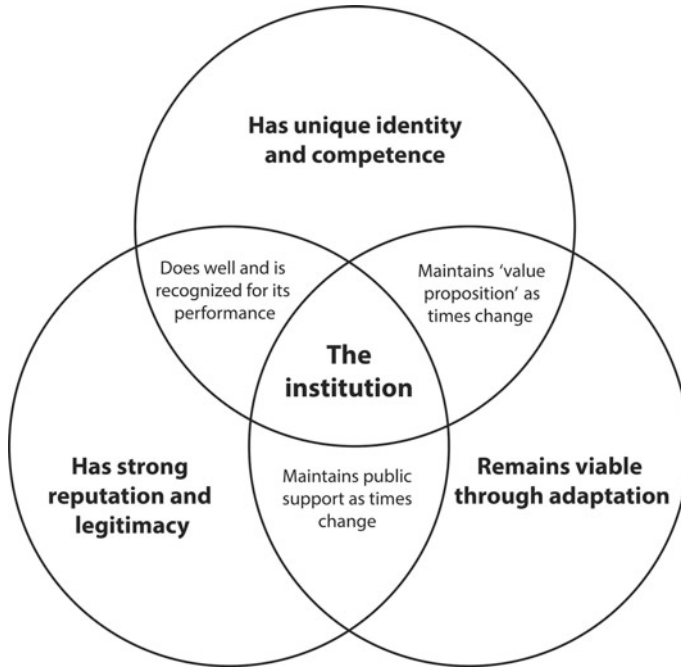
Fig. 1.1 An organization as institution: Selznick's criteria

routinely reconfirmed in the responses that institutional actions draw from its audiences.

Strong reputation, high legitimacy. An institution is trusted and respected, to such a degree that its existence is sometimes taken for granted. Employees are proud to work there and intrinsically motivated to contribute to the cause. The institution's external stakeholders—Moore (1995) speaks of an 'authorizing environment'—support the institution through thick and thin by what they say and do. They provide funding, procure its products and services. They trust it to do the right thing in the right manner. They forgive its occasional lapses, to a much greater extent than they would for organization not endowed with *mission mystique*. It is hard to imagine that anyone would even propose to abolish it.

Enduring viability through adaptation. An institution has adaptive capacity, which helps it to stand the test of time. This is not just about changing structures and practices to make the organization more effective

or efficient. Institutions have the paradoxical ability to change in order to remain the same—changing whatever must be changed to protect the institutional core (Ansell et al. 2015). An institution can consistently deliver on its mission, working in ways that reaffirm its value proposition and satisfy the evolving expectations and norms of its stakeholders. It does what most public organizations find really hard: adopting and implementing reforms that prove to be effective.

An important recent study that provides support for much of what Selznick was proposing, albeit cast in slightly different language, is that of Charles Goodsell (2011a, b), who examined the organizational history and development of 'mission-driven' public agencies in the United States, including such iconic institutions as NASA and the National Forest Service. He provides an in-depth, case-oriented study of what life in public institutions looks and feels like. Table 1.1 gives us Goodsell's matrix of cultural characteristics and organizational practices that his institutions all shared. It provides a useful elaboration of Selznick's institutional characteristics.

The combination of Selznick's and Goodsell's institutional characteristics allow us to make a snapshot of any organization in order to determine whether, or to what extent, it qualifies as an institution. Importantly, the three criteria can be applied in a dynamic manner: we can 'shoot' a film of the institution's development by applying the criteria at several points in time. That film would show the ebbs and flows of an organization's

Table 1.1 Organizational features of institutionalizing public organizations

	Prime qualities	Essential elaborations	Temporal aspects
A purposive aura	A central mission purpose permeates the agency	The societal need met by the mission is seen as urgent	Has a distinctive reputation based on achievement
Internal commitment	Agency personnel are intrinsically motivated	Agency culture institutionalizes the belief system	Agency history is known and celebrated
Sustaining features	Beliefs are open to contestation and opposition	Agency enjoys qualified policy autonomy to permit appropriate adaptation	Agency renewal and learning are ongoing

Source adapted from Goodsell (2011a: 480)

institutional status, identifying periods of strong institutionalization but also periods of institutional decline.

Such a dynamic perspective on institutional development is crucial. Institutions are never born as 'institutions', though their architects and foundational leaders may have high hopes for them. They *become* institutions. They see the light as a small social group, a budding network, a small organization; some develop and gain institutional characteristics. We refer to this as a process of institutionalization (Boin and Goodin 2007).

But just as an organization can take on institutional characteristics, an institution can also *lose* institutional characteristics. Institutions can *de*institutionalize (Oliver 1992; Suchman 1995; Boin and 't Hart 2000; Boin 2001). Its mission can become less relevant, or diluted by *mission creep*. Mission creep refers to the widening of the mission, adopting new ambitions and tasks that distract from the original aims. Also, the organizational structure, culture and established practices may lose relevance, hindering rather than helping to achieve the mission. The institution can become ridden with internal conflict, or lose touch with its authorizing environment.

Institutions as Guardians of Public Value

Institutionalization brings enormous benefits for public organizations. It helps to bind members to a common cause, thus diminishing the transaction costs in the organization. It buttresses against the winds of fashion, as the high level of legitimacy effectively grants a degree of autonomy so that leaders of an institution can chart its course. Institutions inspire confidence in those to whom they are accountable and as a result are less scrutinized than other organizations. When an institution is found to have failed or strayed, it is forgiven for more and for longer than organizations that lack their charismatic aura. Institutions are, in other words, better prepared to weather the storms of failure, scandal and crisis that any organization faces in its lifetime—*provided*, as Selnick (1957) reminds us, that they remain responsive and adaptive to the environments they work in and from which they derive their public licence to operate (in fact, Selznick identified this as the most difficult leadership task).

Institutions also benefit society. They fulfil certain functions in ways that are appreciated by that society. As the case studies in this book will show, these functions can vary widely. The institutions discussed in this book:

- Provide fair elections
- Protect against corruption
- Offer a trusted source of news
- Preserve the value of money
- Create a legal framework that benefits collaboration
- Preserve cultural traditions
- Protect the integrity of sports
- Create conditions for path-breaking research
- Protect a society against disaster
- Assist helpless victims of disaster
- Foster a shared interpretation of complex research findings.

A society needs institutions to ensure that we will have fair elections in the future, that we may expect a continued stream of validated news, that we can trust research findings, and be confident that future disasters will not cut the lives of citizens short. But institutions do more than fulfilling useful functions. They guard against the erosion of these functions and protect the values that underlie them. Institutions are the guardians of a state's promises; they preserve a society's hopes and ambitions.

Our fascination with institutions builds on two empirical observations. First, it has been observed that a minority of public organizations live a long life. A majority perishes (a sizeable chunk does not even make it longer than a decade) (Lewis 2002). Second, only a handful of those survivors meets the institutional test set forth by Selznick. We therefore conclude that *public institutions are exceptions or outliers*. We want to get to know these outliers.

Are Institutions 'Good' by Definition?

A key challenge for institutional scholars is dealing with the normative connotations that come with the "institution" concept. We generally reserve the term 'institution' for an organization or a cultural practice that is valued—this is, indeed, exactly how we defined the institution. But what is valued by many, may be highly controversial to others. What is valued in one society is anathema in another. An organization revered in a certain era, may today be discussed as an example of malpractice or organized evil.

Selznick's three criteria do not resolve this normative conundrum. Take, for instance, the Federal Bureau of Investigations (FBI). When

applied in a broad-brush, across-lifespan fashion, Selznick's criteria would have us regard it as an institution. The FBI has a distinct identity: most people (not just Americans) have heard of the FBI and will have an idea of what it represents. The FBI has a unique competence and has existed for a long time. At the same time, it is easy to unearth a range of questionable values it espoused and activities it deployed for extended periods of its existence. For example, the latter decades of long-serving and founding Director J. Edgar Hoover were marked by practices that are now widely recognized as questionable if not outright illegal (Jeffreys-Jones 2007).

So what does this mean for Selznick's criteria? What does it mean if organizations with dubious identities and questionable competences qualify as an institution? Should we reject these criteria and look for others? Should we avoid institutions that today are widely viewed as epitomizing questionable values?

We feel that Selznick's criteria can still be used, but their use needs to be directed and qualified by situating organizations in a particular window of time and then assessing to what extent the institution embodied, advanced or provided stewardship of values deemed important by the society in which it existed. We must take into consideration that the value sets that stakeholders and the community at large apply to an organization can and do change over time. Institutions, in other words, are to be taken as organizations that have become effective and legitimate 'guardians of public value' *in a certain time and context*. When removed from that time and context, certain institutions or certain epochs in their existences or certain practices in which they engaged may well be considered dangerous or deplorable. The intriguing question is how such morally problematic organizations could maintain high levels of internal and external legitimacy at the time (cf. Selznick 1952).

If we suspend judgement, we can learn—even from institutions that in our time and context may look questionable—valuable lessons about their emergence, their value proposition, their governance, their 'formula' for success, their ways of acquiring a public licence to operate, their ways of navigating conflict and tensions, and in some instance, their decline and downfall. An institution tells us something about the society it emerges from and exists in.

This is also true for the cases included in this book. The fact that these particular organizations have ended up as specimens of 'guardians of public value' does not mean that we hold them up as being exemplary all of the time and in each respect. Most institutions go through periods

of mission ambiguity and conflict; they are sometimes at a loss to develop distinctive competence and sustain effective practices, and they may have found it hard at times to adapt to significant changes in their context. Each case study will therefore situate the story of the institution in time and space, and treat its institutional (and normative) status as a variable and not as a given.

In this book, we study institutions that have done things and done them in ways that were of value to society and were indeed valued by their authorizing environments. Moreover, they have not merely 'created public value' (Moore 1995) and gained recognition for doing so, but continued to do so for considerable periods of time. They have acted not just as creators of public value, but as its guardians. Our aim is to introduce a set of sensitizing concepts in this opening chapter and see if they can help students, researchers and practitioners grasp and interpret the dynamics of institutionalization that have contributed to their lofty reputation and social status.

Studying the Rise and Fall of Public Institutions

We are obviously not the first to study organizations as institutions. Selznick's work inspired a series of detailed studies and theories that explain how organizations become institutions (DiIulio 1987; Wilson 1989; Boin and Goodin 2007; Boin and Christensen 2008; Goodsell 2011a, b) as well as accounts of how they become deinstitutionalized (Boin and 't Hart 2000; Alink et al. 2001; Collins 2009; Mair et al. 2014; Ansell et al. 2015). There is an entire library of institutional study material, both theoretical and empirical, in many different languages and in different disciplines. This research helps to explain why some public organizations (and not others) become—and remain—institutions. More specifically, it helps to answer three big questions that institutional scholars have endeavoured to answer.

- How do institutions emerge?

What are the drivers of institutionalization? Under what conditions does institutionalization happen? Do organizational characteristics matter?

Does it matter in which 'niche' the organization operates? Is institutionalization an outcome of leadership? Or funding? Particular environmental demands? Happenstance perhaps?

- How do institutions stay strong and relevant?

Institutions have to perform a balancing act: distinctive (and cherished) competences must be wielded to satisfy societal expectations and perceptions of their performance. But societal expectations and perceptions of public organizations rarely remain fixed over long periods of time. This simple observation means that institutions are always vulnerable to contextual changes. They must, in other words, adapt to remain an institution—they must remain attuned to changes in both their operating environment (e.g. technological innovations, new products and services, competing organizations) as well as their authorizing environment (e.g. political power structures and governing philosophies). To adapt is also to risk alienation from societal expectations and perceptions. Becoming an institution may be one thing, remaining an institution is quite another challenge.

- What explains their decline and downfall?

Many long-standing institutions have 'lost it' and declined into oblivion. Whether we think of the Roman Senate or the Dutch East India Company, it's clear that these were institutions in their time, remained institutions for a long time, and no longer exist. That prompts the question why institutions lose it. Do they somehow lose their capacity to adapt to changing expectations? Do their leaders succumb to hubris, dragging the institutions away from society? Or are these institutions faced with shocks that are so large and sudden that timely adaptation is simply impossible?

Schools of thought

These three research questions have been studied by different theoretical traditions of institutional analysis that have been extensively described, summarized and compared elsewhere (Peters 2011; Scott 2013). To

give an impression of the variety in explanations offered by students of institutions, let us just mention four dominant schools here.

Philip Selznick was a pioneer of what is called *Classic Institutionalism*. This school focuses on organizations (as pillars of what they called the Organizational Society), seeking explanations for their emergence, functioning, effects and survival (see f.i. Thompson 1967; Wilson 1989). As we have seen, Selznick famously explained how and why institutions differ from 'mere' organizations. This happens when the organization is deeply valued by its employees, stakeholders, political leaders and the public. In explaining the emergence and downfall of these institutions, this approach pays a lot of attention to organizational leaders and the strategies they employ to maintain a relation between their organization and its environment.

Research in the tradition of *New Institutionalism* shifted attention from the individual organization to a class or type of organizations (Meyer and Rowan 1977; Deephouse and Suchman 2008). Where Selznick might focus on Oxford University as an institution, New Institutionalists would focus on the University (sui generis) as an institution. This School has done much to conceptualize the political and social environment in which particular types of organizations do or don't evolve into institutions. The key idea is that organizations assume institutional properties by adhering to an 'ideal-type' that reflects how a society thinks about that type of organization. Through processes of 'isomorphism' these organizations are thought to adopt the required characteristics without necessarily changing the way they conduct their core business. While the New Institutionalists revived a scholarly interest in institutions, this school of thought has less interest in our core question: why do *particular* organizations become and remain institutions whereas others flounder and perish?

In recent years, a small group of political scientists became interested in the survival chances of public organizations. Inspired by the path-breaking work of Herbert Kaufman (1976), David Lewis (2002, 2004) built a database of US public agencies to test a theory that predicted 'survivors' would have different birth characteristics than non-survivors. A key assumption is that 'normal' organizations are perennially prone to capture, politicization and restructuring (Carpenter 2010). They can only survive these pressures, or so the theory goes, if they are 'hardwired' against efforts to terminate or co-opt the organization. The premise of this *Design School* has found empirical support: birth characteristics do

seem to matter, as they raise survival *chances*. But they cannot explain which *particular* organizations will survive and which will perish.

Subsequent research has shown that design factors can only explain so much. *Population ecology* scholarship, for instance, also seeks to explain why some public organizations survive over time whereas others fold (Kaufman 1985; Boin et al. 2017; Kuipers et al. 2017; Van Witteloostuijn et al. 2018). Ecological studies are highly focused on structural and environmental factors. These studies offer support for the Design School, but also suggest that there are other factors at work at the population level. Their studies reliably show that the 'carrying capacity' of a population is probably the most important factor in predicting survival chances.

Both the Design School and the population ecologists tend to de-emphasize the potential role of behavioural and cultural factors in explaining institutionalization. Precisely those factors emerge in case studies of organizational and entrepreneurial success in both the public and corporate world (Lewis 1980; Peters and Waterman 1982; Doig and Hargrove 1990; Collins 2001; Malone and Fiske 2013). Also, there are many organizational biographies that describe the genesis, purpose and inner working of public and private institutions, offering in-depth accounts of their performance, legitimacy and endurance (Kaufman 1960; Boin 2001; Wetterberg 2009; Carpenter 2010). These biographies are not designed to draw general lessons or make comparisons. But they make clear that political and organizational leaders can affect the course of institutionalization.

The Analytical Approach of This Volume

We began this project with a set of ideas that may explain why and how some organizations with a public purpose or public relevance end up acquiring *mission mystique* and become widely viewed as guardians of public value (and thus also why other organizations do not achieve this).

First, we don't think institutions materialize by happy circumstance—they have to be created, maintained and protected. That requires a form of leadership, both within the organization and in its authorizing environment. At the same time, we do not believe that, as the Design School implies, institutions are 'created by blueprint'. Institutions arise from organizations because they have the capacity to adapt and bounce back from the inevitable crisis. This requires a culture that is conducive to experimenting and learning (De Geus 1997; Goodsell 2011a, b).

Second, we are convinced that a public organization cannot do without some minimal level of legitimacy (Suchman 1995). Organizations become institutions because they *enjoy high levels of legitimacy for long periods of time*. While legitimacy is granted (or not) by those whose views count, organizations can actively work to earn that support. They can systematically regain it when it is has been compromised or lost; if these efforts are successful the organization *re-institutionalizes*.

In summary, we see an important relation between leadership and the process of institutionalization. We view institutionalization as a process that is at least partially spontaneous and unplanned. Organizations are not designed with a goal in mind to become an institution. But that does not mean that institutionalization simply happens, as a resultant of favourable circumstances or a dose of luck.

Following Selznick, we view institutionalization as an evolutionary process, which can be influenced but not fully controlled by organizational elites (Boin and Christensen 2008). Leadership is important as it guides, facilitates and shapes the process of becoming an institution. It is also critical for protecting the institution against the 'forces of fragmentation' (Kaufman 1960).

We conceptualize leadership as a collective endeavour by organizational elites to fulfil a set of tasks (cf. 't Hart and Tummers 2019). Leadership is not the property of the one individual who happens to occupy the highest rank in the organization. This helps us to escape from simplistic assumptions that institutional success is related to a particular leader (even if that leader stars in the organization's mythology). At the other end of the continuum, we must be careful to relate lapses and pathologies of leadership directly to processes of deinstitutionalization (cf. Padilla et al. 2007; Helms 2012).

In summary, we follow Selznick in assuming that organizational leaders can guide the process of institutionalization in three ways (Selznick speaks of three executive tasks).

Task 1: Shape the Identity of the Organization

A key challenge for any public organization is that it must deliver on its formal (legal) assignment (or policy goals) while serving societal values and aspirations. If the organization solely seeks to deliver what it is built to deliver, the organization can quickly become redundant upon completion of the mission or shifting policy priorities. Organizations become

institutions when they are perceived to embody societal ambitions *while* delivering on formal aims. To combine both is no easy task and will require tough choices—in a world of scarce resources, diverging preferences and bounded rationality, more often than not *something* will have to give. Making these choices amounts to a process of character building, which shapes the identity of the budding institution. Leaders can help shape this process, by facilitating experimentation that helps to discover the organization's identity and by making critical decisions (Boin and Christensen 2008). Leaders also play a key role in communicating a sense of purpose, which keeps the organization aligned, determined and hungry.

Task 2: Build and Nurture a Workforce That Can Deliver (and Loves to Do That)

An organization with a mission needs people (professionals) who fit what the organization is trying to do. Selznick made an important point: professionals have to buy into the mission and believe in the underlying values that anchor the institution (cf. Kaufman 1960). This is especially true for public institutions, in which profit and competition cannot be the motivational drivers of the enterprise. Leaders of public institutions need to evoke and harness the 'public service motivation' of their employees (Perry and Hondeghem 2008). When professionals identify with and are energized by the mission, the management is relieved of the burdensome task of command-and-control duties. A high level of decentralization is then possible, as coordination is achieved through shared values (that functions as a 'software of the mind'). The acid test is employees who proudly talk about their work and institution during birthday parties (cf. Dilulio 1994).

Task 3: Preserve a Strong Relation with the Authorizing Environment

Institutions, by definition, enjoy a high level of legitimacy. They are valued by their stakeholders and, as often is the case, by society at large. It is a task of institutional leaders to protect and strengthen that relation. In doing so, leaders will face an inherent dilemma that will have to be negotiated time and again. Institutions enjoy a high level of legitimacy because they perform a task in an effective, consistent and highly valued way. Successful institutions are therefore not inclined to change

their practices (which have been proven to work). But societal ambitions and preferences change. However well an institution may perform, they will be confronted with a 'performance deficit'—the gap between societal expectations and perceived performance—sooner or later. If the deficit becomes too wide, an institution faces declining trust and may experience what we have labelled an institutional crisis (Boin and 't Hart 2000). Continuous adaptation of mission and work practices is therefore necessary. But such adaptation can rock the internal balance—the shared professional pride—that gives rise to its performance. When an institution changes slowly, it may be forced into reform; when it changes too quickly, employees may rebel. It is a leadership task to preserve a sensible balance.

A Catalogue of Institutions: Introducing the Case Studies

This volume brings together case studies of very different organizations that managed to become institutions and have maintained their institutional status in the face of pivotal challenges, controversies and crises. A multidisciplinary cast of subject matter experts, guided by a shared analytical framework, provide educators and students with a rich array of teachable case studies.

The starting assumption underlying this volume is that many factors can shape the trajectory of institutionalization. Birth characteristics likely matter, as do the circumstances in which the institution saw the light. Leadership matters, both within and around the institution. Other institutions may cast their shadow. The same is true for historical contingencies. In short, we do not think it makes sense to hew closely to one particular school of thought, entering into a shadow boxing match with other theoretical schools. It is in this vein that we 'instructed' our authors: we gave them the freedom to identify and analyse factors that seemed to matter most in their individual case—leaving the door open for answers that we have not heard before.

Each chapter describes the story of an institution: its origins and early years; how it coped with change, adversity and crisis; the role of design, choice, chance and learning in these institutional trajectories. Each chapter has something to say about institutional leadership, in particular its balancing act of aligning mission, capacity and support in the face of ever-changing environments.

We selected cases that we could reasonably expect to have institutional characteristics (for at least a considerable part of their life spans to date). We also set out to include a wide variety of organizations. Our cases cover:

- *governmental and non-profit organizations* from a variety of countries and regions. Most cases are situated in the Western world, but there are also cases from Singapore and India.
- *very old and relatively young organizations*, ranging from the Swedish national bank (1668) to the World Anti-Doping Agency (WADA) (1999).
- organizations operating at *different levels of aggregation*—varying between locally grounded cases such as Singapore's anti-corruption watchdog and Amsterdam's Concertgebouw Orchestra to global players such as the Intergovernmental Panel on Climate Change (IPCC) and WADA.
- organizations performing *different kinds of public functions*—from production of cultural artefacts (such as BBC and Concertgebouw Orchestra), scientific knowledge (IPCC, CERN) and public infrastructures (Rijkswaterstaat) to delivering medical aid in complex emergencies (Doctors Without Borders), adjudicating disputes within or about the governance of the European Union (European Court of Justice), exercising regulatory oversight (ACCC, WADA) and enforcing the law (Singapore's Corrupt Practices Bureau).

We selected these cases for pedagogical and not for theory-building or hypothesis-testing purposes. We chose this variety of cases to give instructors and students alike a menu for choice. Cases were selected to allow readers to compare two or more most-similar cases, most-different cases, or other clusters of like/unlike characteristics. Readers should be able to draw on cases to identify patterns or perform plausibility probes on theoretical claims about institutions and institutionalization. Moreover, readers should be able to examine the impact of factors such as institutional contexts, organizational capabilities and institution-building leadership strategies.

The authors have been selected because they are experts on 'their' institution, not because they subscribe to our analytical framework. Each chapter loosely works around the framework set out above and thus actively encourages the reader to interpret the dynamics of each case.

What actors, factors and mechanisms shaped the fate of the institution? What can we learn from this particular institutional history?

The volume offers case histories of the following organizations:

The *Indian Electoral Commission* has stewarded free and honest elections in the most populous and complex democracy on earth. The Commission successfully manages more than 1.4 million voting machines, 930,000 voting centres, 1.1 million government and 5.5 million civilian election employees, and more than half a billion voters. The story of its institutional development is one of mandate expansion: institutional leaders using the legal system to enhance the powers it can wield during election time.

Singapore's Corrupt Practices Investigations Bureau was established in 1952 to battle the rife corruption present in all sectors of the public service, where bribes, favours and nepotism were fundamental norms of 'doing business'. The Bureau had to earn its stripes fighting corruption among the country's most powerful individuals: both in the police force and in the parliament. Through a record of successful actions against corrupt individuals, the agency gradually developed substantial authority to investigate any case in which corruption may be involved. The Bureau has been a driving force in making Singapore one of the least corrupt nations on earth.

The *British Broadcasting Corporation* (BBC) is one of Great Britain's most venerable public institutions. It is also the world's oldest (created in 1922) and largest national public broadcaster (in terms of employees as well as its global reach and authority). Through its coverage, the BBC has documented and shaped the transformation of British society. It has maintained a reputation for impartiality and journalistic integrity. It has successfully weathered challenges, incidents and crises and continues to define the standard for quality broadcasting.

Celebrating its 350-year anniversary in 2018, the Swedish *Riksbanken* is the oldest central bank in the world. Its independence from government waxed and waned over time, and finally became firmly cemented in 1999. Its public authority helped Sweden survive the terrible 1992 economic crisis. In response to the global financial crisis that started in 2008, it was the first central bank to adopt negative interest rates to stimulate economic activity. In 2018, it announced that it was considering issuing E-Krona, electronic currency (the first central bank to do so).

The *European Court of Justice* (ECJ) is the undisputed guardian of the European Union's transnational legal order, issuing landmark rulings

and generating jurisprudence at a considerable pace. It was created in 1952 and has the power to invalidate the laws of EU member states when those laws conflict with EU law. The ECJ serves as the final arbiter of the growing body of international law that has accompanied the economic and political integration of Europe. It always faces the challenge of maintaining its authority and legitimacy when the EU's ideals and institutions come under pressure.

The *Amsterdam Concertgebouw Orchestra* has historically been rated as one of the top symphonic orchestras in the world. Founded in 1888, it has had only seven chief conductors. It has found ways to balance the twinned but often conflicting imperatives of artistic excellence and financial viability. It remains dependent on government funding, which in the early 2010s became highly uncertain, triggering a mood of crisis that required astute management.

The *World Anti-Doping Agency* (WADA) promotes, coordinates and monitors the fight against performance-enhancing drugs in sports. WADA's key activities include scientific research, education, development of anti-doping capacities and monitoring of the World Anti-Doping Code. Among the youngest organization in our set of cases, it came into being in 1999 as an independent foundation with a hybrid public–private structure. It is the chief guardian of the World Anti-Doping Code that has more than 600 signatories, including many states as well as international sports foundations. Its work has gained global recognition as contributing significantly to key values in sports such as fair play and the protection of athletes' health and well-being.

Founded in 1954 and based in Geneva, the *European Organization for Nuclear Research*, better known as CERN, is a remarkable example of enduring international scientific cooperation in pursuit of one of the most elusive goals ever embraced by any organization anywhere, one that requires sustained and large amounts of public funding. Among its key accomplishments are the pioneering of Internet technology, the creation of the World Wide Web, several Nobel Prize-winning staff members and the 2012 discovery of the Higgs Boson particle.

Founded in 1798 during the French occupation, *Rijkswaterstaat*, the Directorate-General for Public Works and Water Management of the Netherlands, has evolved into an iconic institution. Its defining accomplishments are in the area of water management—digging canals, building and maintaining dikes, reclaiming vast tracts of land from the sea ('polders'). Its planning and engineering feats are essential to the survival of

a country where more than 25% of its territory lies below sea level and another 30% is highly exposed to flooding. The institution faced major adaptive challenges when its 'safety-first' paradigm was challenged by the rise of environmentalism. As it strives to transform itself, climate change is presenting another key test of its resilience, ingenuity and collaborative capacity.

Few humanitarian aid organizations enjoy a global public standing like *Médecins Sans Frontières* (MSF) has. Described as the most important humanitarian organization and conscience of the humanitarian world, MSF was awarded the Nobel Peace Prize in 1999. It displays a fierce sense of independence. Throughout its history MSF has often acted controversially, going public with its knowledge about atrocities committed by parties to the violent conflicts in which it operates, as well as explicitly challenging the humanitarian sector's own practices and principles.

The *Intergovernmental Panel on Climate Change* (IPCC), founded 1988, is the international body that reviews the latest science and produces assessment reports which inform international negotiations on climate change. It is tasked with establishing a consensus between climate experts and governments, communicating knowledge on climate change to policymakers, negotiators and the public, and for making recommendations on potential courses of action. The IPCC and Al Gore were co-recipients of the 2007 Nobel Peace Prize. The IPCC has also been criticized at times for its work and is a target of climate sceptics. The IPCC's reputation was damaged when its leadership failed to respond effectively to mistakes found in its 2007 report. Since then it has worked to restore confidence. Its reports have been very important in the UN climate negotiations and strongly influenced the goals of the 2015 Paris Agreement.

Within a decade of its inception in 1995 the *Australian Competition and Consumer Commission* (ACCC) had become a trusted institution in the Australian regulatory landscape. The product of a merger, the ACCC soon carved out and dramatized its mission as a crusader for level-playing fields and fair play in markets. By successfully taking on some of the biggest corporations in the country in both the courtroom and the court of public opinion soon after coming into existence, the new authority quickly gained notoriety. By asserting its independence from political interference, it gained public credibility in a country that has long held its political class in low esteem. The ACCC has subsequently

conserved its enforcement mission by adapting to challenges in the political and business environments, expanding and redirecting its repertoire for regulatory action, and broadening its consumer and small business constituencies.

What Do the Cases Tell Us About the Dynamics of Institutions?

This book revolves around a central puzzle: Why do some public organizations become—and remain—institutions? Our relatively small and purposefully skewed set of case studies does not allow us to systematically test hypotheses, nor to generalize insights to larger populations of organization types. That said, what we can do is inductively identify possible patterns and relate them to conventional wisdom in academic theorizing and the world of practice. In interpreting these patterns, we can discern possible scope conditions or social mechanisms that may be at play in bringing about the institutionalization (and deinstitutionalization) of public organizations. More specifically, our cases provide food for thought with regard to four often-mentioned patterns of institutionalization. To help readers interpret the case studies, we will now discuss our observations in more detail.

Pattern 1: Virtuous Cycles

In his study of highly successful corporate organizations, Jim Collins (2001, 2019) found that these organizations had one critical characteristic in common: they have in place what Collins refers to as a *flywheel*. Collins is, in essence, talking about what across the social sciences has been called a virtuous cycle: a set of processes that reinforce one another (Sitkin 1992; Finnemore and Sikkink 1998; Boin and Christensen 2008). Within an institution, the virtuous cycle might look like this (see Fig. 1.2):

- The cycle starts with the discovery or invention of an effective, efficient and legitimate way to reconcile organizational aims with societal aspirations. This typically happens through a mix of experimentation and smart copying.
- Successful practices give rise to the emergence of an internal norm: this is how we do things around here.
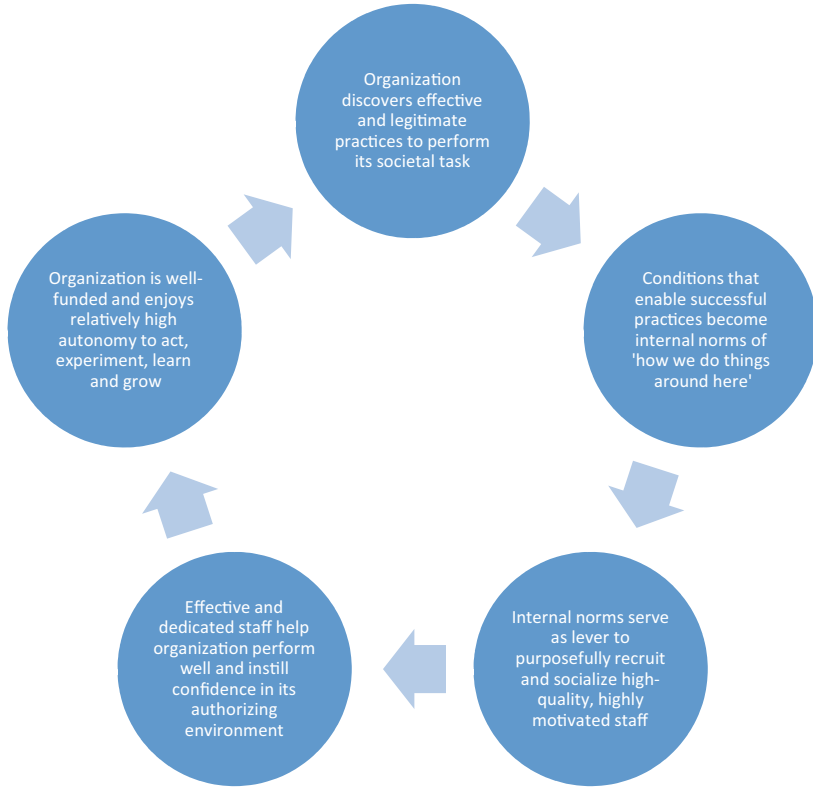
Fig. 1.2 The virtuous cycle of institutionalization

- The internal norm makes it easier to recruit and train the right people, which facilitates cohesion and effectiveness.
- Effective and dedicated people make the organization look good. This results in enhanced funding, support for the mission and strengthened autonomy.
- A strong and legitimate organization performs better, which solidifies the internal norm.

Our case studies bear witness to this virtuous cycle of institutions. Consider the following three examples:

The *Intergovernmental Panel on Climate Change* (IPCC) began as an informal collaboration of scientists who worried about climate change. By establishing a network of committed and reputable scientists, they created a platform for policymakers to learn about causes and potential solutions. The IPCC established 'input and output legitimacy of the rigorous and extensive process by which the IPCC's teams of expert authors and peer reviewers carry out their work' (Paglia and Parker, this volume), which increased its epistemic power and reputation. Their reports helped to spread awareness about ongoing climate change, which, in turn, led to increased demand for evidence-based science. The growing interest of policymakers (prompted by growing awareness about the threat) helped to mobilize scientists who recognized a podium for their research. The density of scientific expertise secured privileged access to policymakers, which enhanced the importance of the IPCC.

Singapore's *Corrupt Practices Investigations Bureau* (CPIB) began as a small police unit seeking to root out corruption among colleagues. When it busted a drug ring that was run by the police, the CPIB became an independent statutory authority. Its autonomy enhanced its investigative powers, which were widely and effectively applied. The success of the CPIB came to define Singapore's status as a 'clean' state. Singapore's enhanced international standing reflected back on the CPIB, which saw its autonomy and authority strengthened. Decades of successful investigations and prosecutions have embedded the institution in Singapore's landscape (and indeed in the esteem of the international community). The CPIB's effectiveness and Singapore's reputation went hand in hand, reinforcing each other over the decades.

The *World Anti-Doping Agency* (WADA) was created to address the protracted doping crisis of the 1990s. Its chances of success seemed low. But it soon began to command the respect of its stakeholders, initially by formulating standards that made sense. As governments and sports foundations began to accept the standards, they also legitimated the Agency. As the Agency gained in stature, it could enlarge its role in the global fight against doping. The enlarged role translated into visible successes, which further strengthened its reputation. Quite incredibly, the WADA managed to become an undisputed authority in the international field of sports. Its role in other sports organizations became entrenched, which further helped the standards to take root.

Pattern 2: Institution-Building Leadership

Institutionalization does not just happen; virtuous cycles do not simply materialize. This prompts the question if and to what extent the actions of leaders matter when it comes to the institutionalization process. The chapters in this book do not give rise to a new or definite take on this critical question. But they certainly provide powerful illustrations of leaders forging practices, crafting norms and protecting the identity and integrity of their organizations—and they show that this can be done in different leadership configurations and employing different leadership styles. Let's look at some examples to illustrate this variety:

The institutional history of the *Amsterdam Concertgebouw Orchestra* cannot be written without recognizing its early and long-serving conductor Willem Mengelberg. He was the archetypical institution builder, translating the aspirations of the founding regents into an ambitious and appealing musical vision for the orchestra. Mengelberg then translated this vision into an unprecedented and uncompromising regime of excellence that produced both classical and contemporary symphonic music, while building an international audience. By placing his orchestra squarely on the map, Mengelberg forged a broader authorizing environment for his orchestra, extending well beyond the original group of regents.

The *European Court of Justice* (ECJ) began as a technical tribunal. It was hard to imagine at the time how this small court in Luxembourg could become an institution, creating conditions that today make European integration a seemingly one-way road. This did not happen because of one leader. It happened because a group of judges—all appointed sometime in the early 1960s—shared a vision and began to build the ECJ in light of that vision. These judges were well-known professionals who moved in the insulated elites that pushed for European integration. Without seeking the limelight, they exerted the leadership of true institution builders.

The founding Commissioner of the *Australian Competition and Consumer Commission*, Allan Fels, not only brought academic expertise and long regulatory experience to the job, but also a brisk determination to give the new agency the institutional clout its predecessors had often lacked. Painstakingly independent and politically neutral, Fels used the media to create a powerful platform for the ACCC's 'naming and shaming' of big corporations that engaged in anticompetitive or manipulative

behaviour. In prosecuting and winning high-profile cases, he instilled professional pride in its staff and ensured the ACCC became a highly visible and impactful crusader for consumers.

Pattern 3: Mature Management of Conflict

Institution building is more than formulating an evocative mission. Professionals must be seduced and coaxed to accomplish the mission (leaders cannot do it by themselves). This can be an arduous job, as the chapters suggest. Institutions are not, by definition, happy families (certainly not all the time). A public institution must find ways to harness conflict in ways that make it smarter and stronger (Coser 1956). The chapters show how institutions do not always suppress conflict, but manage to canalize it.

The *European Organization for Nuclear Research* (CERN) did not become a celebrated scientific institution without tension or strife. Bringing together the best scientists in the world and have them compete for funds can be a recipe for disaster. CERN developed a form of shared leadership, which allowed this international community of super-smart scientists to evolve 'norms and practices of balance-seeking':

> Balance between funding member states and the spending CERN administrators. Balance between small and large contributors. Balance between centralized lab and infrastructure funding and bottom-up funding of the experiments. Balance between getting on with current work and preparing the ground for taking on new challenges and realizing future ambitions that are decades away. Balance between the scientists' advances in fundamental physics and the engineers' development of the technological tools required to test them. Balance between running a tight ship financially and maintaining the ability to respond flexibly to financial setbacks or emerging expenditures. Balance between the patience required to do the work necessary to achieve major scientific breakthroughs and the need to be seen to be active, relevant and impactful in the present vital to maintain the institution's global public and political support base. Balance between banking on the authority of established scientific leaders and on empowering the innovative irreverence of emerging research talents. (Engelen and 't Hart, this volume)

The governance of the *Concertgebouw Orchestra* has been marked by decades of tension between protagonists of its artistic aspirations and

business managers seeking to ensure the organization remained finan-cially viable. It describes how Mengelberg, the legendary conductor, waged no-holds-barred battles with a succession of business managers and artistic directors who had the temerity of proposing pragmatic rather than 'perfect' options to address pressing financial challenges. It refer-ences the painful, unnecessary and politically costly estrangement of maestro Bernard Haitink from the orchestra during the latter years of his highly successful tenure. But the story also demonstrates, using Coser's (1956) words, the positive functions of social conflict: the many conflicts resulted in a change of the governance model, which finally resolved the long-simmering tensions between artistic excellence and financial viability.

The birth of *Médicins Sans Frontières* was rooted in a conflict of values and criticism of the status quo in mainstream humanitarian aid organizations such as the Red Cross. Witnessing severe atrocities among civilians during the Nigerian civil war in the late 1960s, doctors were forced to remain silent under the Red Cross's principle of 'neutrality'. This motivated a group of French doctors to set up MSF as a breakaway organization. It set the organization on a path of fierce independence, going public with inconvenient truths and occasionally engaging in very public withdrawals from theatres of conflict where the integrity of its oper-ations was being undermined by conflicting parties. Its contrarian ethos also affected MSF's internal culture: its policies and strategies took shape though sometimes sharp disagreements about the right thing to do in war-torn areas.

Pattern 4: Adaptive Capacity

Organizations become institutions because they somehow maintain high performance over the course of their existence. Institutions have survived many cultural, societal and political contexts changes. Institutions face constant threats to its engrained and established formula, yet manage to preserve their virtuous cycle. This requires timely, in some cases even pre-emptive, forms of adaptation to maintain the flywheel.[1]

Our case studies suggest how institutions manage to accomplish this. Institutions monitor the environment for new demands and potential threats; they probe the internal culture for complacency and newly emerging fault lines that have the potential to compromise the insti-tution's integrity and performance. Institutions maintain a culture of

learning, innovation and contestation—they are 'charged with vitality' (Goodsell 2011a).

Rijkswaterstaat provides a fascinating case study in this regard. The traditional institution was at first reluctant to acknowledge that its technocratic paradigm of project planning and management had gone past its sell-by date as a result of changes taking place in Dutch society during the 1960s. But once its eyes were opened, it went on a learning journey that continues into the present. Rijkswaterstaat keeps trying to reconcile the traditional strength of 'go-it-alone civic engineering' with the 'soft skills' and 'collaborative mindset' required to thrive in a post-paternalistic era.

The *European Court of Justice* is another intriguing example of adaptive capacity. Just when the Court had found its institutional footing and delivered hallmark rulings that would cement European integration for decades to come, the European project itself came under intense criticism (in the 1970s). Around that time, the most influential judges in the Court were set to retire. This confluence of events created a dire need to revisit and rethink the way the Court functioned.

This brings us to what is known as the *paradox of success*: the capacity to adapt can be undermined by the successes of the institution. The very strength of an institutional formula sows the seeds of the institution's demise. The operative mechanisms here are not only the kind of hubris, complacence and rigidity foreseen by Selznick (1957) as chief forces of erosion of institutional integrity. There is something much more mundane at the heart of it: the dedicated adherence to what has been proven to work well makes it seemingly unnecessary to consider alternative ways of working that may be better suited for dealing with evolving contexts and new challenges.

Figure 1.3 captures how a virtuous cycle can turn into a vicious cycle of deinstitutionalization, which can be described as follows (Masuch 1985; Boin and 't Hart 2000; Ansell and Bartenberger 2017):

- Successful practices give rise to a strong internal culture ('this is how we do things around here') that makes it hard to suggest or even imagine alternative ways of working.
- Institutional members do not recognize impending threats to the institutional model.
- When shifting contexts and new challenges begin to undermine the effectiveness, efficiency or legitimacy of that very model, the institution doubles down on what it believes to be the best practices.

The circles contain the following text:

Organization has strong internal culture rooted in history

Organization faces significant change in its operating and/or authorizing environment

The organization adheres rigidly to known and valued repertoires

The organization's external legitimacy crumbles while its internal guiding coalition is unwilling or unable to adapt

Stakeholders outside the organization become skeptical about its capacity to adapt to the times and its continued effectiveness

Fig. 1.3 The vicious cycle of deinstitutionalization

- This is perceived by parts of its authorizing environment as a refusal to acknowledge the need for change.
- Legitimacy declines as a result; criticism begins to mount.
- The institution is at a loss of what to do, falling back on practices that are still assumed to work (but actually exacerbate the problem).
- As perceptions of institutional performance continue to decline and institutions demonstrate limited or no willingness to change, conditions for an institutional crisis are created.

If allowed to continue, this process of deinstitutionalization can create an existential crisis for an institution. It requires exceptional leadership to guide the institution through such a period. For example, the so-called Climategate crisis facing the *IPCC*, when inaccuracies in its Fourth Assessment Report were revealed, opened up the institution to charges

of bias, hidden agendas and politicization of its processes and findings. Playing into the hands of 'climate deniers', the crisis put pressure on the IPCC to acknowledge its fallibility, which, in turn, appeared to confirm the criticism put forward by its critics. The IPCC survived the crisis by creating procedures that enhanced the integrity of its findings and conclusions.

Anti-doping watchdog *WADA* was plunged into an institutional crisis of its own making. WADA had failed to detect the brazen, systematic subversion of its norms and its compliance regime by the Russian sports federations, peaking at the Sochi Winter Olympics. Its initial response to whistleblowers, which came forward from within the Russian system, was inept. It also proved unable to orchestrate support for firm sanctions. The organization compounded its problems by gullibly declaring its Russian counterpart Rusada fully compliant again in 2018, a declaration it had to retract when it transpired that the data on which the decision was based had been tampered with. But the crisis did not undermine the belief that without an institution such as WADA there can be no credible anti-doping policy.

The Future of Institutions in Turbulent Times

Institutions are conceived in this book as 'societal safeguards'. Institutions protect our better angels from the detrimental effects of partisanship, moral panics, opportunism (the temptation of the quick fix) and adventurism (the temptation of the sweeping promise). Institutions, in other words, protect us from ourselves. This is especially important in a time when public entities are fragile to the whims of public opinion and the impulses of politicians. Some argue that today's institutions experience unique challenges (Rosanvallon 2018).

One challenge derives from the rise of what has been called 'monitory democracy' (Keane 2018). In monitory democracies, all forms of authority, all organizations and all power-holders are continuously vetted, interrogated and challenged by a plethora of accountability regimes. If institutions indeed depend on a certain 'mystique' in gaining and maintaining their elevated status, the question arises whether that mystique can survive the withering challenges of hyper-transparency, the relentless thickening of accountability and the growing vagaries of public emotions and political will (Hood 2010; Bovens et al. 2014; Busuioc and Lodge 2017).

The dense web of arrangements and rituals of verification and control has made institutional 'mission mystiques' more fickle. Operating in today's more polarized social and political climate may make it hard for institutions to claim that they are serving the 'public interest' (McCoy et al. 2018). Institutions can, in other words, rely less and less on their legal mandates, their formal autonomy and their professed commitment to certain fundamental values—to ensure their social licence to operate. Institutional legitimacy has become more dependent on whether they actually 'perform' (hitting targets, scoring wins) and how they go about performing (i.e. complying with ever more strongly worded and policed procedural norms of transparency, fairness and propriety).

A second challenge is grounded in the shift from the machine age to the network age (Castells 1996). Twentieth-century organizing was grounded in hierarchy, specialization and compartmentalization of knowledge, funding, task performance and responsibilities. The dominant ideology of twenty-first-century organizing is one of collaborating across boundaries, pooling of resources, flexible arrangements, shared power and responsibility. In the face of relentless globalization, wicked problems and transboundary crises, public institutions find it hard to position themselves as islands or bulwarks organized around a self-proclaimed mission and accompanying values.

Today's world is very different from the America of the mid-1950s where Selznick wrote his path-breaking book *Leadership in Administration*. Collaborative approaches to public innovation, societal problem-solving and dealing with wicked issues and creeping crises have become the new normal (Emerson and Nabatchi 2015). If they are to remain relevant in a network society, public institutions must be able to act as co-creators in hybrid public–private, intergovernmental and transnational collaborations. The question is how institutions can align or even coalesce their operations, norms and identities with network partners in service of a shared purpose without diluting their own institutional character. In modern society, the concept of a focal organization with a distinct mission, structure, value set, membership and value chain may have to be refreshed.

But it would be premature at best to announce the impending death of public institutions and the obsolescence of the kind of institutional analysis performed in this book. The virtuous cycles that these institutions create and maintain are needed perhaps even more than before.

Networks may be important to make complex service delivery or emergency response work, but they don't have the visibility and established identity that institutions enjoy. Citizens of monitorial democracies may have become more transactional and less forgiving in how they assess those organizations and their leaders. By the same token, however, in times of turbulence and confusion, citizens (and markets) look for beacons of hope, protection, direction and order. Public institutions may well be our best hope in times of turbulence.

Public institutions are guarding something that is probably older and weightier than the current interests and priorities of any one group or party in the system, however powerful. Whether in times of turbulence of relative stability, the pivotal challenge for institutional leaders remains threefold: to make the case for its *raison d'être* by claiming guardianship of salient, widely desired public values; to motivate people so that the institution delivers on its licence to operate; and to continuously adapt the organization's make-up, beliefs and practices to remain in tune with the norms and demands of ever-changing times. These are no easy tasks. The chapters in this book provide tales and insights that will hopefully prove useful for future institutional leaders. To facilitate classroom use of each case study we have placed questions for discussion at the end of each chapter.

A final note. The manuscript of this volume was closed just weeks before the Covid-19 pandemic enveloped and disrupted practically the entire world, thus presenting people, businesses, community organizations, government and international organizations with an unprecedented 'stress test' of their adaptive capacity. It remains to a next group of researchers to investigate whether and how the institutions covered in this book managed to not only survive but productively absorb and adapt to the immense challenges the virus and its many impacts presented.

Note

1. The kind of consolidating leadership that is required to ensure the institution stay relevant and valuable externally and continues to cohere internally has been captured nicely by Frederickson and Matkin (2007) in their essay on public leadership as 'gardening'.

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CHAPTER 2

The Election Commission of India: Guardian of Democracy

Amit Ahuja and Susan Ostermann

FROM QUIESCENT BUREAUCRACY TO POWERFUL INSTITUTION[1]

The Election Commission of India (ECI) is one of the most powerful electoral regulatory bodies in the world and one of the most widely celebrated and trusted public institutions in India (McMillan 2012).[2] It has overseen the completion of 17 national and over 370 state elections since Indian Independence in 1947. It also conducts some of the largest and longest elections in the world. The 2019 parliamentary elections, for example, had 900 million eligible voters, and were completed in nine phases over 39 days. Celebrated as an 'undocumented wonder', the ECI has emerged as a guardian of public value—free and fair elections—in India (Quraishi 2014).

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The role of election commissions in the regulation of elections is of vital importance throughout the world, not least because democratic legitimacy turns on election credibility. In many countries, opposition parties protest election results and boycott elections.[3] The legitimacy of election results are questioned because the institutions that ensure their validity are themselves questionable. In India, one of the most heterogeneous societies in the world, politics remains highly contentious. Both the democratic system and the state secure their legitimacy through regular free and fair elections. The ECI is responsible for India's long-standing record of uncontested, free and fair elections.

The world over, democracy has struggled to take root in low-income countries (Przeworski et al. 2000). India's democratic record also makes it an outlier in this respect. Elections have remained popular with the poor. Members of socially excluded groups have emerged as powerful political leaders (Varshney 2000; Jaffrelot 2003). Steps taken by the ECI have ensured that the poor and marginalized have been enthusiastic voters (Ahuja and Chhibber 2012) and have participated in elections in increasing numbers (Kumar 2009), without fear of intimidation by higher-ranked, more powerful groups. The security provided to poor voters has also enabled the rise of marginalized groups' political parties. Leaders from these groups have achieved electoral success. Few low-income democracies can claim such transformative achievements.

The popularity of the ECI is not restricted to citizens alone; political parties have also come to view it as a neutral referee. During our interviews with 62 party leaders and officials, belonging to 15 national and regional political parties, we found that 51 of our respondents generally regarded the ECI in a positive light.[4]

Yet the ECI was not always as prominent or powerful, especially vis-à-vis the executive. In a parliamentary system like India's, the cabinet and the prime minister's office comprise the executive branch. Before 1989, the executive restricted the ECI's autonomy. Its Chief Election Commissioners (CECs) mostly remained quiescent. Even the most entrepreneurial CECs had little leeway. Occasionally, when a CEC tried to assert his authority, like Peri Shastri in 1987, the executive would curtail his efforts.[5] When innovations in electoral practice appeared, they resulted from the executive's rather than ECI's initiative.[6]

In recent decades, however, the ECI has grown into a powerful institution. Krishna Bose (2016), from the All India Trinamool Congress, remembered how the ruling Communist Party that mastered the art of

rigging elections in West Bengal, had to eventually contend with ECI's close monitoring. 'In fact, all political parties have a vested interest in a neutral and effective EC', she wrote. A retired Chief Election Commissioner corroborated this view during an interview: 'Chief Ministers who do not like the EC when they are in office', he quipped, 'are very happy with us when they are in opposition because they rely on a free and fair poll to find their way back to power'. Baijayant Panda, from the Biju Janata Dal,[7] a regional party in the state of Odisha, echoed this sentiment about the ECI's close election monitoring: 'It is a bit of a pain in the neck actually. But it does serve the purpose of establishing a degree of fairness and a perception of fairness'. Mayawati, India's first Dalit (former untouchable) Chief Minister, attributed her party's majority in the 2007 state assembly election in Uttar Pradesh to ECI protections for poor and marginalized voters.

The ECI is thus deeply implicated in India's exceptional democratic experience. Understanding how a public institution such as the ECI was able to enhance its powers is an important question. How did the ECI build its institutional credibility? What was the role of the ECI's leadership and strategy in the process of institution building? These are the questions that this chapter seeks to answer.

We explore and explain the ECI's institutional development by analysing electoral data and drawing from interviews with six CECs, four Chief Election Officers and eight ECI officials. These lengthy, semi-structured interviews were conducted over two years, sometimes over multiple sittings. We also utilize insights gleaned from hundreds of voter interviews conducted across four large Indian states: Uttar Pradesh, Bihar, Maharashtra and Tamil Nadu.

We use historical process-tracing to unearth the mechanisms that enabled the ECI to interpret its mandate expansively and enhance both its power and status. Such an approach allows us to identify the sequence of causes that came to produce a more powerful ECI than was originally envisioned (Goertz and Mahoney 2012). In keeping with this methodology, we carry out an over-time process analysis of ECI activities, focusing on Model Code of Conduct ('Model Code') implementation and election duration, considering different observations at different points in time and identifying key historical junctures and events.

We begin by describing the ECI and the executive–ECI relationship over time. We then focus on the political opportunity presented by a weakened executive, state-based demands for a referee institution and

bureaucratic entrepreneurialism. We examine the ECI's institutional challenges in a moment of executive resurgence. We conclude with reflections on the conditions that support institutional development in democracies.

The Indian Election Commission in the Time of Congress Dominance and Decline

In developing countries, public institutions rarely enjoy statutory protections from executive pressure. When they do, protections may be ignored by a marauding executive (Collier 2009).[8] The ECI, over time, successfully secured institutional autonomy while expanding its mandate.

Gilmartin and Moog (2012) note that 'in historical context, the establishment of the Election Commission can best be seen as an effort to "nationalize" elections in India, not only in structural terms to centralize their oversight, but also to associate them strongly with the idea of the Indian nation, unifying a highly disparate and divided population'. Free and fair elections require: (1) an independent electoral management body to conduct elections; (2) a set of rules governing electoral conduct; and (3) an effective electoral dispute resolution mechanism.

The Indian constitution provides all three. Article 324 establishes an independent election commission; Article 327 empowers Parliament to enact laws governing all aspects of elections; and Article 329 provides a mechanism for resolving electoral disputes through review by an independent judiciary. These articles reflect the clear preference of the Constituent Assembly to ensure the autonomy and independence of the ECI, protecting it from executive interference in particular (Devi and Mendiratta 2000).

Administratively, the ECI is tasked with a number of core electoral functions. These include the conduct of elections to parliament, all state legislatures and the offices of the President and Vice President; registration of voters and maintenance of electoral rolls; and assistance with electoral district delimitation. The ECI is headed by a CEC, who is typically an outsider drawn from senior members of the Indian Administrative Services (IAS) and the Law Commission.[9] Since 1995, two additional Election Commissioners have regularly worked alongside the CEC.[10]

The ECI, in part, because it is small, depends upon state employees to administer elections and oversee the deployment of substantial staff. For example, 11 million personnel administered the parliamentary elections in 2019. In addition, the ECI deploys paramilitary and military forces to

secure polls in insurgency-affected regions, where federal forces are often used instead of state police to guard against local influence.

While the ECI enjoys some formal autonomy from the executive, it is not an independent agency. The executive controls the EC's finances and personnel appointments. During its first 20 years, democratic India was dominated by a single party, Congress, at both the state and national levels. Congress dominance was made possible by its stature as the face of the freedom movement, its relatively well-developed organizational structure, and the pre-eminence of its leadership. It also actively co-opted different interests.[11] Congress did not intrude on ECI autonomy during this period. It did not have to, as elections regularly installed national-level Congress governments and few protested electoral irregularities (as the overall result would not change). The ECI had little reason to exercise its powers and was not pressured to do so by opposition parties.

Over time, Congress's freedom movement leadership[12] gradually disappeared, the party underwent multiple splits, and its organizational structure weakened. By 1967, Congress began losing power in the states. Under Indira Gandhi's ('Indira') leadership and, later, that of her son, Rajiv Gandhi ('Rajiv'), Congress' hold on power became tenuous. Both leaders undermined public institutional autonomy, including that of the ECI.

During this period, the influence of the ECI was circumscribed. CECs knew that if their actions were interpreted to be detrimental to Congress' interests, they would have to contend with Congress and the Prime Minister after the election. In describing the ECI during this period, McMillan (2010) observes that the Election Commission had become absorbed into the Congress system of government and lost sight of its broader remit to maintain the democratic structure of the Indian political system.

The ECI's minimalist institutional profile was reflected in the public stature of the CEC. Unlike CECs since 1991, who have been prominent public figures, pre-1991 CECs were not well-known. A remark by a CEC, who retired after 2010, captures this change:

> During my tenure, I visited different states, in each place I felt the authority of the CEC's position. The politicians and bureaucrats were deferential. I say this because this was not the case earlier. I remember being introduced to the CEC, Mr. S.L. Shakdher, in 1981, when I was serving as a district

magistrate and no one knew him or really cared that much about the CEC's office.

While discussing the same period, another CEC pointed out that 'In those days, the ECs were just told by the PM or the Principal Secretary, get ready for elections on such and such date…. But when the elections are held is the prerogative of the CEC, not the PM's office'. Another former CEC asserted that 'the EC during the 1970s and 1980s was seen as a sidekick of the government…. You could find the CEC waiting outside the office of the Law Minister…. The ECI is [now] an independent and autonomous body. It does not have political masters'.

A key test of the ECI came in 1975, when the President of India, upon the advice of Prime Minister Indira Gandhi, imposed Emergency Rule under Article 352 of the Indian Constitution. The justification was imminent threats to public order. During the 18-month long Emergency, Indira's government disempowered state governments, incarcerated opposition leaders, cracked down on the press and subdued the judiciary. Then, against expectations, and for the first time in Indian history, the ruling Congress Party ('Congress') lost a parliamentary election. The ECI's reputation benefited from its management of the 1977 election at the end of the National Emergency.

Overall, under Congress dominance and during its decline, CECs retained some independence despite executive power; this proved crucial in the following decades. The independence of the ECI's office was protected during this early period for three reasons. First, it was constitutionally protected under Article 324. Second, after 1967, as Congress began to lose state-level elections, the Indira-led federal government invoked Article 356 to simply dismiss non-Congress governments, instead of resorting to rigged elections.[13] The executive, therefore, had little need to override ECI autonomy. And, third, Indira's Model Code violation and judicial disqualification in 1975 made her wary of direct institutional clashes with the ECI.[14] The judiciary, by being willing to stand up to the Prime Minister's Office, bolstered ECI authority vis-à-vis the executive. CECs we interviewed viewed the judiciary as an important safeguard. 'The courts realize that we act in public interest', explained one retired CEC, 'so they have been willing to side with us and not the government'. The reputation garnered by the ECI under Congress dominance, as well as during its decline, provided opportunities for its further institutional development.

A Turning Point

In the post-Emergency period, Congress, a leader-centric party, suffered two significant organizational setbacks: the assassinations of Indira, in 1984, and her successor, Rajiv, in 1991. In the early 1990s, Congress dominance unravelled. In 1952, national-level Congress vote share was 45%. By 1967, it had shrunk to 41%, by 1991, 36% and by 2004, 27%. This decline was accompanied by: (1) an increase in the number of political parties[15]; (2) more competitive electoral politics; and (3) coalition governments.

With party system fragmentation in the 1990s, coalition politics became institutionalized at the national level. A similar pattern occurred in many states. Between 1989 and 2014, all 8 national governments were coalition governments. The number of states being ruled by coalition governments increased from 0 in 1952, to 4 in 1995, to 18 in 2006. In the states where regional party systems replaced Congress earlier, party systems also experienced fragmentation resulting in party proliferation. The number of state-based political parties increased from 33 in 1984 to 209 in 1996.

Before 1989, party competition was more limited. Between 1952 and 1984, the effective number of parties ('ENP'), as measured by vote share, ranged from 3.40 to 5.19; when measured using seat-share in parliament, the range was 1.69–3.16. The corresponding ENP for the period 1989–2014 were between 4.80 and 7.98, and 3.50 and 6.50, respectively.

With no party in a position to form a majority government, a variety of coalition governments came to power. This meant that executive power was, to varying degrees, dispersed among alliance partners. The addition of multiple veto players weakened the executive.[16] With coalition governance, government tenures at the national and state levels became more uncertain, surviving as long as their coalitions held. Under these constraints, political parties supported an assertive ECI that was willing to clean up the electoral process. The ECI profited from this uncertainty, as weaker governments became unlikely to limit its autonomy.[17] One ECI official recounted a moment when A. B. Vajpayee's Bharatiya Janata Party ('BJP')-led coalition government between 1998 and 2004 moved to appoint an outsider instead of promoting the senior Election Commissioner as CEC. When this news reached the Election Commissioners, they threatened to resign. The government withdrew its proposal (Sridharan and Vaishnav 2017).

State-based parties came into prominence during party system fragmentation. These smaller parties relied on the ECI to ensure free and fair state-level elections. As challengers, they did not trust the state machinery, bureaucrats or the police to discharge their responsibilities in a nonpartisan manner, perhaps remaining loyal to incumbents. Thus, state-based challengers turned towards the ECI, a *federal* body, to ensure fair *state*-level competition. Aware of incumbent loyalties among public officials, an assertive ECI was willing to prevent them from influencing the electoral process. Smaller parties supported ECI efforts to clean up electoral rolls, as inflated rolls allowed major parties to fraudulently exaggerate vote share. Parties also demanded the use of the federal security apparatus rather than local police during elections, which the EC was willing to support. Parties that relied on support from poor and marginalized groups supported the ECI's vulnerability mapping project.[18] The ECI cracked down on the flow of money and alcohol, despite resistance.

Occasionally, the ECI ran into resistance. In 2001, for example, the ECI had a standoff with state governments. The ECI wanted to be able to ensure public officials' compliance with ECI instructions after state-level elections had been announced. State governments viewed this as a violation of federal principles that protect state government personnel from federal sanction. The ECI did not back down and a compromise was reached. The ECI was granted the power to remove government officials for the duration of an election, but state governments alone could act against them. The earlier changes had an immediate effect on ECI's autonomy. Structural constraints on the ECI declined. The ECI became more autonomous and began to assert its authority.

The Pivotal Role of the Entrepreneurial Chief Election Commissioner

The collapse of single-party dominance and increase in party competition in the 1990s was a necessary, but not sufficient, condition for the development of a powerful ECI. The decline in single-party dominance weakened executive power, a key constraint on the ECI's autonomy. Increased party competition created state-based demand for the ECI's role. These conditions provided the ECI with a political opportunity. Then, in the 1990s, entrepreneurial CECs used and built upon the credibility the ECI had developed over the years to expand its mandate in the name of serving a diverse coalition of interests.

Indeed, the CEC played an important role in the expansion of ECI power. Mandate expansions have often been driven by entrepreneurial leadership from bureaucrats, acting in moments of political opportunity (Bakir 2009; Nay 2011). In many parts of the US federal bureaucracy, bureau and division chiefs were responsible for mandate expansion. These entrepreneurs crafted agendas, shaped the composition of the long-term, organized workforce, marketed their agencies and themselves, controlled information flowing to the legislature and, ultimately, convinced elected officials to use programs the agencies themselves had designed (Doig and Hargrove 1987; Carpenter 2001).

After 1989, with no party in a position to win a majority, the ECI faced few structural constraints on its autonomy. CECs began to assert authority over political actors during elections. The first to do so was T. N. Seshan, who introduced several changes to the election process. Seshan was able to win concessions from the Congress-led minority government to elevate the CEC's position, in the warrant of precedence, from that of a High Court judge to that of a Supreme Court justice. He also introduced election observers for state assembly elections, pioneered voter ID cards and refused to take executive instructions. Seshan skillfully navigated an expanding media environment. He regularly issued press releases and used publicity to 'force politicians to internalize… the norms' embodied in the Model Code (Gilmartin 2009).

Such was his influence that politicians, it was said half-jokingly, 'feared only God or T.N. Seshan'. His aggression and repeated executive clashes made him controversial. Sometimes he exceeded his authority and the Supreme Court stepped into overrule his decisions. Despite occasional losses, Seshan differentiated himself from predecessors by demonstrating the constitutional powers that an entrepreneurial CEC could exercise.

Seshan was the force that moved the ECI from a little-known institution to a highly regarded one in a moment of opportunity. This change was likely not inevitable and owes a considerable debt to Seshan's leadership. Opportunities do not automatically convert into outcomes. Those of his successors who we interviewed, even those who did not always approve of his methods, acknowledged as much. A less entrepreneurial CEC may not have responded similarly to the political opportunity he received. Seshan demonstrated ECI authority and set a standard by raising the ECI's profile and altering public expectations of both the CEC and the ECI. 'Before Seshan, the CEC's main job was to announce the election results', a former CEC observed. 'From the 1960s right up to the

80s, the ECI was being run Ram-bharose (left to the mercy of God), said another former CEC'. Additionally, another former CEC commented, 'The ECI can continue to learn from his legacy'. One CEC described Seshan's tenure as an era in which the CEC set new benchmarks for all CECs who followed.

The CECs who followed were not as controversial, but they were also not reluctant to assert ECI authority, even when this meant taking on the executive. More significantly, an informal norm arose in which each CEC would try to leave a mark on the ECI by improving the electoral process in some way. Introduction of electronic voting machines, vulnerability mapping, closer monitoring of elections, digitizing of voter lists, voter education programs, publishing information on a candidate's economic assets and criminal records are all initiatives that have been introduced by Seshan's successors.

But if the executive appoints CECs, why have weak executives not chosen more pliant CECs? After all, it is not in the executive's interest to appoint entrepreneurial bureaucrats to the ECI, but some have done just that. Our interviews point to three answers.

First, these are seasoned bureaucrats who have spent their entire careers around politicians. An important aspect of the professionalization process is learning to mask personal preferences. It is then difficult for politicians to assess the capacity and intent of such bureaucrats. Second, potential CECs are ECI outsiders and it is only when they join the institution that they actually discover the true stature of the position. Third, bureaucrats are beholden to their profession. Their prestige is rooted in what fellow bureaucrats think of them. More than one CEC described how much their professional reputations matter to them. One CEC noted, 'When the ECI organizes elections, it works with civil servants from all over the country. I always felt that these bureaucrats must be able to look up to the CEC and take pride in my conduct'.

Institutional Development and Evidence of Mandate Expansion

The institutional development of the ECI occurred in two phases: a pre-1991 period, in which the ECI played an important-but-circumscribed role; and a post-1991 period, in which, the ECI, under a weakened executive and led by an entrepreneurial CEC, began to expansively interpret its constitutional mandate and play an increasingly powerful role. Below

we substantiate the ECI's expanded role by examining two key indicators: Model Code Implementation and Election Duration.[19] We use these two indicators because: (1) they represent the most significant manifestations of the ECI's expansively interpreted mandate and (2) they can be tracked longitudinally.

Model Code Implementation

The Model Code of Conduct began in the South Indian state of Kerala, in 1960, as a consensus between political parties regarding their electoral conduct. It delineates the types of appeals that may be made during the run-up to an election (e.g. no ethnic or religious appeals, no criticism of candidates' private lives), outlines the procedures that must be followed for meetings and processions, describes what members of the ruling party *cannot* do while acting in official capacity, describes permissible election manifesto material and lists polling day rules (e.g. distance parties must maintain from polling booths, how parties must cooperate with authorities, how party workers must identify themselves, etc.). While infractions occur on a regular basis, parties largely adjust their conduct once officially notified, suggesting that the Model Code does represent the rules of the game.[20]

Until the late 1980s, the ECI merely watched how the Model Code was updated and gradually adopted by additional states. It wasn't until 1990, however, that the ECI enforced it. In December 1990, T. N. Seshan became CEC and quickly began pursuing ECI independence and mandate expansion. He did so, in part, by formalizing the Model Code. These efforts drew the ire of Narasimha Rao's Congress government and the executive pushed back, expanding the ECI to three members to check Seshan's power. These two additional election commissioners failed, however, to curtail both the ECI's power expansion and Model Code institutionalization.

As Singh (2012: 153) explains, 'since 1991, the Model Code has come to be seen as an integral part of elections, making the electoral contest democratic by ensuring that the party in power and those who staked claims to power would abide by certain rules, and by pruning the powers of the ruling party to reduce the advantage that it may have in the electoral arena'. One former CEC pointed out, '[we] are interested in catching violations of the Model Code. It requires substantial manpower. But in such a competitive environment rivals (parties and candidates)

monitor each other. A large number of complaints and Model Code violation reports come from political parties. We take these complaints very seriously and investigate them immediately'. ECI officials knew that a proliferation of television channels and media platforms ensure that such incidents are well-publicized, so the ECI has to respond swiftly.

Examples of Model Code enforcement abound. In January 2017, Arvind Kejriwal was censured for remarks at a rally in Goa.[21] Kejriwal, the Aam Admi Party leader, suggested that voters, when parties offer Rs. 5000 for their vote, should ask for Rs. 10,000. In 2015, in the lead-up to Bihar's state elections, BJP President Amit Shah was censured for stating that, if the BJP loses in Bihar, 'firecrackers will go off in Pakistan', a violation of the provision prohibiting aggravation of existing differences or creation of mutual hatred. In the same election Rahul Gandhi, Congress Vice President, was cautioned for suggesting that the BJP makes Hindus and Muslims hate each other; these were unverified allegations used to criticize other candidates or their workers. A more subtle Model Code violation occurred in the lead-up to the 2009 general elections. The ECI notified the Ministry of Youth Affairs and Sports, the Cabinet Secretary and the Chief Secretary of Delhi, for taking out a full-page advertisement on the 2010 Commonwealth Games in major Delhi newspapers listing the infrastructure built for the event and the thousands of job opportunities created. The ECI found this list of the government's achievements to be a clear Model Code violation.

Since it is not based on legislation passed in parliament, the Code is not judicially enforceable. The action against a violator usually takes the form of an advice, warning or censure. No punitive action can be taken. But this does not make the Code toothless. Its moral authority outweighs its legal sanctity. Its impact is instant. Political leaders are scared of inviting a notice for a violation, as it creates negative public perception about them and their party just before elections. Importantly, while individuals sometimes contest whether their behaviour truly violated Model Code regulations, both candidates and parties almost never argue that the Model Code is illegitimate or should be abandoned.
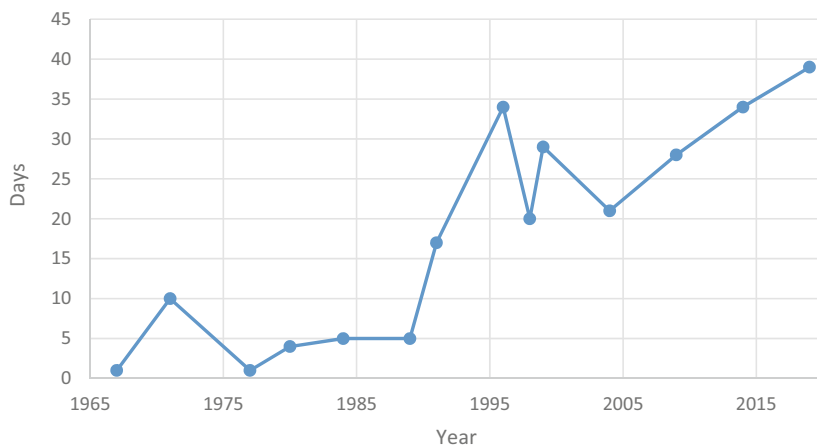
Election Duration

In addition to Model Code institutionalization, the ECI's expanded mandate manifested itself in the duration of both national (parliamentary) and state-level elections. With the exception of the 1952 and 1957

national elections, early Indian elections, as evidenced by Fig. 2.1, were brief. Most national elections, from independence to 1996, took only a few days. This has since changed dramatically. The first three parliamentary elections were held over four months, 17 days and ten days, respectively.[22] The three elections conducted between 1967 and 1977 were each completed in less than seven days. The same trend continued through the 1980s. The 1991 election was supposed to be completed in a week; however, Rajiv Gandhi's assassination in the middle of the election extended its duration.

Since 1991, however, the general trend has been towards substantially longer elections. In 1996, election duration began to increase sharply. The 1996 election was completed in three phases over the course of a month; the 1998 election in four phases over three weeks; the 1999 election in five phases over four weeks; the 2004 election in four phases over three weeks; the 2009 election in five phases over four weeks; and the 2014 and 2019 elections in nine phases over five weeks.

This pattern holds at the state level as well, where the ECI also conducts elections. While longer election duration is particularly pronounced in larger states, it also exists in smaller states. For example, in Bihar, the average pre-1991 election duration was 1.4 days, and 17 days

Fig. 2.1 Parliamentary election duration in India (*Source* Election Commission of India)

since then. In Maharashtra, the average pre-1991 election duration was 1.86 days, and 8.75 days since then. Meanwhile, in Odisha, the pre-1991 number is 3, and 6 since then. In Andhra Pradesh, pre-1991 election duration averaged 1 day, while post-1991 duration averaged 8 days. Finally, in Assam, a much smaller state, in terms of both geographic size and population, average pre-1991 election duration was 1.75, while post-1991 duration was 3.8.

Entrepreneurial CECs justified the increase in election duration by pointing to demands for cleaner elections. The ECI has to move security force personnel and other parts of the administrative apparatus over long distances. These logistical constraints help justify longer election duration because they are directly related to the process of ensuring free and fair polling.

The ECI's expanding mandate in the post-1991 period is also visible across other indicators. Since 1991, the ECI has mandated voter ID cards, curtailed campaign periods, engaged in large-scale voter mobilization, tried to regulate political parties and entry of candidates into the electoral process, and assumed both executive and quasi-judicial control during elections (Quraishi 2014).

Credibility: The EC's Core Institutional Currency

The ECI has gradually expanded its mandate and increased its activity both during and in the run-up to elections. The enforcement of the Model Code, curtailment of electoral campaigns and longer election durations all constitute mandate expansion. While some credibility was required in order to make these changes, they have also served to reinforce institutional credibility, which has, in turn, allowed the ECI to leverage public and sometimes judicial support to confront government's intrusion between 1990 and 2014. It has helped the ECI to become a powerful public institution. A closer look at the ECI's pursuit of credibility reveals how important this ratchet function was to the ECI's expansive interpretation of its mandate.

The ECI entered the era of party system fragmentation in the 1990s with some institutional credibility. Its quiescence during Indira Gandhi's and Rajiv Gandhi's tenures notwithstanding, it had retained a degree of independence, and it had successfully conducted a large number of national and state assembly elections. Since 1967, Congress had regularly

lost power to opposition parties in state assembly elections overseen by the ECI.

The 1977 and 1989 national elections were pivotal to the ECI's credibility. Opposition leaders had feared that post-Emergency elections in 1977 would be rigged in Congress' favour. Charan Singh wrote as much to Jayaprakash Narayan (both opposition stalwarts) in January 1977: 'Mrs. Gandhi is thinking of staging an election. I call it "staging" because conditions for a real election–free and fair–will be lacking' (Raghavan 2017). As it turned out, Congress was voted out of national office for the first time during these elections. Had the ECI not presided over a free and fair election in 1977, political parties would likely have had less faith in the ECI as an honest referee and would have resisted its mandate expansion.

Prior credibility allowed an ECI led by an entrepreneurial CEC to take advantage of a political opportunity and expand its mandate. The ECI then used its added powers to further equalize treatment: demonstrating political neutrality and being willing to intervene in favour of marginalized voters. This approach reinforced the ECI's credibility.

The long-term credibility of a referee institution turns on its perceived neutrality. The EC needs to be viewed as an impartial institution by two sets of actors: (1) politicians and political parties and (2) voters. The ECI has put in place a set of policies to ensure neutrality with respect to both sets.

To ensure neutrality with respect to politicians and political parties, the ECI appoints a Chief Election Officer for each state who reports directly to the ECI. It also has the power to remove and/or suspend partisan state government officials. To secure polling stations and voting machines, the ECI always uses the Central Armed Police Forces to ensure that any security action taken is not affected by local-level loyalties. It also penalizes candidates for Model Code violations. Finally, it regularly consults with political parties, especially before implementing new policies, and takes their concerns into consideration. In the words of an ECI official, 'elections are their show, we are only referees'.

To ensure neutrality with respect to voters, particularly subnationalist groups and individuals especially suspicious of the ruling dispensations in Delhi or their respective state capitals, the ECI has ramped up security in violence-prone areas and conducted vulnerability mapping. The ECI's past failure on this count proved consequential. During the 1987 state assembly elections in Jammu and Kashmir, when, under the federal

government's pressure, the ECI looked the other way while the elections were rigged in favour of state-backed parties, it triggered an insurgency. The ECI's failure contributed to the onset of India's bloodiest internal conflict, but also provided the ECI with a learning opportunity.

A more assertive ECI has been able to ensure that elections in violence-prone areas are seen as free and fair. For example, J. M. Lyngdoh, CEC in 2003, spoke to the Army and Paramilitary commanders in Jammu and Kashmir and told them that security forces should neither cast ballots nor force citizens to vote to boost turnout, as doing so would rob the election of its legitimacy (Lyngdoh 2004). He also threatened to cancel the election results if his warnings were not heeded.[23]

Similarly, as CEC, M. S. Gill engineered a compromise to enable free and fair elections in Assam, in 2001. Gill assured local groups that they could petition the ECI to cancel the votes of Bangladeshi migrants whose Indian citizenship was in doubt, thus preventing a boycott of the elections by local ethnic groups. Along the same lines, soon after the 2002 Hindu–Muslim violence in Gujarat, the ruling BJP called an election that would allow it to benefit from religious polarization.[24] The ECI thwarted this plan, challenging the state government's assertion that the state was ready to hold a free and fair election (Lyngdoh 2004), and delaying the elections by six months.

Besides deploying security forces and delaying elections after violent incidents, the ECI closely tracks criminals and potential troublemakers. Preventative arrests are made, surety bonds are obtained and targeted individuals are tracked with video surveillance. Candidates with criminal backgrounds are continuously tracked. Reports of observers, security personnel, media and videographers are reviewed to assess instances of violence (Shukla 2010; Mendiratta 2010). If they suggest disruptive activity, then a re-poll is ordered immediately. These efforts seem to have paid off, as instances of electoral violence have dropped dramatically across most states. During the 1970s and 1980s, electoral violence claimed hundreds of lives and polling booth-level irregularities were common across some states (Crossette 1989). This is no longer the case.

The 'active neutrality' described above also characterizes ECI vulnerability mapping efforts to ensure the equal opportunity of voters who are particularly susceptible to social intimidation and disenfranchisement. In North Indian states like Uttar Pradesh and Bihar, where historically marginalized voters have been intimidated and prevented from voting, acts of violence and bullying have dropped drastically. During interviews,

elderly Dalit voters in Uttar Pradesh and Bihar often reported that in the past they had been asked not to vote, or turned away from polling stations after being told by dominant caste individuals that their ballots had already been cast. One-on-one interviews revealed that 33% of 206 Dalit subjects in Uttar Pradesh and Bihar reported that either they or a member of their immediate family had experienced intimidation during elections at some point (Ahuja 2019).[25] Today, the situation is different, however. During recent interviews, voters rarely reported feeling insecure or unsafe while lining up to vote on the day of polling.

Post-1991, the ECI came to be regarded as a force for good in Indian politics and neutrality was essential to its success. CECs we interviewed generally believed that being perceived to be above partisan and ethnic politics was critical to their credibility with both parties and the public. An increase in political contestation beginning in 1967 tested the ECI's role as a referee institution. The ECI is a public facing institution, so its legitimacy in the eyes of the citizens and political actors turns on its performance. Elections are high-stakes contest, especially in first-past-post winner-take-all electoral systems like the one in India. The widespread acceptance of election results across the political spectrum of India's multiparty democracy as well as the reduction in electoral irregularities and violence together have built the ECI's legitimacy.

Return to Quiescence?

Since 2014, after a gap of twenty-six years, the executive has been resurgent in India. All governments between 1989 and 2014 were coalition governments and no single party enjoyed a parliamentary majority. The Narendra Modi-led Bharatiya Janata Party (BJP) attained parliamentary majorities in both 2014 and 2019. Its vote share increased from 31% in 2014 to 38% in 2019. The BJP is also in government in a majority of Indian states. For the 2019 elections, the ENP values, based on both vote and seat shares, have fallen to 5.4 and 3.0, respectively.

It should not be surprising, then, that the executive has instead turned to the tactic of limiting the ECI's authority from within, by appointing pliant election commissioners. The ECI deferred the 2017 Gujarat state assembly elections. This move went against the ECI's own convention and opposition parties alleged that the ECI's actions were designed to delay the implementation of the Model Code of Conduct and allow the BJP-led Gujarat government to announce new programs that might

convince voters to cast their ballots for the BJP. In a separate incident, the CEC disqualified twenty legislators of the Aam Admi Party, a BJP rival, from the Delhi assembly. As this move occurred without following due process, the CEC was criticized for his actions. The ECI was also widely criticized for its meek response to Narendra Modi and the BJP's repeated model code violations during the 2019 parliamentary election campaign. The ECI was slow to respond to these violations, and it failed to censure bad behaviour and impose penalties on the ruling party and the prime minister.

By contrast, it was much swifter in its response to similar violations by opposition parties. The same pattern was visible in the 2020 Delhi state assembly elections. Faced with unprecedented levels of hate speech, the ECI's rebuke was weak at best.[26] Together, these actions point to a consequential slide. The ECI's moves in the state assembly and the 2019 parliamentary elections have cast a shadow over the ECI's reputation for neutrality, something it has gradually built over decades.

Still, election commissioners are not as helpless in the face of a marauding executive as they were in the 1980s. Today, entrepreneurial election commissioners can leverage the ECI's enhanced reputation to retain its authority and stand up to the executive. One of the Election Commissioners, Ashok Lavasa, wrote four dissenting notes against the ECI's meek response to the Model Code violations of the BJP and its leadership during the 2019 elections. After taking office, the BJP government was swift to punish Lavasa by opening investigations against his family. Lavasa is scheduled to take over as India's next CEC in 2021. It remains to be seen if the executive will intervene to prevent this transition.

To assert its authority, the ECI can also draw on the demand for a reputable referee institution among India's national and numerous regional political parties. It risks politicization of the institution, however, if it relies solely on support from opposition parties to stand up to the executive. In addition, ultimately, if the election commissioners and the chief election commissioner in particular, are unwilling to protect the ECI's institutional autonomy from the executive who appointed them, the ECI will struggle to maintain its power and reputation. To the degree that the executive wins this battle, we expect weaker Model Code implementation and the emergence of irregularities that favour the executive.

Conclusion

In this chapter, we showed that the Indian EC's mandate expanded during a moment of political opportunity created by a fragmented party system. Faced with a weakened executive and a more competitive party system between 1989 and 2014, and led by entrepreneurial bureaucrats, the ECI successfully bargained for greater political power. The institutional values of competence and integrity enhanced the ECI's credibility. It gradually increased its credibility by offering additional protections to voters and procedural assurances of the fairness of the voting process. As it did so, it began to enforce a Model Code and expanded the scale and duration of the electoral process. Political parties that had become increasingly reliant on a strong, neutral referee institution were unable to resist the ECI's expansionist interpretation of its mandate.

The ECI emerged as a credible referee institution, not only for India, but as a model for the developing world, where contested election results and biased referee institutions have often weakened the foundations of democracy. This chapter suggests that a weak executive, often associated with political uncertainty and therefore regarded as detrimental to state institutions, can benefit credible regulatory institutions led by bureaucratic entrepreneurs and be a boon for state capacity in the long run.

The ECI is not invincible, however. Since 2014, the resurgent executive has constrained the ECI, and if the ECI's competence is in question, or its behaviour is perceived as being partial it will also begin to lose its legitimacy. In fact, as recent democratic experience has highlighted and the literature on democratic backsliding has documented, neutrality of referee institutions and the credibility of the democratic process cannot be taken for granted, even in long-standing democracies (Levitsky and Ziblat 2018). Such institutions are vulnerable to being undermined from the outside as well as from within.[27]

One clear implication of this chapter on the ECI's institutional development is that a weak executive can facilitate the strengthening of state institutions. A competitive party system that regularly transfers power from one party or coalition to another allows state institutions the space to both remain apolitical and maintain high credibility. Such a party system also creates a demand for neutral institutions. A single-party or a single-coalition dominant system is likely to have the opposite effect. In a single-party system, institutional mandates and credibility are protected

by strong leadership or executive self-restraint. In India, while a CEC enjoys substantial protections, their appointment is in the hands of the executive making the ECI vulnerable.

The corollary of this argument is that a stronger executive may well reassert itself and reclaim the authority it has ceded to the ECI over the years. We do observe evidence that points in this direction. Still, given the credibility the ECI has accumulated, even a strong executive must avoid an open challenge to the ECI's institutional authority. Demands for referee institutions are unlikely under single-party dominance; instead they appear in moments of political contestation. In federal systems, state-based actors often demand strong referees. Governance of heterogeneous, pluralistic polities demands a set of shared institutions, principles and procedures that make it possible to rule a divided society without undue violence. Such rules are particularly necessary in federal systems where power is shared between the federal and provincial governments. In such systems, citizens and state-based political organizations may want common rules and external referees, even as they remain opposed to central rule. Generally, we expect that the greater the number of conflicts at the subnational level, the higher the demand for federal referee institutions.

The findings of this chapter can be connected to perennial questions about public institutions. When are institutions able to expand their mandate and accumulate power in the name of public welfare? How are institutions able to take advantage of political opportunities to preserve and expand their power? Broadly speaking, the evidence points to a nested set of factors at work in a federal democracy: the political opportunity presented by weakened institutional constraints is a necessary prerequisite for institutional mandate expansion. In this moment of opportunity, when entrepreneurial bureaucratic actors take advantage of a demand for a competent, neutral arbiter, they are able to successfully increase the powers of their institutions.

Questions for Discussion

1. This chapter describes two types of institutional leadership. Can you identify both types and explain how they relate to the institutionalization of the ECI?

2. What roles do national election regulators such as the ECI play within the political process, and what values do they seek to safeguard?
3. What are the main challenges to the effectiveness and legitimacy of national election regulators?
4. How did the ECI manage to overcome these challenges—what were the key drivers of its current status as a public institution?
5. How might the independence and competence of regulatory bodies such as ECI be ensured irrespective of who holds political power at any given time?

Notes

1. This chapter draws substantially on previously published work: Ahuja and Ostermann (2018).
2. The 1996 National Election Study ('NES') found that the ECI enjoyed the highest level of public trust among major public institutions, including the judiciary, police and political parties (Mitra and Singh 1999). In the 2004 NES, 80% of respondents believed elections to be free and fair (De Souza et al. 2008).
3. Beaulieu (2014) examines 1975–2006 electoral protest data and finds that after 1990 post-election protests increased threefold and election boycotts ninefold.
4. Interviews conducted by Ahuja between 2004 and 2009 in Uttar Pradesh, Bihar, Maharashtra and Tamil Nadu.
5. Peri Shastri annoyed Rajiv's government by not adhering to the government's election schedule. Unable to fire Shastri, the executive punished him by opening false investigations against him and packing the ECI with two additional Election Commissioners.
6. For example, in 1971, Indira shifted vote-counting from polling stations to district headquarters. Indira, who was popular among poor voters, believed them vulnerable to reprisals from property-holding groups and acted to protect their anonymity (Blair 1972).
7. Baijayant Panda shifted from Biju Janata Dal to Bharatiya Janata Party in March 2019.
8. In postcolonial democratic societies, universal franchise from the beginning presented an institution-building challenge (Nordlinger 1968).
9. Most CECs have been IAS officers. This is not surprising—conducting elections is an administrative exercise carried out with the help of state-level bureaucrats.
10. In 1989, a Congress-led government appointed two additional Election Commissioners for the first time. This policy was reversed soon after. The

number of Election Commissioners increased again in 1993. After a legal challenge in 1995, the Supreme Court approved two additional Election Commissioners permanently.

11. These included ethnic, religious and class-based interests. Congress was a catchall party.

12. By 'freedom movement leadership' we me those members of the Congress political party who were actively involved in the struggle to free India of British rule, including Jawaharlal Nehru, Vallabhbhai Patel and Rajendra Prasad.

13. Article 356 was invoked only thrice from 1949 to 1974, while from 1975 to 1979, it was invoked 21 times, and, from 1980 to 1987, 18 times.

14. The complaint against Indira was made not to the ECI, but the courts, which found in the complainant's favour.

15. The logic of federalism implies that coalition governance at the national and state levels creates more opportunities for small parties to gain access to public resources.

16. According to Tsebelis (2002), veto players are individual or collective actors who possess the power to prevent a decision-outcome.

17. Rudolph and Rudolph (2001) suggest that in a moment of executive weakness the Indian state shifted from interventionist to regulatory mode. This may not entirely be true. For instance, the executive mustered the coalition strength to extend affirmative action programs to Other Backward Castes in 2006 and implemented a national rural employment guarantee program across India in 2008. Since all parties desired a neutral referee, it was not possible for the executive to build a similar coalition against the ECI.

18. Vulnerability mapping involves the ECI identifying groups—like the poor, Dalits and Scheduled Tribes—that are particularly susceptible to voter intimidation. At relevant polling stations, the ECI then contacts these individuals to assure them of ECI protection on the day of the election. Vulnerable voters are encouraged to report misconduct and immediate action is taken on complaints.

19. We measure election duration from first to last polling date after removing exceptional dates. We do not use election notification or MCC enforcement date because of the longitudinal nature of our analysis; the level of disruption associated with the first has changed over time and the second did not exist during many of the early years included in our analysis, thus preventing clean comparisons.

20. The exception is with respect to alcohol distribution during the campaign. The Model Code prohibits this and the distribution of similar enticements, but, despite the ECI generally confiscating thousands of litres of alcohol during an election, most parties at least attempt to continue this practice.

21. Censure is supposed to publically embarrass the candidate in the middle of an election campaign. When appropriate, the ECI can file a criminal complaint against the candidate.
22. Poor infrastructure, weather and lack of experience conducting elections contributed to the unusual length of these first elections.
23. We learned this from ECI officials we interviewed.
24. The BJP and the state government were directly implicated in supporting an anti-Muslim pogrom.
25. These semi-structured interviews were conducted in 2004 across rural and urban Uttar Pradesh and Bihar. The subjects for these interviews were selected using stratified random sampling.
26. The ECI's conduct during the 2020 Delhi state assembly election provoked criticism from one of the former CECs (Quraishi 2020).
27. For a similar argument about European bureaucracies, see Olsen (2007).

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Singapore's Corrupt Practices Investigations Bureau: Guardian of Public Integrity

Zeger van der Wal

FROM CROOKED COPS TO A VALUED INSTITUTION

We were sickened by the greed, corruption and decadence of many Asian leaders. We had a deep sense of mission to establish a clean and effective government. When we took the oath of office in June 1959, we all wore white shirts and white slacks to symbolize purity and honesty in our personal behaviour and our public life. We made sure from the day we took office in June 1959, that every dollar in revenue would be properly accounted for and would reach the beneficiaries at the grass roots as one dollar, without being siphoned off along the way. So, from the very beginning we gave special attention to the areas where discretionary powers had been exploited for personal gain and sharpened the instruments that could prevent, detect or deter such practices. (Lee 2000: 182–184)

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In 1951, a criminal gang including three police detectives stole 1800 pounds of opium with a value of $400,000 from a police depot in Ponggol (a district in the north-east region of Singapore). To investigate the robbery, the British colonial administration that governed Singapore at the time appointed a special team led by a senior officer of the Anti-Corruption Branch (ACB). The ACB had been established in 1937 to investigate corrupt activities within the Singapore Police. Investigations soon revealed that several senior police officers were involved in the racket in conjunction with the hijackers and the opium importers (Quah 2011: 209).

While police involvement in drug trafficking was hardly a revelation, this scandal revealed that the British government had made a serious mistake putting the ACB on the case: the branch was part of the police force and many corruption cases involved police officers. The British had essentially turned the investigation of rampant police corruption over to the police. The bungling of the opium case proved to be the last straw. Displeased with the outcome of the investigations resulting in the dismissal and forced retirement of two key senior officers (CPIB 2003: 0.6), the British formed another special investigation team to critically evaluate the previous investigation. When the special team completed its investigation in September 1952, the government decided to replace the rather dysfunctional ACB with the so-called 'special team'. This team would become the now legendary Corrupt Practices Investigations Bureau (CPIB).

Many people might associate governments in Asia with corruption rather than good governance. Such perceptions are corroborated by various indices, rankings and studies (Transparency International 2019; World Bank 2018; Quah 2011). Two small 'city states' notably stand out: Hong Kong Special Administrative Region (SAR) and Singapore. Both have managed to curb, or at least drastically reduce and control corruption, in just a few decades. In recent years, Singapore in particular has managed to preserve political stability with large corruption scandals being absent. As a result, it can rightly be called a 'unicorn' in the region.

Since 1960, the CPIB has been a driving force in making Singapore one of the least corrupt nations on earth. Before that time, corruption across all parts of the Singaporean public sector was endemic, especially among the police. It had been since at least the 1850s. Corruption was widely seen by civil servants as a 'low-risk, high-reward' activity (Quah

2003: 184; 2011: 215). Salaries were often poor, particularly for non-British officials, and could be supplemented by bribes and favours. The threat of detection and punishment for such activities was a little deterrent. The commonality of corrupt conduct by public officials contributed to widespread distrust in public institutions, slow economic development and low morale among public servants; issues we can still observe today in many developing countries.

Indeed, over time the agency has developed the authority, mandate and legitimacy to investigate any potential corruption case. Singapore has been consistently ranked among the 10 least corrupt countries in Transparency International's Corruption Perception Index (CPI) for 25 years and is the least corrupt country in Asia. In 2010, Singapore was ranked joint first with Denmark and New Zealand among 178 countries on the CPI with a score of 9.3.

The institutionalization of the CPIB is closely intertwined with Singapore's success as a nation. It is hard to imagine Singapore's phenomenal economic growth would have been possible without the work of the CPIB. But how is it possible that this agency has won such extensive powers to fight corruption? This chapter shows that the agency is more than an organization. It has become an *institution* and as a result has been able to safeguard public values important to the Singaporean government. The agency has trumpeted and protected values like fairness, meritocracy and the rule of law, guarding them against forces of erosion for more than half a century.

This chapter first briefly explains how the CPIB meets Selznick's (1957) criteria for an institution: (1) a distinct identity and unique competence; (2) strong reputation and public legitimacy; and (3) enduring viability through adaptation. It presents in more detail the CPIB's tasks and functions. The chapter then seeks to explain how CPIB came to enjoy its institutional status, and how this status has supported its efforts to safeguard Singapore from corruption.

At the same time, the CPIB cannot afford to become complacent given the emerging challenges it faces: virtual and transboundary corruption, money laundering and an increasingly vocal and critical citizenry and political parties challenging Lee Kuan Yew's regime-founding People's Action Party's half-century of uninterrupted rule. In this vein, the chapter concludes with broader lessons that can be distilled from CPIB's institutional tale, while asking whether the CPIB's institutional model is only

possible given Singapore's unique political context which, itself, may already be starting to change.

In summary, the chapter addresses three key questions:

1. How did the CPIB become a successful public value creating institution? What were the driving factors?
2. How has the CPIB adjusted over time to maintain that status?
3. (How) can the CPIB maintain its status into the future?

The CPIB as an Institution

Through a record of landmark cases against corrupt individuals, including ministers and senior public- and private-sector executives, and with continuous support from political leadership and an initially sceptical general public, the agency gradually developed substantial authority, mandate and legitimacy to investigate any potential corruption case.

In doing so, it successfully obtained and leveraged preventative, investigative and legal functionalities way beyond those of comparable agencies in both developing countries as well as other developed and relatively 'clean' countries, such as Australia, New Zealand, Denmark or the Netherlands. As such, the CPIB was and is a driving force in making Singapore one of the least corrupt and most successful nations on earth, in a region still largely characterized by corruption, nepotism and poor governance (Van der Wal 2019).[1]

Over time, the CPIB managed to develop into something much more than just an organization. It has become an iconic institution, enjoying not just regional but global name recognition and widespread admiration, even from Western critics of the Singapore governance model. It is an institution because—in the words of the pioneer of institutional studies, Philip Selznick—the organization is 'infused with value beyond the requirements of the task at hand' (1957: 17). Institutions create, safeguard and embody values that are important to a society; they guard these values against erosion or overt attacks.

This 'extra dimension' is, of course, largely a matter of perception: people recognize something special without perhaps being able to immediately express *why* the institution is different than the organization. Goodsell (2011) refers to a certain 'mystique' that permeates the aura of such organizations. Indeed, it may be illustrative that while many other

countries have tried to mimic central features of the CPIB and the legislation underpinning the agency's mandate, such attempts have rarely been successful, let alone durable.

This may be due to the absence of key contextual drivers, inspirational leadership and perceived competence and 'belief' in the agency's distinct mission from external and internal stakeholders. Often, the crucial features that contribute to the institutionalization have to operate in tandem, in a 'perfect storm', to create and maintain mystique and legitimacy. In his seminal work, Selznick (1957) uses three criteria to identify an institution, which are applied here to the CPIB and the way in which the bureau is perceived by key stakeholders.

1. <u>Distinct identity and unique competence</u>—an institution has a strong alignment between the rationale for its existence it puts forward and the day-to-day strategies and practices it deploys to deliver on that promise. Over time, the CPIB has managed to continually 'earn and keep' its immense legal and investigative powers and mandates. Partly, this is the case because it lived up to its promise of cleaning up Singapore, which contributed to the stability that attracted international investment and regional headquarters of multinational companies, and partly because the CPIB never misused its powers and mandates for political vendettas (Quah 2011, 2017).

2. <u>Strong reputation and public legitimacy</u>—the institution is broadly trusted and well respected, with high internal support from employees and external support from key stakeholders including those who fund the organization, in some instances to such a degree that its existence is almost taken for granted. The CPIB enjoys high public—some would say 'performative'—authority (cf. Van der Wal 2017a) because it has fairly consistently 'delivered the goods': a high conviction rate for the cases examined while not exempting public- and private-sector executives at the highest echelons, including ministers. Legitimacy is also manifested in the ability to persuade the government to almost triple its staff in the past decade (from 90 FTE in 2010 to around 250 FTE today) and double the annual budget in that same period from almost S\$15 million to S\$30 million.[2]

3. <u>Enduring viability through adaptation</u>—to qualify as an institution, an organization must demonstrably have been able to 'deliver' on its

mission over time, creating valued outputs and outcomes that satisfy its key constituencies and stakeholders even as the manner in which it does so has changed quite considerably. Arguably, given Singapore's high degree of political stability and top-down governance, the CPIB has had to endure fewer adaptation challenges than its counterparts in more volatile, polarized and fragmented democracies (cf. Quah 2017). At the same time, the CPIB has had to upgrade technological capabilities and skills in response to emerging integrity risks just as any other anti-corruption agency.

Central to Selznick's definition is that institutionalization is a process, often lengthy and sometimes rocky, in which the institution and its leaders have considerable agency. At the same time, just as an organization can take on institutional characteristics, it can also lose them. Institutions can deinstitutionalize (Oliver 1992; Boin 2001), sometimes rapidly in times of crisis and scandal. They may have to reinvent themselves by adapting to changing circumstances and modernizing their mission and focus. In short: the actions, decisions and leadership of the institution actively contribute to the process of institutionalization, over and over again.

CPIB's institutionalization merits the question of how unique this phenomenon really is in light of the overall performance of other public agencies in Singapore, some of which are widely known and admired for being successful and iconic.[3] The answer is that the institutionalization of CPIB and Singapore's extraordinary development are closely intertwined; in fact, they are mutually reinforcing developments that constitute a virtuous cycle. The CPIB could not have become an institution without the country's sustained efforts to address corruption and unethical behaviour. Singapore could not have become the economic success it is without its clean image. They are, in many ways, two sides of the same coin and are also communicated and 'branded' accordingly by the Singapore government (Ho 2010; Skilling 2012; Van der Wal 2019).

CPIB's substantial education and communication efforts have helped to turn public opinion against the use of cultural and anthropological excuses for corruption as a way of life, which was common in Singapore for many decades (Graycar and Jancsics 2017; Quah 2011). Indeed, the communication efforts of the CPIB fit seamlessly with the broader government discourse that has long propagated key public values such as fairness, integrity, service, excellence and meritocracy as being at the core

of the public service (Neo and Chen 2007). In this regard, subsequent PAP governments have implemented adjacent policies such as extremely competitive remuneration for public officials (Singapore's public sector elite is by far the highest paid in the world), competitive Ivy-league and 'Oxbridge' scholarships to attract the best and brightest into government (Quah 2011; Van der Wal 2019), and community service programs and outreach programs at schools and universities.

The CPIB's Structure, Functions and Tasks

CPIB's staff and budget have grown by around 45 times since 1952.[4] Most Anti-Corruption Agencies (or ACA's) in Western countries that perform well on integrity, such as New Zealand, Switzerland, Denmark or the Netherlands could only dream of the budget, support and powers of the CPIB. In most cases, their anti-corruption institutions are also structured very differently. 'Western ACA's', which are usually named differently to begin with, usually fulfil advisory roles, conduct research, investigate reports of unethical conduct. However, they often also end up spending considerable time and energy fulfilling 'linking pin' or 'traffic police' roles. They refer cases to the police or prosecutor's office, or 'back' to confidentiality officers or integrity coordinators within the agency in question.

In comparison, the CPIB has an encompassing as well as strong mandate. The CPIB's tasks are 'the administration of the CPIB, the investigation of corruption and malpractices, and the review of administrative weaknesses in the public sector that provide avenues for corruption and the screening of officers for appointment in the public service' (Quah 2011: 223). The agency can investigate and adjudicate Singaporeans abroad for corrupt behaviour in other countries. They have a mandate and responsibility to pursue anti-corruption activities for *the public as well as private sector*; a key difference with most other ACA's.

The CPIB reviews procedures and practices in those government agencies where corruption is likely to occur, but it also conducts proactive risk assessment of new policies and practices to formulate recommendations to remove loopholes and vulnerabilities. The agency uses this review process to 'identify potential problem areas and loopholes' to minimize the opportunities for corruption (Soh 2008: 8). As part of its preventive function, the CPIB also ensures that candidates selected for positions in the civil service and statutory boards in Singapore are

screened, and it increasingly engaged in a wide range of communicative and promotional activities to sensitize both the general public. In addition to regularly training and communicating to public servants about the risks and dangers of corruption, CPIB officers attend school classes (starting as early as in primary schools) and use videos and cartoons to explain why corruption is harmful to personal and professional relationships.

Over time, CPIB has adopted a 'total enforcement approach' by addressing big as well as small corruption cases in both public- and the private-sector organizations, involving 'both givers and receivers of bribes' and 'other crimes uncovered in the course of [the] corruption investigation' (Soh 2008: 1–2). With just 358 on its books for 2019 (CPIB 2019b), the overall number of reports received by CPIB on an annual basis is low, especially taking into account that the Bureau's mandate covers both the public and private sector of the city state. In fact, in the CPIB's most recent annual report, 88% of the cases reported concern the private sector (CPIB 2019b).

An important lever of its authority and symbol of its centrality in Singapore's administrative system is that the CPIB reports directly to the Prime Minister.[5] Importantly, the agency is constitutionally enabled to immediately shift to a reporting structure under the President in case the Prime Minister himself becomes the subject of investigation, which has not happened in Singapore to date but which occurs with some regularity in other Southeast Asian countries.

There is little on the public record about individual leaders of the CPIB. Yet, a few have been celebrated in their steering of the agency. In its 'pre-POCA stage'[6] the CPIB director was a British bureaucrat reporting to the colonial government. After the opium scandal and the embarrassment it created among the colonial rulers, self-preservation and reputation management were key objectives. Subsequently, CPIB directors have usually been senior career public servants from the domains of civil defence, police, immigration and intelligence. Most recently, on 1 October 2018 Denis Tang Siew Taeng, who oversaw border security and anti-terrorism measures at Singapore's Immigration and Checkpoints Authority, was appointed as the successor to Wong Hong Kuan, who led the Bureau from 2013 to 2018 and was most lauded for community outreach initiatives and promoting ethical conduct in the business sector (CPIB 2019c).

The fact that CPIB's leaders have rarely taken on a highly visible public profile, says something, we might speculate, about the nature of the organization and its mystique. The somewhat secretive nature of the agency's mission and the need to keep the identity of its employees undisclosed may be at play here. Also, the relative anonymity of leaders may simply reflect that information sharing and transparency about the inner workings of government are much less the norm in Singapore than in most Western countries.

CPIB's Institutionalization

In its early years, the CPIB was constrained by poor design and piecemeal resourcing. In the period between 1952—when the British colonial government established the CPIB—and 1959—when Singapore held its first independent elections—the Bureau was not particularly effective. The agency was tainted by its ongoing association with the Singapore Police Force. The CPIB fell under the purview of the Attorney-General, with Director Middleton-Smith reporting to the Colonial Secretary, the de facto governor of colonial Singapore. As Singapore's leading corruption expert Jon S. T. Quah (2011: 217–218) describes, the agency also suffered from a severe lack of funding and manpower:

> Indeed, it is difficult to understand why the British colonial government did not provide the CPIB with more personnel and powers to enable it to perform its functions more effectively. In fact, the CPIB began its existence with only a small number of staff of 5 members, which was much smaller than the ACB's 17 personnel. The CPIB's small number of staff and lack of powers was a clear manifestation of the British colonial government's lack of political will in combating corruption.

Political tides, however, were about to turn. When Singapore held its first parliamentary elections in 1959, the leaders of the People's Action Party (PAP) built their campaign around combatting corruption. The PAP exposed the sitting government's corruption. The incumbent Minister for Education, Chew Swee Kee, was caught receiving more than S$700,000 in unreported American donations. The PAP's anti-corruption stance resonated with the public. The party won 43 of the 51 seats in the house (Quah 2011: 218).

The 1960 Prevention of Corruption Act (POCA)

On 13 February 1960, the Minister for Home Affairs Ong Pang Boon stood to address the Legislative Assembly on the second reading of the Prevention of Corruption Bill. He said:

> The Prevention of Corruption Bill is in keeping with the new Government's determination to stamp out bribery and corruption in the country, especially in the public services. Therefore, this Government is determined to take all possible steps to see that all necessary legislative and administrative measures are taken to reduce the opportunities of corruption, to make its detection easier and to deter and punish severely those who are susceptible to it and who engage in it shamelessly. (in Quah 1978: 10)

The 1960 Prevention of Corruption Act (POCA) is foundational to the CPIB and its work. In many ways, the CPIB's institutional strengths only started to fall in place from then onwards. The Act contained features that eliminated previous legislative weaknesses, enhanced the CPIBs legal powers and increased its headcount from 5 FTE in 1952 to 33 FTE in 1963.[7] Corruption was defined more explicitly. Corruption now encompassed much more than cash bribes, which was at the core of its definition in earlier colonial legislation. It could include favouritism or bribery by 'gifts', including:

> [p]roperty or interest in property of any description, whether movable or immovable; any office, employment, or contract; any other service, favour, or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty. (Quah 2011: 219)

By far the most important boost to the CPIB evoked by the POCA were its severe penalties for corrupt conduct and the sweeping investigative and adjudicate powers bestowed upon the CPIB. Officers could enter any place associated with suspected transactions and search, seize and retain incriminating documents under a warrant issued by a magistrate or CPIB's Director. Prosecutors could authorize CPIB's Director and senior officers to arrest suspects. Once arrested, the CPIB was empowered to investigate a suspect's 'bank account, shared account or purchase

account'. Other sections of the POCA enable the CPIB officers to inspect a civil servant's financial status and those of his or her partner, child or agent by obtaining information on their property, income tax statements and bank accounts from the relevant government departments and banks (Quah 2011: 220). The most famous, and infamous, of CPIB's legal powers under the POCA comes from Section 24 that states:

> "The fact that an accused person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income" is evidence that (s)he obtained them "corruptly as an inducement or reward."

Section 24 implies that the CPIB is not bound to operate under the presumption of innocence, which is pivotal to Western conceptions of criminal law; in fact, it allowed the agency and the public prosecutors to treat suspects as guilty until proven innocent. Individuals found guilty of corruption faced hefty fines or imprisonment for up to five years.

The POCA was supplemented by more detailed regulations for the conduct of civil servants. Civil servants and their families were forbidden from receiving gifts or entertainment from members of the public. These regulations were revised and strengthened over the years, and are currently among the strictest in the world.[8]

Driving Forces of Sustained Institutionalization

The combination of its far-fledged powers and staunch and stable political support aided by long-term policy stability are distinctive for the CPIB when compared to other anti-corruption agencies in neighbouring countries as well as Western countries that feature in the top rungs of global rankings alongside Singapore (Quah 2011, 2017).

Why has Singapore succeeded in fighting corruption when other Asian countries have failed to do so? In addition to the mandate, design and leadership of the CPIB described above, there are a number of important contextual factors which have driven the agency's institutionalization and success. 'Little red dot' Singapore is a tiny, highly urbanized city state with a total land area of only 710.3 sq. km, lacking substantial agricultural areas and natural resources. Singapore's smallness, high degree of urbanization and centralized, top-down governance model have certainly contributed to CPIB's success. These features facilitate political control,

administrative coordination and the absence of competition and turf wars between national, provincial and local government bodies (Singapore has only one layer of government), responsiveness of public officials and the absence of problems arising from implementing reforms in rural areas or provinces (Quah 1984, 2011).

Since independence, Singapore's government has built on, and almost mythicized, the notion of meritocracy introduced by the British in 1951 to ensure the recruitment and promotion of civil servants was based on merit and to accelerate the pace of localization of the administrative apparatus (Quah 2010, 2011). This commitment to meritocracy is seen beyond the work of the CPIB. An important driver has been the Public Service Commission (PSC) which until this very day plays a key role in HR management and performance appraisal throughout the public service, and awards very competitive and highly sought-after scholarships to the best students in each cohort (Quah 2010: 74, 91; Van der Wal 2019). Tellingly, experts have labelled Singapore a 'macho meritocracy' (Quah 2010: 5; Van der Wal 2019: 56; Vogel 1989: 1053).[9]

Political stability and commitment have also been major factors. The PAP government has been re-elected 13 times after winning the 1959 general elections, with opposition parties usually occupying no more than 10–20% of the seats in Parliament. This remained the case even after the ruling party received 'only' 59% of the popular vote in the now legendary 2011 election. The continuity of the PAP government and its commitment to curbing corruption in a context of high policy stability and low political turbulence has enhanced the effectiveness of its anti-corruption strategy, as well as prevented the government from using the CPIB as an attack dog against political opponents (or vice versa).

In fact, Quah (2011, 2017) documents that the Singapore government spends significantly more money per capita in the fight against corruption than most other Asian nations. In addition, it has eliminated political interference with anti-corruption investigations to the largest extent possible. In many other Asian countries both Parliament and Senate control various aspects of the workings of anti-corruption agencies, while (deliberately) limiting its investigative powers and expertise. Singapore has legislatively enabled the CPIB to be effective domestically and abroad, in the public as well as the private sector.

In addition, the political and institutional edifice of anti-corruption policy is rooted in the rule-abiding nature of the Singapore society. Singapore takes great pride in being seen as a 'rule of law' nation, in which

law-breaking is frowned upon, with the high odds of getting caught and being severely punished acting as continuous deterrents. Lee Kuan Yew's synthesis of the factors behind Singapore's strong stance in these domains makes a similar case:

> The effectiveness of our system to check and punish corruption rest, first, on the law against corruption contained in the Prevention of Corruption Act; second, on a vigilant public ready to give information on all suspected corruption; and third, on a CPIB which is scrupulous, thorough, and fearless in its investigations. For this to be so, the CPIB has to receive the full backing of the Prime Minister, under whose portfolio it comes. But the strongest deterrent is in a public opinion which censures and condemns corrupt persons; in other words, in attitudes which make corruption so unacceptable that the stigma of corruption cannot be washed away by serving a prison sentence. (Quah 2011: 233)

To ensure the POCA's continued effectiveness and buffet CPIB's license to operate, the PAP government has introduced, whenever necessary, amendments (in 1963, 1966 and 1981) or new legislation (in 1989) to deal with unanticipated problems or to plug legal loopholes. For example, in 1966, the POCA was amended so that a person could be found guilty of corruption without actually receiving the bribe as long as he had shown the intention of doing so. The POCA was also amended in 1966 so that Singaporeans working for their government in embassies and other government agencies abroad would be prosecuted for corrupt offences committed outside Singapore and would be dealt with as if such offences had occurred within Singapore. In doing so, Singapore was an early adaptor of practices now commonplace in the United States, United Kingdom and other OECD countries (Graycar and Prenzler 2013).

In 1981, the POCA was amended a third time to increase its deterrent effect by requiring those convicted of corruption to repay all the money received in addition to facing the usual court sentence. Offenders who could not make full restitution were given heavier court sentences. Eight years later, the fine for corrupt offences was further increased by 10 times from S$10,000 to S$100,000 (US$78,5113) to enhance the POCA's deterrent effect. Sections 11 and 12 stipulate that MPs and members of public bodies found guilty of corrupt offences would be fined S$100,000 and imprisoned for a term of seven years.

The high level of political and societal support can be deduced from the way the CPIB navigated deep crises. On 14 August 1986, the suicide

of the then long-serving Minister for National Development the Cheang Wan, less than two weeks after he had been interrogated for 16 hours by CPIB officers after a corruption complaint against him by a building contractor (Quah 2011: 199) shocked the nation and put the CPIB in the spotlight. Four months later, the building contractor was fined the maximum amount of S$100,000 for offering a million-dollar bribe to another building contractor for keeping the Minister's name out of the investigation.

The Minister's suicide is indicative of the gravitas and legitimacy of CPIB's investigations and accusations, and the shame and reputation loss associated with being accused of being corrupt after 25 years of successful CPIB operations and campaigns. The whole affair, however, also led to questions from members of Parliament and a subsequent parliamentary inquiry into what had happened exactly, at the request of MP Chiam See Tong, the opposition MP for the district of Potong Pasir. Accordingly, on 26 March 1987, President Wee Kim Wee appointed a three-man Commission of Inquiry to investigate the matter. After complaints by Chiam about not being allowed to access necessary information, he requested to be excused from the proceedings (Quah 2011: 200).

The inquiry concluded five months later that 'the two acts of corruption of Teh Cheang Wan might never have been uncovered but for the CPIB's commitment to investigating all leads to acts of corruption in Singapore' (Quah 2011: 200–201). According to Quah (2011: 201) 'an important consequence of the Teh Cheang Wan scandal was the introduction of the Corruption (Confiscation of Benefits) Act 1989, which was enacted on 3 March 1989 to enable the court to issue a confiscation order against the estate of a defendant if he had derived his benefits from corruption'.

Singapore's government leaders have been unwavering in their calls for vigilance and awareness regarding corruption, and have warned ministers and agencies against complacency based on past performance and reputation. For instance, shortly after Lee Kuan Yew's son and Singapore's third Prime Minister Lee Hsien Loong assumed office in 2005, the government introduced revisions to the codes of conduct for ministers and MPs. Lee explained the rationale for the revisions to these codes of conduct as follows:

> The integrity and reputation of the PAP MPs and Government is our most precious asset, which has been built up over half a century. If we lose this,

we will lose the respect of voters and the confidence of investors, and Singapore will go down. (Quah 2011: 235)

More recently, the agency has been investing heavily in enhancing both its physical and human technological capabilities. In close collaboration with other public agencies, data analytics and algorithms are used extensively to detect (virtual) fraud and money laundering, and newly employed data scientists and programmers investigate and prevent new types of twenty-first-century corruption, to ensure the sustained relevance and performance of the institution (Poon 2020; Tan 2020).

Lessons for Agency Design and Leadership

In the introduction to this book, the editors write that institutions are to be taken as special organizations in their time and in their context. They add that when removed from that time and context, certain institutions or certain epochs in their existences or certain practices in which they engaged can be recognized as deplorable. In other words, an institution tells us something about the society it emerges from and exists in.

An intriguing question is the extent to which the CPIB's sustained success and legitimacy in the eyes of the general public would have been similarly impressive and uniform if it would have had to endure the political turbulence and polarization, and the 24/7 scrutiny of competing media outlets that have characterized most Western societies for decades now. In a sense, the CPIB has not just been revered but also shielded from assaults and potential erosion by subsequent PAP cabinets exclusively governing 'guided democracy' Singapore.

Political scientists and journalists—critics and admirers alike—have tried to classify Singapore's rather unique governance system in variety of ways, with 'benevolent dictatorship', 'authoritarian democracy', 'illiberal democracy', 'guided democracy', 'nanny-state' and 'Singapore Inc' being oft-used labels (e.g. Aoki 2015; Friedman 2011; Haque and Lee 2008; Sagar 2016; Tan 2012). At the same, the rather tight grip on the media landscape through the Media Development Authority (MDA) and Singapore Press Holdings (SPH) may have left more grey area unethical conduct by elites such as cronyism, nepotism, patronage and misuse of information off the public radar.

The argument that the many registered opposition political parties are weak and ineffective and do not provide a credible alternative, with the

exception of the Worker's Party who has become increasingly popular in recent years, or whether a degree of 'state capture' as a result of decades-long PAP rule has inadvertently created legal and institutional barriers for effective political competition, is fiercely debated among local scholars (e.g. Aoki 2015; Low 2014; Mahbubani 2015; Quah 2011; Tan 2008, 2012, 2018).

Anti-corruption enforcement in Western countries is often a much less centralized affair, as individual agencies and sectors tend to have their own integrity bureaus, coordinators and reporting structures, partly because multiple layers of government exist. These layers—municipal, regional and provincial—each have their own electoral dynamics, governance traditions and types of integrity issues and policies. At the same time, the fact that these countries do well *without* such a powerful institution implies their more fragmented and softer approach may suit their contexts better (Graycar and Monaghan 2015). Their more pluralist and liberal traditions, with separation and decentralization of powers being pivotal, may not sit well with a CPIB-like approach.

For these reasons, distilling one silver bullet or key instrument from 'the Singapore approach' is hard, if not impossible. Certain features of the Singapore 'success story' are not easily transferable to much larger countries with different political systems and histories. Still, four meaningful and intriguing factors can be distilled from CPIB's virtuous cycle of institutionalization that bear lessons and inspiration for other anti-corruption agencies and systems, and public institutions more generally, in both developing and developed country contexts.

Political Will and Continued Support

The continued political support for CPIB's approach to curbing corruption, reinforced by Singapore's political stability as a de facto one-party state has massively contributed to the success of the CPIB. Subsequent prime ministers have frequently explicated the importance of Singapore's clean image for its overall success and prosperity. Senior civil servants constantly stress the importance of integrity and the Civil Service College (CSC), which sees 40,000 civil servants attending its courses annually, organizes a variety of courses and conferences on the topic of integrity. These efforts are supplemented by a multitude of courses and talks offered by individual agencies, as part of onboarding programs and personal development.

Adequate Legislative Backing and Mandate

A second lesson regarding institutional success is the importance of up to date and clear legislative underpinning and mandates. The fact that the political leadership in Singapore did never exempt themselves (and legislation stipulating the President can take over investigations if they involve the Prime Minister meant he himself could also be investigated) have ensured that the CPIB has managed to continue to operate with sufficient operational and strategic autonomy. Concomitantly, it has maintained political support and attention by reporting directly to the PMO.

Clearly Defined and Demarcated Roles and Responsibilities

Many anti-corruption agencies, and in fact many public agencies in general, suffer from contested boundaries and goal ambiguity (Chun and Rainey 2005), degrading them to 'traffic cops' who spend most of their time and energy deciding whether a complaint or report falls under their purview or not, and if not, to which agency it should be redirected. CPIB's legal mandate and subsequent responsibilities are clearly defined, updated when needed and backed up by operational strength and capacity. Due to Singapore's top-down, one-layered governance system, the CPIB doesn't suffer from administrative traffic jams and bureaucratic competition to the extent many of its international counterparts do. In short: the agency's public value proposition aligns with the authorizing environment and its operational capacity, to paraphrase Mark Moore's (1995) famous vocabulary regarding public sector strategy.

Competitive Compensation and a Performance Culture

Although the CPIB is responsible to a large extent for Singapore's effective anti-corruption strategy, it should also be acknowledged that the CPIB's efforts in curbing corruption have been assisted by other core principles and policies of the PAP government. For decades, the government has emphasized and enforced meritocracy in hiring and promoting, with scholarships and extensive training being provided to top talent (scouted as early as at the age of 16). In addition, it rigorously applies extensive, private-sector inspired performance appraisal systems. The approach has inspired scholars to label the Singapore government a 'macho meritocracy' (Quah 2010; Van der Wal 2019).

One much debated and increasingly controversial feature of this approach is the remuneration of ministers and senior civil servants, which is pegged to top salaries in the private sector through an intricate system of annual benchmarking against the average salaries of top earners in six industries (law and banking, among others). This policy of paying competitive salaries deviates from most other developed countries in which senior government officials are paid considerably less than their private-sector counterparts. As a result, (Deputy) Permanent Secretaries and (junior) Ministers can earn as much as 2 million USD annually in fixed and variable pay, which makes them by far the world's best paid politicians and public managers, leaps ahead of their counterparts in countries with relatively high public sector pay, such as Australia, Switzerland, Hong Kong Special Administrative Region and the United Kingdom (Van der Wal 2017a, 2019: 58).

Arguably, this policy has curbed the brain drain of ministers and permanent secretaries to the private sector and reduced the temptation for senior civil servants and ministers to be corrupt (Gong and Wu 2012; Quah 2010: 103–116, 119–120). Indeed, the government has consistently used two types of arguments to justify the high salaries: a HR-based argument of wanting to recruit and maintain the 'best and brightest' in the government, and an integrity-based argument of wanting to prevent senior officials get tempted to seek additional monetary gain. In this vein, it is somewhat ironic that the salaries are increasingly contested by critics, sometimes referring to the remuneration policy as 'legalized corruption' (Van der Wal 2019).

It remains to be seen whether as a fairly traditional law enforcement agency it is up to task to address partly unknown corruption risks related to 'borderless' digital revolutions such as cryptocurrency, block chain and their implications for transboundary money laundering and bribery. Like other government agencies, more frequent reviewing and updating of procedures and tools will be required, alongside investment in new capabilities and human competencies such as big data analytics (cf. Van der Wal 2017b).

Perhaps the biggest challenge to the continued authority and legitimacy of the CPIB is the changing nature of Singaporean society, in which more assertive stakeholders and a less docile citizenry scrutinize government performance more intensely than they used to, with social media playing an important role (Low 2014; Tan 2017). Therefore, the chances of the PAP's monopolistic hold on government power continuing

indefinitely have decreased with observers jesting that the nation is almost 'becoming a normal country' (Mahbubani 2015). If the political atmosphere becomes more polarized and divisive as a result, the chances of the CPIB's function and operations being politicized also increase. In fact, more combative electoral political dynamics present in many other countries—developed and developing—may well explain why they have chosen not to establish such a powerful institution or have failed to mimic the success of the CPIB if they did try.

The most important question is whether the CPIB and the Singapore government can maintain the 'virtuous cycle' described in this chapter (cf. Finnemore and Sikkink 1998). Can the CPIB discover new effective practices, which become the norm internally? Can it keep delivering on its mission, which, in turn, will help to preserve its institutional status both internally and externally. Time will tell whether the agency will continue to display high performance and public legitimacy in an increasingly complex, so-called VUCA world (Van der Wal 2017b).

Questions for Discussion

1. What would have happened if the CPIB has remained within the police organization where it started?
2. If you were to compare the CPIB to the main anti-corruption agency in your country, what are the main differences and similarities? How would these affect agency effectiveness and institutional potential?
3. Can anti-corruption agencies develop into equally effective and lauded institutions in more liberal, Western-style democratic regimes?
4. If you had to identify one transferable lesson for public agencies in your country that address complex policy issues, what would it be?
5. Can you think of a scenario in which the CPIB would suffer an institutional crisis? What can be done to prevent such a crisis?

Notes

1. According to Quah (2011: 199), however, 'this does not mean that corruption does not exist in Singapore'. Indeed, in recent years various major incidences of bribery featured prominently in the media, ranging from local contractors soliciting contracts from government agencies to subsidiaries

of famous companies and businesses operating at Changi Airport being involved in large-scale corruption cases, also abroad.

2. A tangible example of the organization's effectiveness is the extremely high conviction rate of 98% on average over 2014–2018 for the cases it has helped bring to trial, with 2016 denoting a staggering 100% conviction rate. Other key indicators of effectiveness are the speed with which cases are moved forward (80% within a year's time). See CPIB (2019a).

3. Among such agencies are The Housing Development Board, responsible for Singapore's high quality and accessible public housing and the overall local home ownership rate of over 80%, The Economic Development Board, often credited with engineering the nation's persistent economic growth and interplay between educational and industrial strategy, and the Public Utilities Board, responsible for Singapore's water governance and secure and continuous access to clean drinking water (Everest-Philips 2018).

4. The CPIB's relocation within the Prime Minister's Office (PMO) and its legal powers that have enabled the CPIB to obtain the necessary cooperation from both public and private organizations may not require a headcount similar to Hong Kong's ICAC (around 1300 FTE) in order to be effective, according to Quah (1995: 337).

5. The Bureau was first moved to the Ministry of Home Affairs before it got its own building in 1961. Moving back and forth between the Prime Minister's Office (PMO) and the Attorney-General's (AG) Office, it has remained under the purview of the PMO since 1969.

6. As explained later in this chapter, the CPIB only started to operate fully and effectively when Parliament adopted the Prevention of Corruption Act (POCA) in 1960.

7. The headcount has expanded gradually towards 93; this number has been fairly stable since 2009.

8. As an example, civil servants are required to register with their supervisor and senior manager any personal loan (including mortgages) exceeding S$100,000, as part of continuous risk assessment of the liability of civil servants and to minimize opportunities for blackmail and financial extortion.

9. Meritocracy, however, is not perfect. Modern-day Singapore is being criticized for having bred an elite class of senior officials who are often accused of being out of touch with regular citizens (see Low 2014; Tan 2008, 2017). More broadly, the fact that the PAP has been in power since Singapore attained self-government, many senior Ministers have been part of subsequent cabinets for over 20 years, and the country has had only three Prime Ministers in 60 years, have contributed to its somewhat authoritarian image.

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The BBC: Guardian of Public Understanding

Jean Seaton

An Institution at the Crossroads

The British Broadcasting Corporation (BBC) has endured as institution over the decades, surviving many challenges. Launched in 1927 as a British public service institution that would 'inform, educate and entertain', it has become a British institution that served the world. It enriched democracy by serving audiences, irrespective of class, wealth, age and any other division, all over the nation, as equal citizens. It has served the world by reporting expertly and fairly into many closed and authoritarian political systems and by displaying cultural ingenuity and sensitivity in doing so. It has held power to account and represented the interests and voices of the less powerful. The founders saw the BBC as an institution that would create informed public opinion as the basis for functioning democracy at a time of risk. They thought the Corporation needed to accumulate authority and trust to be an independent arbiter of information. The first and founding principle was editorial independence. Yet the trust and reliability that this engendered had to be remade time and again throughout its history.

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The BBC was designed to represent the nation to the nation, the world to the nation and the nation to the world. It is the epitome of the project of sceptical empirical inquiry that the Enlightenment proposed; with the imperative of finding, holding, amusing and serving audiences. But the BBC has also been challenged and threatened.

Finding new ways of securing the legitimacy of properly based information is a global challenge. The revolution in public understanding, the collapse in the legitimacy of evidence, the emergence of mis- and disinformation are new challenges. The BBC potentially remains an important tool, one of the few we have that is dedicated to the public interest, for re-engineering rational debate. The issue now is how to relate that reliability to everyone.

This chapter describes the institutional origins of the BBC and details its institutional DNA. It explains how this has informed the BBC's institutional trajectory, helping it survive many political and societal challenges. It discusses the BBC's current position in a fast-changing world where public institutions and the idea of fact-based news have come under fire.

The Birth of the BBC

It is a fretful and uncertain time. There is concern that voters have insufficient knowledge to make rational judgements, in particular, that a new tranche of the electorate who have not previously voted will inadvertently vote irresponsibly because they will make choices on partisan or partial information. It is feared they may be easily misled. There is legitimate anxiety that hostile foreign powers are seeking to influence elections and political movements in novel ways.

There is a new technology barely understood by politicians and civil servants that they suspect may have influences they don't trust: but frankly, most are completely out of touch with how it works or what it might be. So, they are quite unable to think through the opportunities and threats it poses. There is a distrust of the press which is seen as sensationalist and mendacious because of recent experience. There is a lack of trust in politicians (because they have apparently led the nation towards a variety of disasters). There is alarm about the detrimental impact 'propaganda' can have on behaviour, un-anchoring voting from authentic interests; a nagging worry that public opinion can be 'bought' by political interests; and an anxiety about the role of big business in politics.

A political anxiety about the 'people' is mirrored by the possibility of revolutionary disruption.

The year is 1922. Creating the BBC is the solution to the problems sketched above. Of course, few understood that it was a solution at the time. The BBC was founded before anyone had the idea that broadcasting technology might matter to more than a few, techy 'experimenters'. Besides, everyone knew that fun was nothing to do with the solemn business of government. Yet within a mere four years (from 1922–1926) Asa Briggs, the first great historian of the BBC wrote that it was remarkable that:

> Broadcasting itself ceased to be a toy, an amusing novelty, an affair of 'stunts' and gimmicks: it became an institution. It affected people's ways of thinking and feeling, and their relations with each other. (Briggs 1961: 4)

To understand how the BBC became so important one has to combine some sense of the inner life of the organization with that of the changing place of the organization in society. And this has to be situated within an international context. The BBC swiftly developed an international service and role that was both a reflection of UK values and a gift to the world, and other broadcasting systems came to be measured (and in some ways still are a century later) by reference to the BBC. And perhaps its significance had a philosophical basis as well. The BBC worked, because it was dedicated to a principal of reality: 'an order of things that is independent of us, where that means, in particular, independent of our will' (Williams 2002: 115).

Spreading broadcasting all over the nation as fast as possible, for the same 'licence fee' (in effect a hypothecated tax) paid by everyone to receive broadcasting, irrespective of the actual costs of delivering the service, was the foundation of the public service. The universal licence fee freed it both from the damaging limitations of commercial advertising revenue, and direct dependence on state revenue. It wasn't a business and it wasn't a department of state. It served citizens wherever they lived, was fundamentally redistributive and was not focused on well-off or convenient markets as a commercial service would have been. It was also a moral and political project that was in the national interest.[1] The capacity to serve everyone was implicit in the technology. John Reith, the BBC's first Director-General, was almost alone in grasping this.

In 1926 the British Broadcasting Corporation was given a mission to 'inform, educate and entertain' the public. Coinciding with the final extension of the franchise to young women, it was created out of an anxiety with the impact on democracy this newly enfranchised electorate might have. And it was created out of the distrust of politicians left by the First World War, and the distrust of big business that the economic failure after the war created. There was good evidence of Russian attempts to intervene (rather clumsily then) in UK affairs, and official concern over public order.

The creation of the BBC came at a moment in time when there was more institution-building going on: public organizations tasked with rolling out other public utilities—water, roads, education—in the national and individual interest were set up all around. This wave was in some ways a forerunner of the United Kingdom's unique National Health Service, which was founded in the wake of the Second World War.

The forging of the BBC occurred while the first (and last) General Strike in 1926 took place, a deeply divisive period in British society. The notion of 'balance' in reporting had to be invented—there was no template to relate to both sides during a conflict within the nation. In an inevitably imperfect way, arguably too much on the government side, the BBC creatively found a national audience by giving both the views of the striking miners (whose pay was being cut) and at least some of their establishment supporters a voice, as well as the government: this in the face of fierce government opposition when society was painfully divided. The BBC learnt a crucial lesson that both sides listened to it because it gave them accurate information. Within three months the BBC—listened to in gatherings of people congregating around the new and as yet few 'wireless sets'—had a national audience. The lesson was clear: in order for people to listen you had to give them something they needed.

Astonishingly radical at the time, its aim was not to push voters in any direction, but rather to help them make better choices and live richer lives. In the eyes of the BBC pioneers, broadcasting was an inherently democratizing and life-enhancing public service. The very best of music and theatre, public discussion and a ringside seat at great events were to be part of every listener's life. This was not an obvious or necessary role for broadcasting. In Germany during the 1930s, the same technology was employed as a very effective agent of Nazi nation-remaking.[2] In America, a strong public service voice has never emerged as the market was seen as supreme.

Above all, the BBC was built on a progressive vision of an educatable, decent, aspiring public whose understanding (and pleasure) in many things could be made deeper and enhanced. Fun, feeling and irreverence soon became part of the programming offer. At its best the BBC came to follow John Stuart Mill, the British philosopher, in believing that however self-evidently true an argument seemed 'if it is not fully, frequently and fearlessly discussed, it will be held as dead dogma not living truth' (Mill 2010 [1859]: 214). The BBC was built on but also evolved a set of principles that would guide its governance and its operations:

- it was not a state broadcaster but the state facilitated it;
- it had an independent source of finance (the licence fee) that governments might set but which the BBC had the right to spend and invest as it thought fit;
- it was impartial, balanced and was editorially independent (a relatively complex issue over time but fiercely fought for and protected)[3];
- it served the public interest and what the public were interested in;
- it would not provide the lowest common denominator of content—it was not in this sense commercial. It would offer the public things they did not yet know they liked. It was experimental.
- It would be impartial, but would do more than just seek 'balance'.
- It would provide 'popular' programs that everyone could delight in as it belonged to everyone, everyone paid for it and in this way, it was accountable to everyone. 'Good' and 'popular' were not opposites. It was there to provide 'public service popular'.
- As long as a reporter or program-maker followed these principles the organization would defend and protect them.

These principles emerged from exploring what it meant for the BBC to serve the public and what the novel concepts of editorial independence and impartiality might mean in practice. For instance, as the BBC interrogated the state on behalf of the public, it offered politicians a fair opportunity to explain their policies; but this did not prevent the BBC from coming into conflict with governments as they came and went.

The BBC as a nascent public institution was profoundly shaped by the first Director-General, John Reith, who oversaw the 'start-up' phase. He was a driven, bullying, difficult, wily, very tall and overpowering man

who had been wounded in World War One. He had spent time in America improving the quality of the mass production of small arms. So, he understood the new opportunities of mass production and mass consumption. A Presbyterian Scot, his furious, gloomy Protestantism provided the new organization with the evangelical belief in the capacity of words, speech, (secular sermons) to transform lives and to save people and society. But he combined this with a brisk modernism: progress, engineering, women working (as they did for the early BBC). As a trained engineer he was able to put the BBC in the forefront of technological accomplishment. His ambition was boundless and his energy prodigious. He was also very effective in accomplishing the goals he had set for himself and the fledgling organization.

A Very British Institution

The BBC has been a pillar of the United Kingdom's peculiarly robust unwritten constitution. This flexible mish-mash of laws, customs, conventions and courtesies relies on the idea that politicians know where the unwritten lines of the constitution lay and never stray over them. 'The British Constitution is a state of mind' said the historian Peter Hennessy. It depends on a sense of restraint, politeness and sense all round to make it work. It depends on people obeying the fairness in the spirit of non-written conventions applied to new eventualities. It also depends on what you might call 'system honor': that it is shameful as well as imprudent to overstep the lines in the sand.

The BBC has a universalist, democratic responsibility to everyone in the United Kingdom. Alongside measurable data about them, the relationship comes from the public's moods and needs: from the fun that diverts them and the arguments they want to have. This flexible settlement is now being tested in a radically different political and media landscape from the one in which the Corporation originally emerged.

The Corporation's history has made the institution. During the Second World War it became indispensable to the British public: their reliable companion in anxiety and fear (and a warm source of distraction). In what was a war of national survival, there were inevitable compromises in independence. But as the BBC told reliable truths both at home and abroad, government came, grudgingly, to trust it, and delegated communicating to the public as a professional skill to the BBC. The BBC turned towards understanding audiences with a new urgency. Consequently, the

BBC was able to register public frustration with the war in, for example, comedy shows like ITMA (It's That Man Again), which ridiculed the bureaucratic controls of the war, or talks like those of J. B. Priestley which challenged official views and championed the public's experience of the war. Crucially, while being anti-Nazi, it was not anti-German.[4] Producers had an essential freedom to make programs that interested a war-weary audience. The BBC was made great in studios and in arguments about how to broadcast best: not in the meetings of the Board of Governors.

In occupied Europe—where people risked their lives to listen to it—it gave audiences accurate news when they could trust no other source. It did not flinch (much) from telling them how badly things were going in the United Kingdom and in battles. 'Its greatest victory', according to George Orwell, was its accurate news. 'Even in India where the population are so hostile they would not listen to British propaganda and will hardly listen to a British entertainment program, they listen to BBC news because they believe it approximates to the truth' (Orwell 1944). Telling the truth in as far as it could be ascertained embodied a moral authority in the BBC.

During the Cold War, broadcasting into closed Eastern Europe was a lifeline for populations starved of reliable information. It was trusted because it did not preach and concentrated on what audiences in closed societies needed to know and wanted. In the twenty-first century, as more societies suffer from closed, inadequate, intimidated information systems and media this is still (surprisingly) a vital task.

It was program-making that give the Corporation an unrivalled relationship to other aspects of national and community life. It has different data about the public than any other service: it has to provide programs for when people get up and when they are tired, over the year. And it has a direct relationship with people over the course of their lives: from childhood onwards, winding programs into everyday experience. The public has to be wooed and enticed. The Corporation's capacity to mobilize attention, delight, amuse and enthral, allied with the values of impartiality, objectivity and the right to interrogate power, wherever it lay, has been eyed warily but also avidly by commercial rivals and politicians alike. The BBC sees it as a duty to represent and explore the temper of the nation, to show the nation (for bad and good) to itself and include the nation's voices in the national conversation.

Structures, Crises, Adaptations

The BBC survived as an institution because the habits and structures that held it were reiterated and continuously adapted in policies and documents. It has a Royal Charter, which arrives in a very nice box with a remarkable amount of gold and red ribbons. This quaint custom has political meaning: it decisively puts the BBC in a special relationship to the constitution, above any mere government and to the Crown.

It has been subject to a regular cycle of reviews of the BBC Charter and licence fee (carefully distanced from the election cycle so that the BBC is somewhat protected from becoming a political football during an election). The most recent review of the Charter in 2016 asserted that 'The BBC must be independent in all matters concerning the fulfilment of its Mission and the promotion of the Public Purposes, particularly as regards editorial and creative decisions, the times and manner in which its output and services are supplied, and in the management of its affairs' (UK Government 2016). These reviews are an important part of refreshing the BBC. In 2016, during Brexit arguments, the BBC was told it had to represent the 'diversity of the Nation' to the Nation.

There have been many large overhauls, investigations and reports as well, usually as the product of some crisis. Most have developed along two fault lines: a clash with the government over a political matter when the government of the day felt that the BBC has not treated it fairly (Suez in 1956, the reporting of Elections in 1972, the Iraq War). The other fault line has been prompted by commercial rivals, asking why the BBC was subsidized to make popular programs that competed with them.

Sometimes the BBC made mistakes, was out of touch, failed to deliver. BBC crises burn fiercely—not least because the BBC has box office appeal, and its competitors, the Murdoch-owned media the other press and online competitors, have powerful platforms to attack the BBC. Another aspect of the relationship between the public and the BBC has been collective—it is an expression of Britishness and valuable in other lives, not just your own. This sense of ownership and collective will is another source of the Corporation's political independence and resilience.

Holding the state to account is more difficult post-Brexit. In 2020, the newly elected Johnson government refused to put up any ministers onto the flagship morning radio program *Today*—a unique exercise of raw power. This dangerous innovation fell as the Covid 19 pandemic crisis

sent politicians scampering back to the BBC to reach the public. Nevertheless for the BBC belonging to the nation is harder when the nation is at a more fractious juncture, and when the government of the day's governing style reflects or exploits those divisions.

However, the BBC has always had—and still has—a distinct role that sets it apart from other organizations: its task is to hold other institutions to account on behalf of citizens. It stands at an angle to everything else. Some of the 'values' that it calls on are also distinct: for example, the morality of news is solely driven by a duty to the story. This is a hard value to embrace. During thirty years of 'The Troubles' (the violent conflict in Northern Ireland, 1969–1998), the BBC had to be exempted from the Constitution of Northern Ireland that obliged government institutions to 'work to promote peace'. This would have limited the BBC's capacity to report fully and accurately on dissent and indeed violence.

This single-mindedness is tempered by responsibility and the never perfect, but vital processes that secure verity: a story has to be as accurate as the BBC can make it. But the *story* matters above all else, it has to be pursued without fear or favour: a fierce, professional and sometimes unnerving purpose. While much that is called 'news' is merely a business proposition, using the vehicle of sensationalism to attract audiences, BBC news values instead *ought* to reflect public interest values. News may indeed expose and indeed 'harm' some subjects—but not for profit and only in the public interest.

The BBC's institutional legitimacy rests on the way in which it exercises its duty of vigilance and service to the whole nation—not the government of the day, not just the bits of the public that are rich, or the ones advertisers are interested in, not the fashionable nor the powerful who have influence, not the groups whose views it agrees with, or those it likes, or those who speak loudly, but the whole baggy, untidy nation. Freedom of speech in this perspective is not seen as a market or a battle in which the loudest, most popular voice is seen as a justified winner. Rather, the BBC's aim has been to open the ring of potential speakers wider, to find and privilege minority voices, and to see argument not as a battle but as an organic and aesthetic process of development and reflection. The BBC has always tried to get people from the widest possible spectrum of British society (and beyond) to listen to each other. It steers close in this way to models of deliberative democracy.

Establishing where and who these communities are is an ongoing search. Puzzling out what they like and need is revealed experimentally, as

it were, by making programs, gauging their uptake and people's responses to them. Of course, the BBC can get out of touch, understand wrongly, and have its own in-built prejudices. But across the decades it has demonstrated its willingness to be curious and open-minded, and its ability to adapt and change its programming. The BBC has often been accused of bias on one side of some debate or another. Often the accusations are wrong (and come from a jealousy of the BBC's authority). But they can also be correct. It then is the Corporation's interest to adapt and reform.

CRAFT

Most institutions have 'craft' at their hearts, which is found in the daily habits and skills of institutional members. BBC 'craft' resides in the program makers: those who make drama, documentary, comedy and entertainment; those who create new things in pursuit of the institution's purpose. Some of their ideas may fail—public service can test originality and creativity and take risks in attempting to find new public tastes. *Fawlty Towers* was a failure on its first outing, and even on the repeat. Only later did it achieve iconic status. Then more recently it has been called into question. *Fleabag* became a cult hit because it riskily but deliciously identified in public (and very funnily) a shift in mores, yet its success was not predicted. The 'craft' is also found in the daily editorial decisions of news (enshrined in the BBC's Editorial and Producers Guidelines [BBC 2019]—a magnificent contribution to the demanding task of making decisions in fast-shifting situations). It is this craft and protecting it that is the task of governance, management and the institution.

BBC craft also involves understanding taste (a complex matter to bring off in the public interest). Take classical music. The BBC is the largest patron of music in the United Kingdom and the Proms is the world's largest and most adventurous music festival. The constraints of public service have been liberating: it has a duty to keep and refresh the classical repertoire, commissioning new music, keeping up standards of playing and performance, exposing audiences to world music, the British musical tradition, to new ways of playing and new performing stars. It has some sense of advancing the understanding of music and reflecting and enhancing musical life. It has to grow audiences and foster tastes. The most important audience at the Proms—a strange summer-long love

affair with music in central London and now elsewhere in the country—are the people who pay the least, who stand in the arena and who care the most.

The BBC's 'craft' involves imaginatively creating new ways of talking with people in drama and children's programming, in comedy and music. This entails the risk to deliver, for example, a drama series that creates new compassion as well as absorption; new ways of identifying social and political movement (often done better through culture, really, than politics), and new ways of representing diverse groups to themselves and others. The key to it all is the friable stuff of creativity. The BBC has been re-made in the last five years. It was noticable that during the volatile 'Black Lives Matter' protests of 2020 in the middle of the pandemic it was able to address a range of issues from health to the legitimacy of statues in public spaces with a responsive schedule. It was agile and in sympathy with public concerns and needs.

While the BBC cannot preach to the public, its programs can enlighten them. For example, David Attenborough's series *The Blue Planet* (2018) put plastic waste onto the world's agenda. Pictures of birds attempting to feed their young bits of glittering plastic appalled and mobilized young people and governments. Pictures of the mysterious intelligence and deviousness of octopuses changed attitudes towards an alien but great intelligence. Attenborough has worked for the BBC since 1954 and though decades of path-breaking nature documentaries have helped make its reputation. Attenborough's breakthrough series, *Planet Earth* (1979), a hymn to evolution in 12 episodes, was revolutionary: it was made with new specially developed technology, a new business model, a remarkable script, an utterly new way of organizing shooting and research, and was based on and indeed developed scientific knowledge. Such programs come from investment. They are very expensive. They also depend on profound knowledge both of science and of program-making and their impact comes from their authority—and the integrity and scientific and televisual eminence of Attenborough himself.

Governance

The BBC has been sustained by a system of governance that has secured its independence *from* but maintained a strong relationship *to* the state. The issue is how the BBC manages that relationship, and how it responds when agents of the state seek to exercise influence on how it governs itself

and how it operates. The shape of BBC governance has changed but there are continuities and these have so far largely been husbanded carefully.

Originally, the Board of Governors 'were' the BBC. They held the Corporation to account in the public interest. They appointed the Director-General who was the Editor in Chief. The principles on which Governors were appointed have shifted. Sometimes they were chosen for ability but also to 'represent', for example, women, working-class interests or regional views. At times, political parties and governments have believed (sometimes rightly, sometimes alarmingly) that they need a 'better' representation. Occasionally people have been appointed who appeared hostile, but then turned into adept defenders of the BBC.[5]

Governments have, so far, largely respected the BBC and have been cautious about attacking let alone wrecking it. However, quite small changes in the system of governance can have large, long-term and unpredicted effects. The quality of ministerial responsibility is a real concern. The BBC used to be in large departments like the Home Office—and so overseen by senior ministers of standing. At the time of writing it is overseen by a minor ministry whose recent ministers have tended to be more junior, of variable quality and have changed all too frequently. Thus, in recent times the BBC has not had the level of ministerial protection it used to have.

Then there is the vocal power of opposition to the BBC, which has grown. Some of this is because in times of social polarization the BBC has a harder task in balancing a wider and more disparate set of political views. And at times when the opposition is weak and politics is fractious and angry, the BBC is always in danger of appearing to *be* the opposition, rather than reporting on it. Some of the criticism against it stems from commercial more than political motives, however. The UK tabloid press, for example, sees the BBC as competition online. Very large Media organizations like News International also see the BBC as a threat and campaign and lobby against it. Also, in the changing technological landscape the competitive position of the BBC has altered beyond recognition. Netflix, Facebook and other online rivals are far larger in scope: the BBC now competes with the biggest businesses that the world has ever known.

In 2007 (in response to a crisis), the Governors were abolished and an external, more independent body, the BBC Trust, was appointed in their place. The idea was that it could review evidence and set targets for the BBC at arm's length. After a deep institutional crisis over Jimmy Savile—a paedophile who had abused his position as a prominent and

long-serving BBC presenter to engage in egregious acts of behind the scenes sexual abuse—the Trust was replaced again in 2017 by a new supervisory board located within the BBC. At the same time, more of the oversight of the BBC has gradually been ceded to external bodies: the National Audit Committee can look into BBC finances and some of the regulation has been sent to the media regulator OFCOM. The task of making BBC appointments said one recently retired senior civil servant is 'surrounded by processes that are designed to protect and distance such positions from political interference', but 'depend in the last instance on political propriety'.

Overall, the more recent response pattern to challenging issues and critical incidents has been repeatedly to overhaul the BBC's governance arrangements. Such continual tinkering with governance structures is destabilizing. One ex-official, who had spent a decade setting up the BBC Trust, observed:

> Although the BBC as an institution had had a central role in sustaining civil society. and while the intention is still explicitly reflected in the "public purposes", in practice its importance in this respect is diminished. This is partly to do with the context in which it now operates, with a multiplicity of providers undercutting its central role – as reflected in lower reach and share of audiences. It is partly to do with sustained attacks, both on "mainstream media" in general and the BBC in particular, partly with sustained attacks from commercial rivals which have caught the ear of government, but also it is to do with all sorts of monkeying around on funding, regulation and governance. As a result, the BBC's position feels less stable and its role less central. (Nicholas Kroll, 2019, personal communication)

Leaders and Members

Institutions are not made by governance structures alone. People make institutions and they can sink them. Institutional leaders, in particular, have to interpret the work of institutions in the context of the shifting challenges of the times. In times of stress, institutions depend on the sense of rectitude, the vision, the agility and cunning or even the bravery of individual leaders.

BBC Director-Generals have been remarkable in a variety of ways. Hugh Carleton Greene (1960–1969) was the last journalist to leave Berlin in 1939, ran propaganda into Germany during World War II, created the shape of German broadcasting after it, ran a successful hearts and

minds campaign in Malaya and brought Berlin Cabaret-style satire to the BBC in the 1960s. He helped lead a shift in public taste and made the BBC central to a new generation. Greene was a remarkable defender of freedom of speech and because of his pre-war experience in Germany very sensitive to racial politics. Charles Curran (1969–1977), the first Roman Catholic DG had had a wide experience in the World Service and was an innovator, but as the BBC came under political pressure the BBC needed a more public face. John Birt (1992–2000) infuriated BBC staff, but called the future of technology better than any other broadcasting leader, not least because (like Reith) he was originally an engineer. Mark Thompson (2004–2012) was an outstanding news organizer. Tony Hall (2013–2019), a gifted, decent man, steadied the BBC after the Jimmy Savile crisis. Hall nurtured a new program-making excellence within the BBC. Hall lead the BBC through the Covid 19 crisis with inspiring warmth: the Corporation responded by inventing new services (in education for home schooling, in health and local information) and supporting the decimated arts especially music and getting beside the UK public in innovative ways. Yet the job has become so political that director-generals rarely go at a time of their choosing.

Most people working in the BBC for most of its history have felt something like a dedication to its values (not all of the time, of course). The BBC also breeds gossip more than other organizations because it has a sceptical purpose. Dedicated staff members often moan about the imperfect machine in which they are expected to do their work. Indeed, hostility to the 'managers' is an important feature of the organization. A recurrent allegation holds that the institution is failing to live up to ideals that most BBC people take to heart. Such allegations can be corrosive if it goes too far—but they can also be very powerful inculcators of values.

People who have worked in the BBC recognize that it seems to have a life of its own. And they are proud of it. Indeed, in interviewing many past leaders and program makers of the BBC I was struck by the way in which they readied themselves to be held to account. 'The BBC' said one senior manager, in the middle of a BBC conflagration and watching a career being trashed by the media outside, 'is like a yoghurt monster. It eats you up to survive'. That is to say an admirable, successful career within the BBC may not protect you during a crisis.

Indeed, one of the ways in which the BBC works is that individuals take responsibility for errors, which may be real, or may merely be perceived, but which have impact. Sometimes the mechanism is faulty—reporters

who exposed an injustice that caused a problem ought not to pay for the row their reporting provoked.[6] But most BBC crises happen in public—not least because the BBC newsroom (magnificently but appallingly for the people at the centre of a crisis) turns ruthlessly on the BBC itself. It is a point of honour that the BBC will be reported on as forensically as any other subject of the news. This is a unique feature of the Corporation: it is very difficult to think of any other institution which savages itself so comprehensively in public. It is one of the formal and informal ways the institution regulates itself.

Institutions develop a hive mind—a collective consciousness, analogous to the behaviour of social insects, in which a group of people become aware of their commonality and think and act as a community. This is a resource, which helps members of that community to understand shared purpose, values and limits. The BBC World Service has preserved editorial integrity because it is attached to and protected by what one of its directors called 'the mothership of values' in the BBC (Sir John Tusa 2018, personal communication; also see Tusa 2018). It informs, for example, the way a news film is cut (frame by frame); it helps to determine how far a comedy show, at a particular time of day, for a particular demographic of an audience, can go with jokes, or how to assess the significance of a political event, or whether or what a classical and national repertoire of music needs to contain (when the canon is under attack).

The BBC's hive mind depends on autonomous, conscious and moral individuals making such choices. The BBC has inculcated its workforce with values by a rigorous selection process, by treating people reasonably well, and by the everyday discipline of practical decision-making in newsrooms and commissioning meetings, in cutting rooms and in drama commissioning and delivery. Working for the BBC has clearly been something like a vocation: many staff felt (and feel) they were working for a principle. One intriguing feature of this tremendously competitive and professional cadre is that even as individual careers are sometimes wrecked during political or cultural rows, they recognize the necessity of the institution to survive.

Like the UK Civil Service, the BBC has in recent decades moved towards a more managerial model. This has changed the nature of its leadership strata: more managers, not first and foremost producers in the traditional creative sense. If this is developed further, it would have two consequences. Firstly, the BBC would have more leaders who have not come through program-making decisions on their way to managerial

roles. And secondly, the route to the top would include more external candidates. Both of these will affect the composition of the hive mind of shared values.

Precedent as Compass

History matters to institutions. What looks like a complete pattern of relationships and rights has in reality been assembled over time and in response to different and challenging circumstances. In the case of the BBC, apparently long-lasting principles have always been identified in specific circumstances. Do we put a man who has admitted bombing a British Minister on the screen so that viewers can make up their own minds about him as he is interrogated by the interviewer, or is this endorsing violence? Does the BBC use the word terrorist? Is it a meaningful word?

Within the BBC, its history is used as precedent. It turns to the past for a starting point in many formal negotiations but also during attacks and problems. The BBC also has the rich store of material to celebrate (the first broadcast, De Gaulle's broadcasts during World War Two, the first broadcast in Europe from a Mosque in 1937) and reuse in programming. So, the formal processes of recording history have been carefully nurtured. But history is also part of a collective memory. Previous examples are used in training programs but, more importantly, can be used to chew over the past and learn where things went wrong. The history is weighty. It adds heft.[7]

An important part of the BBC's history is the succession of men and women who have been in charge of it (see Seaton 2016). The BBC has a relatively visible Director-General and a prominent, eminent and well-connected Chair. This makes it unlike, for example, the National Health Service. The recurrent defenestration of DGs and on occasions both DGs and Chairs has been a mechanism fraught with potential political threat and very traumatic to live through. Extraordinarily painful, indeed traumatic, for the individuals at the heart of the events, so far it has been a swift way of producing change and visible responsibility within the BBC, perhaps an instance of the 'ritualized scapegoat' theory of executive succession (Bynander and 't Hart 2016). It is first and foremost an expression of the intensely political nature of running the BBC—a way of solving nasty problems and the refreshing and reviving of the organization. One that, of course, could be abused.

Today's Challenge: A Revolution in the Architecture of Understanding

The BBC is now the fourth largest news organization in the world. What does being such a big provider and finder of news mean? You may get 'news' from Facebook, online, twitter and it may *feel* free and abundant. People certainly can (and it is a democratizing opportunity) tell eyewitness stories from where they are, from what is happening around them and in real time using their phones.

Tested journalism, editorially holding power to account and reporting from other places (whether that is the town along the coast or on the other side of the world) is hard to do, expensive, important and threatened globally. It has been a challenge to all of the traditional news organizations—particularly those dependent on advertising revenue. News and news outlets first had their content stolen by the social media companies. Then they had (if they were dependent on advertising) their revenues stolen by them, as viral advertising drawn by their content, went to the platforms who stole the content. Finally, they had the attention of their audiences stolen, through digital harvesting of preferences. This has led to a new political settlement whose consequences we can begin to see but which we have few tools to combat. Political leaders and groups can now communicate directly with voters and consumers, bypassing the traditional media gatekeepers and their interrogations.

Journalists and reporting are threatened by regimes all over the world. Violence against reporters has increased. Oppressive regimes have been remarkably successful at closing down reporting.[8] Even in large, apparently lively democracies like India the restrictions on reporting have been startling. Business concerns that have direct interests in government now own most of the media. The space for independent and critical voices has shrunk dramatically. The use of intimidation, online attack, direct physical violence, the use of regulation to strangle opposition voices and so on—is now common.[9]

The BBC, with its reporters, bureaus, experienced editorial judgement, values and sheer heft of journalism, is in this sense a global resource. But it faces extraordinary competition. The Chinese state has invested in news organizations across the world pursuing its own foreign and domestic policy agenda. American social media companies have unrivalled budgets and have persuaded policy makers that they are merely 'publishers' with no duty towards content. But without a way of identifying and pursuing

stories we become more ignorant and more vulnerable to false views of the world. The 'heritage' media are immensley influential in providing the material for online discussion—so we need more quality reporting.

Algorithms are programmed to give you more of what you want. They allow you to avoid alternative points of view and encourage silos of information and feeling. Viral advertising has turned out to be a dreadful model for running socially responsible discussion (Moore 2018; Moore and Tambini 2018).[10] The architecture of the social media means that views and interests that you become interested in appear to come endorsed by your peers and social group. Misinformation spread unwittingly between social media users has the direct impact of personal contact. Distrust of other points of view can be reinforced by sometimes fabricated but shared personal contact.

Modernity has been characterized by the growing significance of externally legitimated and authoritative information. This is being overturned by the new communication engineering of the internet and social media. We are now living through a great, fast, potentially dangerous revolution in public understanding. Although it offers many advantages, it is rapidly undermining political and business models, as well as the authority of well-sourced and reliable information.

The accidental and sincere sharing of information that is wrong has blown away journalistic conventions. This misinformation is persuasive because it comes from personal contacts. Yet it may be wrong because it is not tested (indeed it has the status of information but is really the same as pre-modern rumour). It can be spread by malicious propagandists, or campaigns that are partisan, passionate, but ill-founded. It can also be prompted by deliberate attempts to interfere in systems of understanding—disinformation.[11] Some of these can be foreign, whose disruptive tactics lead people to question the very systems that they depend on for life. We are in the middle of something like an information war. Few politicians seem to have the capacity to understand the re-engineering of understanding that is underway.

The BBC lies on the grand fault line of having the intention, resources, practices and independence to produce the imperfect yet strenuously achieved and vitally important information that is proper news. Much robust social science research over the last seventy years has shown that individuals are resistant to propaganda because their social position, class, work place, family, age and gender determine their views more effectively

than the media. However, the new social media revolution has turned that research on its head.

The BBC has to work with the turbulence these new communication systems are producing. The whole project of a shared reality based on shared facts is threatened. The BBC has to adapt and change to these new realities and risks. The impact on *everything* by the shift to the social media and the driving of all attention and belief into narrow silos, fed, produced and groomed by the model of viral advertising (you only encounter more of what you like), is the biggest challenge to the BBC since its inception.

Yet, over the last thirty years the BBC has, to some extent been limited from innovating in this new world in the public interest. The BBC proposed a public service search engine, where the algorithms would drive you to wider evidence; it proposed something like Netflix, it wanted to make a public interest information space. But it was prevented from pursuing these innovations (although it did make the *iPlayer* and the market for it). UK national media policy, run by a good regulator, prescribed the preservation of commercial fairness (although with a narrow but important dedication to preserving public service broadcasting).[12] This policy prevented the BBC from creating public service access to the internet.

The BBC, like many other democratic institutions, has to arrive at innovative solutions to the problems posed by communicating in the twenty-first century. It has to find its way creatively to where people are, even if its regulatory framework and institutional structure have not been robust enough for the new realities. Political impartiality supported by balance and rigour was a consequence of its mission. That this is an ongoing, imperfect process is part of the strength of the BBC.

But the BBC faces an unprecedented 'stress test' in the new realities of social media, and an atomized audience. In a new, more nationalist phase of policy-making which puts the national interest above commerce, there may be an opportunity to create a new remit for the BBC based on the same enduring values. Indeed, as we are clearly in something like an information war, the BBC may be a tool with the journalistic weight to make a difference and the international reach to help create new public information spaces. Policymakers will have to unleash this creative energy (Mair 2020).

Conclusion: The Interconnectedness of Decency

The propriety of institutions is contingent. Any one institution, probably unconsciously as well as formally, depends on the practice and strength of many others. They know each other indirectly and abut directly to each other, yet see themselves as distinct: the law and the civil service, the Monarchy or presidential systems, medicine, the universities and museums, the army and urban planning, parliament and local government. They subtly refer to each other, shape and condition each other, depend on and support each other. Their capacity to deliver their purposes and to identify improper pressure (and resist it) accumulates over time. It is hard to know what to do for the best in a crisis. All institutions face failures—they may let the public down; they may face unfair attacks. Even harder to identify is the slow insidious undermining of rules and propriety, but vigilance over little things matters.

The BBC is one of the institutions of the open society that potentially can be used on the side of reason and reliability. It has always dealt with emotional matters: drama and comedy, news and scandal, but the BBC also easily relates to the temper of the times. It is therefore especially fit to deal with the new age of fury and self-righteousness. Very few institutions have as part of their remit a direct responsibility to think about and help shape feelings creatively, but that is core BBC work.

The Corporation is a very peculiar beast. It has strong, complex ties to political institutions. It is also a public service that provides a binding capacity within the nation, an image of the nation to itself and an image of the nation abroad. And it survives—not merely as it were economically— but socially, constitutionally, politically, by amusing people and holding their attention for things that matter. It is peculiarly fragile. BBC history is often cyclical, the same problems appear again and again: but it is cyclical with terminal possibilities.

The BBC will survive if it creates magic: if it soldiers itself as it has in the past into people's lives through moments and memory. While it has unique and appropriate powers and potential to call out abuse of power, it cannot stand alone in this endeavour. We look to well-functioning institutions to behave better than individuals do. Few of us can claim to be good, moral, people. We know how adaptable, safety-seeking and self-serving we are and how fallible our judgement. Not being heroes, we need institutions to call out the best in us and do better than we can. Professionally run institution help those who work within them as they

can rely on the values, processes and purposes of institutions both for guidance and as a protection. Yet people that work in institutions must not be too obedient to the institution. Compliance and deference can lead to corrupt practices: as they have power institutions can abuse it. In some ways the BBC, full of stroppy-minded, professional hard-headed journalists ought to have some protection from such abuses.

Institutions like the BBC must not hoard power for themselves or only for their purposes. Nevertheless, they are more than the sum of their purposes and rules. Civilization is very complicated to sustain, and they make civilized life possible. Institutions are hard to build and take care of and pay attention. Yet they and the values that they hold in trust for citizens can be destroyed by carelessness or vandalism. The BBC has many features and values that make it poised for a new and greater role in contemporary life. Yet the propriety and power of institutions depends on their interconnected decency. The seventeenth-century British poet John Donne (1959 [1624]) wrote:

> *'No man is an island entire of itself: everyman is a piece of the continent, part of the main……*
> *the death of any man diminishes me because I am involved in mankind*
> *And therefore, never send to know for whom the bell tolls; it tolls for thee.'*

Perhaps no institution is an island.

Questions for Discussion

1. Is having a national news institution like the BBC a good thing for a democratic society?
2. To what extent are all public institutions in the end dependent on political systems?
3. To what extent does leadership matter in explaining the institutional trajectory of the BBC?
4. In the present moment of technological, political and social turbulence, how can public institutions steer a responsible course? How can they help each other do the right thing?
5. 'Perhaps no institution is an island', so the chapter ends. What do you think is the author trying to tell the reader?

Notes

1. There is a lively scholarly debate about which form was 'best': American historians prefer the market and European scholars prefer public service, see Hendy (2008), the work of Scannel (e.g. 1991), and the subtle work of Hilmes (1997). While both systems had advantages and innovated differently, and while 'public service' values reside in the American Press rather than broadcasting, America has failed to produce robust, sustainable, impartial public service broadcasting. A hundred years later the foundation of the BBC the commercialization of **all** communication clearly undermines democracy.

2. There is an extensive literature on the use of broadcasting by the Nazi state, most recently see Stargardt (2015) and Connelly et al. (2019).

3. The BBC remains the only organization, anywhere, of any kind that effectively sacked its own CEO on air (George Entwistle over the Savile affair 20).

4. Unlike the British public which did not like Germans. Yet such a distinction was essential for the post-war reconstruction of Germany. See Curran and Seaton (2018).

5. Chairs of the Governing body have often been appointed to 'bring the BBC into line'. It looks and may be hostile. While Charles Hill (who had been Chair of the competitive Independent Television) was appointed Chair of the BBC by the Labour Government in this way, and was damaging, nevertheless, for example, Marmaduke Hussey and Christopher Bland were both initially controversial, seen as 'politically' appointed to tame the Corporation but in practice were excellent Chairs. Both oversaw a reorganization and growth of the BBC: they did not tame the BBC but helped creatively to change it's direction. Too many recent Chairs have been business people—out of depth in public service.

6. Thus, Merion Jones who exposed Jimmy Savile's abuse in a Panorama lost his job inexplicably. This caused legitimate resentment. It was also the case that 4 senior managers also lost their jobs. But they were responsible for the mishandling of Savile not indicting him.

7. The BBC first commissioned an official history when it was under attack during the Suez crisis. The history (written by Lord Briggs) was at first an outward facing defence. Now it is a recourse.

8. The author travels widely in South Asia talking to journalists and editors for a long-term UK project, and this is based on interviews with journalists from India, Pakistan, Bangladesh and Sri Lanka.

9. India slipped down the World Freedom of Press listings last year to an ignominious 140th place, down 2 from last year down 6 from 5 years ago.

10. Also see Moore's excellent reports for The Centre for the Study of Media Communication and Power at https://www.kcl.ac.uk/policy-institute/cmcp.
11. See Watts (2018). But there have been excellent UK Government analysis and responses, see DCMS (2019).
12. The United Kingdom's broadcasting regulator OFCOM has been excellent and has been a scrupulous protector of public service content more widely but having been tasked with preserving commercial fairness it has made decisions on that basis. The concern is always about 'regulatory drift' that the regulator is influenced by the industrial interests of the businesses it regulates.

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Sweden's Riksbank: Guardian of Monetary Integrity

Johannes Lindvall

The Oldest Central Bank in the World

The Riksbank, Sweden's central bank, was established in 1668 and is the oldest central bank in the world. It has played a central role in the Swedish economy and in Swedish economic policymaking for centuries. In an era of increasing scepticism of central banks, the Riksbank enjoys a high degree of public confidence. In 2016, more than three hundred years after it began to issue paper money, the Riksbank announced that it was considering creating a new, electronic currency: the e-krona. It was the first central bank to take active steps towards issuing central-bank-backed currency for a post-coin, post-paper-money age.

Today's Riksbank is politically independent and widely respected within and outside Sweden. An institution, as defined in this volume, is 'an organizational form that reliably performs a societal task or function in a highly valued way'.[1] Following Goodsell (2011), and building on Selznick (1957), the book's introductory chapter hypothesizes that institutions have a few important qualities in common: they are appreciated

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for their ability to address important social problems; they celebrate their history and employ personnel who are motivated to defend their values; and they encourage learning, adaptation and innovation. The Riksbank is a good example of a modern institution that meets these criteria, which helps to explain its status in contemporary Swedish society and abroad.

It would be wrong to infer from the Riksbank's status as an independent and widely respected institution that there is no political conflict over Swedish monetary policy or the regulation of Sweden's financial system. On the contrary, the modern Riksbank is independent and respected precisely *because* of conflict. For Sweden's political parties, interest organizations, and other political and economic decision-makers, the delegation of policymaking authority to the central bank serves to contain and manage conflicts over distribution and redistribution—conflicts that might otherwise become harmful to a small, open economy. Changing the nature of its often complicated relationship with the Swedish government and parliament, the bank began to play this particular role in the aftermath of Sweden's deep financial and economic crisis in the 1990s.

This chapter includes a brief account of the Riksbank's 350-year history, but it concentrates on the last few decades, when Sweden's current macroeconomic regime was established and consolidated.[2] The Riksbank's path-breaking strategy after the exceptionally severe crisis in 1991–1993 features prominently in this account. This chapter also covers the Riksbank's ambitious response to the global economic downturn of 2008–2009 as well as its current attempts to introduce new approaches to monetary policy and the regulation of the payments system, notably the controversial idea of introducing a new electronic currency.

Central Banks as Institutions

The Riksbank's main offices are located in a rock-clad, cube-shaped building at Brunkebergs torg in Sweden's capital, Stockholm. Approximately 360 people work for the bank (Sveriges Riksbank 2019a: 15). Its main units are the Financial Stability Department, which analyses the performance of the financial system; the Markets Department, which manages the Riksbank's assets and trades them in accordance with the monetary policy decisions of the bank's governors; the Monetary Policy Department, which carries out the research that informs the governing board's monetary policy decisions; and the Cash and Payment Systems

Department, which is responsible for the provision of cash and the functionality of the payments system. The bank's various departments thus contribute to achieving the bank's two goals: price stability and a safe and efficient system for making payments in the economy.[3]

The bank is headed by an Executive Board, which is made up of six governors appointed by the General Council, which, in turn, is appointed by parliament. Many of the bank's employees are economists, but it also employs lawyers, IT experts and communications specialists, among others.

Institutions, according to Selznick (1957), are defined by a strong reputation and public legitimacy, by a distinct identity and unique competence, and by a capacity for adaption that enables them to survive over time. As discussed in the introductory chapter, Goodsell (2011) operationalized these concepts for public agencies, emphasizing three indicators of the institutionalization process: (a) a 'reputation based on achievement', (b) ongoing 'agency renewal and learning' and (c) having an 'agency history' that is 'known and celebrated'.

As I discuss in more detail below, the Riksbank's status in contemporary Swedish society is a result of how it responded to Sweden's deep economic crisis in the 1990s (which corresponds with the first point of Goodsell's list). The modern Riksbank has proven to be an innovative—sometimes even radical—organization when it comes to the means of achieving its main objectives of maintaining stable prices and securing a secure system of payments (the second point in Goodsell's list).

The Riksbank also celebrates its history and endeavours to make itself known internationally, domestically and within the bank itself (the third point in Goodsell's list). In 2018, the Riksbank celebrated its 350-year anniversary. To promote the anniversary abroad, the bank's research department contributed to a book about the history of the Riksbank in a comparative perspective, which was published by Cambridge University Press (Edvinsson et al. 2018). The bank also organized numerous public events in Stockholm and around Sweden to promote its history with domestic audiences (Sveriges Riksbank 2019a: 18–19). Within the Riksbank itself, the strategic plan that was adopted in 2014 reminded the organization of the bank's storied history; it was called *En 350-åring i täten* (A 350-Year-Old in the Lead) (Sveriges Riksbank 2019a: 16).

Like most central banks around the world, the Riksbank seeks to maintain its operational independence from cabinet ministers and from lawmakers in parliament. Autonomy is something that all institutions

aspire to, but it has a special meaning for central banks. In current macroeconomic thinking, shared by most policymakers, operational independence for central banks is seen as a necessary condition for effective monetary policymaking (Cukierman 1992; Marcussen 2005; for a critical perspective, see Adolph 2013).

Selznick (1957) observed that institutions can only maintain a degree of autonomy in a democratic society if they remain valued by political leaders, stakeholders and the general public. He made this observation in the middle of the twentieth century, at a time when most central banks were manifestly not operationally independent and long before central-bank independence became a widely accepted principle of good government. It is interesting to note, therefore, that modern central banks face the three challenges that Selznick mentions in a direct way. Their governors are appointed by, and report to, elected politicians in governments and parliaments; they interact directly with stakeholders such as commercial banks and other financial institutions; and they only remain effective if citizens trust them to maintain the value of money and to provide for an effective and secure system of payments.

Central banking is thus not merely a technical, engineering-like activity; it is also a communicative and social one (Hall and Franzese 1998). As Woodford (2003: 15) notes in his classic of contemporary macroeconomics, modern central banking is essentially a matter of the 'management of expectations'. Woodford (2003: 15) observes that it is 'important for the public to understand the central bank's actions, to the greatest extent possible, not only for reasons of democratic legitimacy – though this is an excellent reason itself, given that central bankers are granted substantial autonomy in the execution of their task – but also in order for monetary policy to be most effective'. It would not be an exaggeration to say that central banks can only achieve their main policy objectives if they are 'institutions' in Selznick's sense—in that they enjoy the confidence of governments, corporations, social organizations and the general public.

The most important consequence of the high level of confidence that political and economic decision-makers in Sweden have had in the Riksbank is that since the late 1990s, wage bargaining has been premised on the Riksbank achieving its inflation target. How wage-bargaining institutions work is highly consequential in a small economy with powerful labour market organizations, such as Sweden. A few years after the introduction of the bank's inflation target in 1993, Swedish trade unions and

employer organizations began to assume that the target would be met, give or take, and they adjusted their wage negotiations accordingly. This high level of confidence in the Riksbank among powerful interest organizations was by no means a given. In the past, trade union leaders had been highly critical of the Riksbank's actions, accusing it of unduly prioritizing low inflation over high employment and low unemployment. By the late 1990s, however, the bank's inflation target had become a generally accepted anchor of inflation expectations, including within the labour movement (Bergström 1999: 79).

It is possible to track trends in the general public's confidence in Sweden's central bank over the last fifteen years. Starting in 2005, the nationally representative SOM surveys have asked about the public's views concerning the Riksbank (Tryggvason et al. 2014). As Fig. 5.1 shows, the Swedish public has considerable confidence in the central bank, at levels only slightly lower than its confidence in the police and the health-care system, which are among the social institutions in which Swedes have the most confidence.
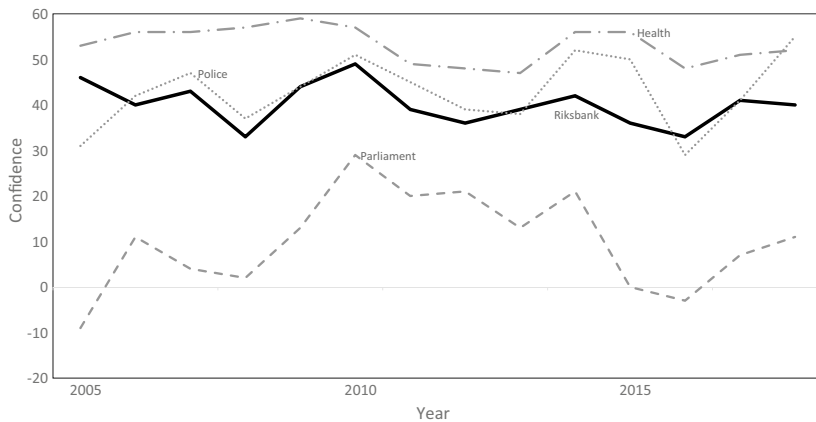
Fig. 5.1 Public Confidence in the Riksbank (*Note* The figure describes the percentage of survey respondents who say they have confidence in the Riksbank minus the percentage of survey respondents who say they don't. Data for 2013 are missing. The specific question is 'How much confidence do you have in how the following institutions and groups do their jobs?' *Source* The national SOM surveys, 2005–2018)

The public's confidence in the Riksbank has been consistently higher than its confidence in parliament. Note that the level of public confidence in the Riksbank varies slightly over time. As one might have expected, for example, there was a dip in confidence in 2008, during the global and economic crisis commonly known as the Great Recession, but it soon recovered (Karlberg and Meyersson 2012).

There are a few noteworthy differences among different groups in the population. Table 5.1 describes the differences among the supporters of the eight political parties represented in the Swedish parliament (the data are from the autumn of 2018). As the table shows, ideologically centrist voters who support the two liberal parties—the Center Party and the Liberal Party—have the highest level of confidence in the Riksbank. Left-wing voters and radical-right voters supporting the Left Party and the Sweden Democrats, respectively, have the least confidence. But even among supporters of the Left Party and the Sweden Democrats, those who have confidence in the Riksbank outnumber those who do not.

Comments: The table describes the level of confidence in the Riksbank among the supporters of the eight parties that are represented in the Swedish parliament. The numbers are the percentage of each party's supporters who said that they were either 'highly confident' or 'fairly confident' in the Riksbank, minus the percentage who said that they had either 'fairly little confidence' or 'very little confidence'; in other words, positive numbers mean that those who were confident in the Riksbank outnumbered those who were not, and vice versa. The Center Party is an agrarian, liberal party. The Sweden Democrats are a populist radical-right party.

Table 5.1 Confidence in the Riksbank among Swedish voters

Supporters of...	Confidence (−100 to 100)
Center Party	69.7
Liberal Party	57.0
Green Party	57.6
Conservatives	51.1
Social Democrats	45.3
Christian Democrats	39.6
Left Party	14.9
Sweden Democrats	8.6

Source The 2018 SOM survey

Table 5.2 Levels of income, education and confidence in the Riksbank

Group	Confidence (−100 to 100)
Low household income	29.7
Medium household income	37.0
High household income	59.3
Low education	17.6
Intermediate education	42.6
High education	52.5

Note The table describes the level of confidence in the Riksbank among groups defined by income and education. The numbers are the percentage of respondents in each group who said that they were either 'highly confident' or 'fairly confident' in the Riksbank, minus the percentage who said that they had either 'fairly little confidence' or 'very little confidence'; in other words, positive numbers mean that those who were confident in the Riksbank outnumbered those who were not, and vice versa
Source: The 2018 SOM survey

These patterns are explained in part by the evidence in Table 5.2, which breaks down confidence in the Riksbank by income (low, medium, high) and education (low, intermediate, high), using the standard categorization of income and education in the survey. As the table shows, high-income earners and—especially—the well-educated have more confidence in the Riksbank than individuals with low incomes and low education. Although the majority of people have confidence in the Riksbank across all segments of society, it is worth keeping in mind that even widely trusted and respected institutions such as Sweden's central bank enjoy higher levels of support in some groups than others.

THE PARLIAMENT'S BANK

The Riksbank has a long history (see Wetterberg 2009; Fregert 2018). The precursor of the Riksbank, a private bank called Stockholms Banco, was granted a royal charter in 1656. Stockholms Banco soon collapsed, but it was replaced, in 1668, by a new institution called *Riksens ständers bank* ('The Bank of the Estates of the Realm'), which was under the authority of three of the four estates that comprised Sweden's early-modern parliament: the nobility, the clergy and the middle-class 'burghers'. The fourth estate, the peasants, refrained from taking part

in the banking venture, declaring, rather endearingly, that they didn't understand much about banking.

Ever since its beginnings in the 1660s, the Riksbank—which received its current name when the old estates parliament was abolished in 1866—has been responsible to parliament and not to the king nor to government ministers. This sets the Riksbank apart from most other central banks in the world.[4] Riksens ständers bank continued to operate both under the proto-parliamentarian political regime of Sweden's 'Age of Liberty' in 1718–1772, under the absolutist Gustavian regime that followed in 1772–1809, and under the constitutional monarchy that was established in 1809. The 1809 constitution provided, in §72, that Riksens ständers bank would 'remain, as it has been until now, under the protection and care of the Estates of the Realm'; in other words, parliament, not the king or his advisors, controlled the bank.[5]

The modern idea of central banks as banks with a monopoly on the release of paper money and with the role of lender of last resort within a wider banking system emerged during the nineteenth century. In Sweden, these ideas became law with the adoption of the 1897 Riksbank Act (Wetterberg 2009: 233–239).

The Riksbank's current tasks and responsibilities are defined by the Swedish parliament, the Riksdag, in The Sveriges Riksbank Act (Lag [1988:1385] om Sveriges riksbank) which was revised most recently in 2016. In 1999, the bank was made formally independent through the introduction of a new clause in Sweden's main constitutional document, the Instrument of Government. The clause provides that no other public authority may instruct the Riksbank on how to conduct its monetary policy. Like most other contemporary central banks, the Riksbank is thus operationally independent, although it remains constitutionally responsible to parliament.

An inflation target of two per cent, plus or minus one per cent, adopted in early 1993, has guided monetary policy ever since. The Riksbank estimates inflation expectations and sets interest rates on the basis of prognoses that draw on these estimates. This method of setting interest rates, known as 'inflation targeting', has become the standard procedure among modern central banks. In 1989, New Zealand was the first to embrace it, and the Riksbank joined the group of early adopters of inflation targeting a few years later (Truman 2003).

When studying an old institution such as the Riksbank it is tempting to attribute great explanatory power to the institution's origins, foundation

and early history. In doing so, however, one runs the risk of committing the 'genetic fallacy', or, more generally, engaging in flawed anachronistic reasoning. That said, the fact that the Riksbank is primarily responsible to parliament and not to the government of the day or the monarch is a long-standing constitutional fact that has had important implications for the bank's standing and role in Swedish society, and it continues to do so today. Just as the 1809 constitution declared that the bank would 'remain' under parliament's 'protection and care', the current constitution, adopted in 1974, provides that the Riksbank 'is the central bank of the Realm and an authority under the Riksdag' (RF 9:13).

The Politics of Independence

Independence from political decision-makers inside the government and in parliament has been a salient issue throughout the Riksbank's long history. An independent central bank derives its legitimacy from technical expertise and good performance. This raises the question of how such a powerful, autonomous body fits into democratic institutional structures in which the main source of legitimacy is popular sovereignty.

Curiously, the Riksbank's autonomy and operational independence have varied over time in a manner that has reflected changes in the bank's physical location. For more than two centuries, the Riksbank operated out of an Italianate building at Järntorget 84, in the part of Stockholm that is now known as the 'old town'. In 1905, it moved half a kilometre north-northwest, to the new Parliament House on Helgeandsholmen. The bank's most recent move, a further half-kilometre north-north-west, was in the 1970s: the current rock-clad, imposing central-bank building at Brunkebergs torg was completed in 1976 (on the Riksbank's various buildings since 1668, see Larsson 1976). When parliament returned to Helgeandsholmen from temporary accommodations at Sergels Torg in 1983, there was again a half-kilometre distance between parliament and the central bank. The five hundred metres that today separate the Riksbank from parliament and from the Prime Minister's office are a symbol of political and institutional independence.[6]

One important event occurred in 1957 when the Riksbank's General Council—which made operational monetary policy decisions at that time—raised the interest rate from 4 to 5% without first consulting the finance minister or the prime minister (Carlsson 1993). This decision followed an intense debate over monetary policy among politicians and

in the newspapers. The political parties, leading economists and various media outlets soon took sides in the struggle between the bank and the government. The end result was that the chairman of the General Council, Per Eckerberg, resigned. Significantly, however, the central bank governor, Per Åsbrink, did not resign, although several prominent politicians maintained that he should. In a sense, therefore, the 1957 'interest rate coup', as it would become called, manifested the central bank's relative independence. The coup marked the end of low-interest-rate policies that the Social Democrats and the Farmers' Party had pursued in the 1950s, in combination with detailed regulations of the financial system.

By the 1990s, in spite of significant disagreements between the Riksbank and both centre-right and social democratic governments, it had become unthinkable for the government to instruct the Riksbank on how to conduct monetary policy. In November 1993, for example, under a centre-right government, the Finance Ministry prepared a memo on the relationship between the government and the central bank and concluded that exerting pressure on the bank 'would be a minor disaster'. Leif Pagrotsky, a leading economic adviser to the Social Democrats, who formed a new government the following year, noted that by that time, the Riksbank didn't take orders from anyone, that it said what it wanted, and that the government had no choice but to adjust to what it said and did (Lindvall 2004: 122).

In constitutional and legal terms, however, the central bank only gained full independence in 1999. A 1993 government commission of inquiry (SOU 1993:20) had concluded that the central bank should be made independent. The Social Democratic members of that commission resisted independence and filed a dissenting opinion. Nevertheless, a few years later, it was a Social Democratic government that introduced central-bank independence. One of the main reasons for this change in policy was that Sweden had joined the European Union in 1995. Leading Social Democrats regarded central-bank independence as a legal obligation under the EU treaties. This included Jan Bergqvist, who was one of the Social Democrats who wrote a dissenting opinion in 1993 and who chaired the parliament's standing committee on finance. There were also prominent groups within the Social Democratic party who believed that central-bank independence would offer economic and political benefits, much like New Labour did when it made the Bank of England independent soon after winning power in 1997.

When a more recent Social Democratic government commissioned a review of Sweden's monetary policy framework in 2016, it stated explicitly that the Riksbank should remain independent. By now, central-bank independence was the unassailable starting point for any discussion about economic policy. It was no longer to be questioned. Interestingly, when the final report of this commission was released in the autumn of 2019 (SOU 2019:46), there was only one dissenting opinion—by Johan Lönnroth, a former deputy leader of the Left Party—and that dissenting opinion did not propose reducing the Riksbank's independence (it only suggested that the inflation target should be combined with an employment target) (1877–1878).

Rising to the Challenge of Economic Crisis

The 1991–1993 Recession

The growing authority of the Riksbank in Sweden's political system is best explained by two crisis episodes in the 1990s and the 2000s in which the bank was seen to act firmly and effectively. The first was the aftermath of the exceptionally deep economic crisis in Sweden in the early 1990s. In 1991–1993, Sweden experienced three consecutive years of negative growth. Unemployment increased from less than two per cent to approximately 10% of the labour force. In the beginning of this crisis, the centre-right government, the Social Democratic opposition and the Riksbank were all convinced that maintaining a fixed exchange rate was essential for economic stability. They were wedded to a 'German model' of economic governance (Stern and Sundelius 1997: 38). During the most acute phase of the crisis, the Riksbank took drastic steps to defend the exchange rate, at one point even raising the short-term interest rate to 500%. But the government and the Riksbank were ultimately unsuccessful in their efforts. Sweden was forced to abandon its fixed exchange rate on 19 November 1992.

It was the Riksbank's actions in the *aftermath* of the most acute phase of the crisis—the product of a fast learning curve following its fruitless attempt to 'defend the Swedish Crown'—that mattered the most for subsequent events. Immediately after floating the Crown, the government's view was that Sweden should return to some form of fixed exchange rate. For example, on 20 November 1992, the day after the float, the Prime Minister wrote in an email to the Finance Minister

that Sweden should join the European Exchange Rate Mechanism, the precursor of the Euro, as soon as possible. Meanwhile, however, the Riksbank took immediate steps to introduce the 2-plus-or-minus-1% inflation target that it has followed ever since, and adopted new methods of inflation targeting, following speedy communications with other central banks that had already introduced this method of conducting monetary policy (for an overview of these events, see Andersson 2003).

In the wake of the float, the Riksbank thus abandoned the prevailing orthodoxy of Swedish macroeconomic policy, which was to achieve economic stability in Sweden by aligning its economic policies with those of its European partners, especially Germany. After the economic crisis, generations of Swedish policymakers have regarded the rapid reorientation of economic policy after the crisis as essential to Sweden's subsequent economic success (Lindvall 2008). In a 2000 government report, for example, the Swedish government reflected on the conduct of its economic policy throughout the previous decade. In that report, the section on how Sweden got out of the deep crisis begins—in its very first sentences—with the Riksbank's adoption of the new inflation-targeting policy in 1993 (Prop 2000/2001:100, Appendix 5:21–22). The bank's inflation-targeting policy was, similarly, the first topic of a speech on Swedish economic policy by the first deputy governor of the Riksbank, Cecilia Skingsley, in early 2020, almost thirty years after the policy was put in place. She illustrated its beneficial effects with numerous graphs that compared inflation, growth, real wages and the current account balance before and after the early 1990s (Skingsley 2020).

These experiences from the 1990s are a good example of the institutionalization process that was described in Chapter 1 of this volume. According to the argument made there, a cycle of institutionalization starts with the discovery or invention of an effective, efficient and legitimate way to reconcile formal aims with societal aspirations through a mix of experimentation and smart copying. After abandoning the fixed exchange rate, the Riksbank immediately sent officials to their counterparts in New Zealand's and Canada's central banks to learn from their experiences, and adapt the lessons learnt to Swedish conditions. The next step in the institutionalization process is that successful practices 'give rise to the emergence of an internal norm' that say 'this is how we do things around here'. As the documents and speeches cited above suggest, that is what happened with the Riksbank and its role within Sweden's political system after the deep crisis of the 1990s. The adoption of a new monetary

policy strategy so quickly after the failure of the previous fixed-exchange-rate policy was a formative event that has shaped monetary policymaking since.

The two subsequent steps on the institutionalization ladder concern building an organization that embodies the new norm and promoting the norms and practices within the new, or altered, organization. This process unfolded in the 1990s and early 2000s, a period in which the Riksbank was headed by Urban Bäckström, a former centre-right economic and political adviser who was appointed governor in 1994, and Lars Heikensten, a former social-democratic political and economic adviser who eventually replaced Bäckström. Notably, many of the leaders who had been responsible for monetary policy in the period leading up to the failed defence of the fixed exchange rate in 1992 left the bank soon thereafter. For the new leadership, the switch to a floating exchange rate and the adoption of a policy of inflation targeting represented an opportunity to bring about wider changes—not just a discrete change in policy but a new monetary policy regime, which they sought to consolidate within the bank and communicate to other stakeholders (for a discussion of this process, see, for instance, Heikensten 2003).

The development of a new communication strategy with the general public and with market actors has been an important element in the Riksbank's evolution as an institution after the mid-1990s (Karlberg and Meyersson 2012). Indeed, there is something almost paradoxical about the differences between the pre-independence period and the current period of independence. Before the mid-to-late 1990s—when the central bank was not formally independent—monetary policy and exchange-rate policy were typically treated as opaque and mysterious in media coverage. Subsequently, political debates about Sweden's monetary policy have become more transparent and accessible to the public. The goal of low and stable inflation is easier to understand than the earlier exchange-rate target, and the Riksbank has increased the transparency of its methods of monetary policymaking. In a sense, then, the Riksbank has turned itself into a more responsive institution on one dimension (public transparency and accountability) while becoming less responsive on another (democratic political control).

It is often assumed that the delegation of policymaking authority to central banks or other autonomous agencies is motivated and justified by the expertise those organizations possess. Politicians set broad targets and then let skilled and trained professionals carry out actual policy. But

that is not the only or even the main reason that politicians assign this role to independent central banks or other agencies (Majone 1996). The main reason is that some forms of partisan political conflict are thought to be harmful to a country's long-term economic interests, even if partisan conflict in general is necessary and legitimate in a democracy.

In the 1970s, 1980s and 1990s, there were recurring political conflicts within Sweden over economic policy, not only among the political parties on the left and on the right but also among the powerful interest organizations in Swedish society. Governments struggled to find a way of containing those conflicts, preventing rising inflation and avoiding recurring macroeconomic instability. Until the early 1990s, left-wing governments, right-wing governments and the Riksbank hoped, as discussed earlier, that a commitment to a fixed exchange rate would solve this problem.

When that strategy failed in 1992, the Riksbank proved to be agile. Facing new, harsher economic realities than its long-held policy orthodoxy had presumed, it quickly shifted its attention to the policy of inflation targeting that it has pursued ever since. This is a policy that serves to address the same set of problems, but in a way that has proven more reliable and viable in the long run. In spite of recurring debates over the conduct of monetary policy in the years since, the Riksbank's contribution to finding a way out of the political and economic impasse of the 1990s has made it the trusted and respected institution that it is today.

The Post-2008 Great Recession

The next major economic crisis that struck Sweden after the deep economic downturn in 1991–1993—and the lengthy unemployment crisis that followed—was the Great Recession, which began with the breakdown of the global financial system following the collapse of the US investment bank Lehman Brothers in September 2008. Unlike the 1991–1993 crisis in Sweden, the Great Recession was a global crisis, but there were also some important similarities. Just like the home-grown Swedish crisis some fifteen years earlier, the Great Recession began in the financial market, as banks and financial institutions struggled with bad debt due to falling real-estate prices and these problems in the financial market then spread to the real economy. Due to these similarities, the Riksbank officials and former politicians and government officials were much

in demand in other countries during the Great Recession. For example, Bo Lundgren, who was the minister responsible for financial markets in the early 1990s, working closely with the Riksbank, testified before US Congress in 2009.

The Riksbank pursued aggressive monetary policies in response to the crisis. Immediately after the collapse of Lehman Brothers, the Riksbank combined with other central banks around the world to lower interest rates drastically (see Fig. 5.2). In late 2010, the Riksbank began to raise interest rates again, judging, as many other central banks and governments did around that time, that the acute phase of the crisis was over. But in 2011–2012, as a result of the European debt crisis, interest rates started to come down again.

In early 2015, the Riksbank cut the main short-term lending rate, the 'repo' rate, to −0.10.[7] This made the Riksbank the first central bank in the world to introduce negative interest rates. The main lending rate remained negative from 2015 until December 2019, when the bank adopted an interest rate of 0%. In the decade following the outbreak of the Great Recession, the Riksbank also implemented other unconventional forms of monetary policy, such as direct purchases of government bonds.

The Riksbank's aggressive policies were enabled by the confidence that the bank had gained following its handling of Sweden's home-grown economic crisis in the 1990s, and by the institution building that occurred in its wake. The bank's leaders publicly retained their commitment to the inflation-targeting regime that had become the new orthodoxy, but at the same time allowed the probing of its merits under the new, this time global, economic crisis, through rigorous internal debate over the conduct of monetary policy.

Debates and Innovations

The debates over the bank's monetary policies in the 2000s reveal how an established institution such as the Riksbank handled internal disagreements and tensions. As Fig. 5.2 shows, the Riksbank opted for a more restrictive monetary policy beginning in 2010, and only reduced the interest rate to the low levels of 2008–2010 some four-five years later. In the very first phase after the Lehman Brothers collapse, Lars E. O. Svensson—an internationally renowned economist who was on the governing board of the Riksbank at the time—advocated even lower
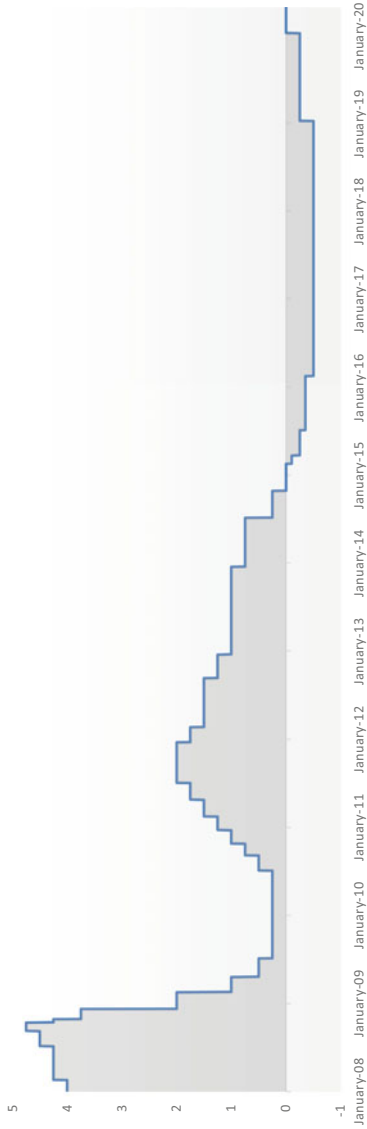
Fig. 5.2 Sweden's short-term lending rates, 2008–2019 (*Note* The figure describes the development of the Riksbank's main short-term lending rate, reporäntan, from January 2008 to January 2020. *Source* Sveriges Riksbank [2019a])

interest rates. When the interest rate increased after 2010, the debate within the central bank became more heated. Svensson was joined by another member of the governing board, Karolina Ekholm.

The governing board was thus divided between a 'dovish' minority and a 'hawkish' majority. In Lars E. O. Svensson's view, the majority's policy decisions had led to several years of unnecessarily high unemployment (Svensson 2014). The majority was more concerned about rising household debt and believed that high interest rates were necessary to discourage households from excessive borrowing (see, for example, Jansson 2014). The majority view, then, was that the rapid increase in house prices justified a higher interest rate; the minority argued that the Riksbank should concentrate on the inflation target and that monetary policy could not be used to safeguard financial stability.

This was not just a debate over policy. Implicitly, it was also a debate over the bank's general standing and role. Contemporary Sweden has a monetary policy regime that is based on a flexible exchange rate, a clear inflation target, and a limited set of instruments (mainly the policy rate), with a mandate for the bank leadership to decide independently how the few instruments at the bank's disposal are to be used to achieve the inflation target. This was the model that the Riksbank and successive governments consolidated during the late 1990s and in the 2000s. It was a mutually attractive model since elected politicians could concentrate on distributional politics while the Riksbank's policies determined the playing field on which they could operate, and did so in a fairly transparent and predictable manner.

If the bank had taken a significantly broader view of its mandate, as the majority's view implied it should, it would have made the bank's policies much more politically controversial. First, the bank would have had to weigh different goals against each other, which in itself is politically sensitive. Second, house prices would at least implicitly have become a target for interest rate policy, which has obvious distributional policy implications. A large proportion of Swedish households' wealth is sunk into their homes. As it happened, the debate within the bank petered out after Svensson's decision to leave the governing board in 2013—a decision that was a direct consequence of the disagreements within the bank. Somewhat ironically, the bank soon after adopted more aggressive, expansionary policies—policies that were more closely aligned with those Svensson had favoured.

By the late 2010s, the so-called e-krona project provided more evidence of the Riksbank's willingness to engage in innovative policies and programs. It revolves around the idea of creating a central-bank issued electronic currency, the e-krona. Were the Riksbank to go through with this reform, the e-krona would represent the world's first government-issued electronic currency. The e-krona would compete with electronic money created by banks and other private organizations (through debit and credit cards, for instance) and also with private electronic currencies such as Bitcoin and the Facebook corporation's Libra.

The Riksbank's motivation for this project is that Sweden is rapidly shifting away from paper money to electronic payments. Sweden, in fact, uses less cash than any other country on Earth. An increasingly cashless society makes it more difficult for the bank to guarantee the system of payments in the economy. The e-krona is meant to address this concern (Sveriges Riksbank 2017). Another reason for the bank's e-krona initiative is that the conditions of monetary policy, which is the bank's main responsibility, might change in important ways in an economy with no or little government-backed money (Sveriges Riksbank 2018).

The e-krona project, if implemented, would have important implications that reach far beyond Sweden. Through the rapid move away from coins and paper money, the state's traditional role of issuing money is being undermined, and the creation of money is being taken over by the private corporations that oversee credit card payments and electronic transactions. In that sense, the idea of introducing an e-krona is an attempt to reassert public authority in a world where private interests and organizations are ascendant.[8]

Why is the Swedish central bank developing this project of government-backed electronic money, and not the larger central banks in the larger economies of Europe and North America? The main reason is most likely that paper money is disappearing more rapidly in Sweden than in other advanced economies (as noted, for example, by Heller 2016). In that sense, the problem that the Riksbank is seeking to address with the e-krona project has greater urgency in Sweden than elsewhere. But there were other reasons as well, notably the Riksbank's strong status in Swedish society and its desire to be an 'inventive, highly prepared and responsive central bank' (see the Riksbank's strategic plan for 2019–2022: Sveriges Riksbank 2019b).

Institutionalizing Central Banks: Lessons from the Swedish Case

In 2018, the Riksbank celebrated its 350th birthday in good health. Its autonomy was respected by the elected government, it managed private-sector expectations about future price levels, and inspired confidence among the public. This chapter has documented many important similarities between the Riksbank's institutional trajectory and the stylized description of a typical institutionalization cycle presented in the introductory chapter of this volume.

When it comes to potential threats to the Riksbank, and to similar institutions, the profound internal debates over the bank's monetary policies in the 2010s highlighted an important dilemma for independent institutions. The majority on the bank's governing board was concerned about rising household debt and wished to use monetary policy to keep households from borrowing too much. The critics, on the other hand, suggested that such a policy was inconsistent with the bank's inflation target and argued that household debt was a problem for other institutions to solve.

This was not merely a disagreement over economic policy, but a deeper, constitutional disagreement about the institutional role and position of a central bank. In a democratic system, institutions based on autonomous expertise, such as central banks, always maintain an uneasy relationship with governments and elected politicians. The majority's views on the conduct of monetary policy were motivated by important policy concerns, but they also carried an important risk. If the Riksbank had extended its power into new domains, it would have become more difficult to maintain the delicate balance between expertise and popular sovereignty that modern central banks depend on—both for their political autonomy and for their attempts to maintain the confidence of the general public (Woodford 2003).

It has become increasingly common for national governments to delegate important policymaking competencies to central banks, other independent agencies and international organizations. By identifying problems that national governments have trouble solving, and handing over the management of those problems to independent decision-makers, governments hope to make their long-term policies more credible and durable (Majone 1998; Moravcsik 2002). Modern central banks are the clearest examples of this governance model, but there are other examples.

One conclusion from this chapter is that such delegation to independent agencies need not be premised on consensus over policy, nor does it imply that experts are better able to conduct policy than politicians are. Instead, institutions such as the Riksbank have gained independence, and enjoy widespread respect, because they have a reputation for being able to manage and contain ongoing conflicts over economic policy that are endemic in a democratic society. The future of the Riksbank will depend on the continued willingness and capacity of its leadership to play this role, while at the same time adapting its repertoires and capabilities to fast-paced technological change.

Questions for Discussion

1. Public-opinion surveys suggest that most Swedes have high confidence in their central bank, the Riksbank. But there are significant differences among different groups, and individuals with low incomes and little education trust the Riksbank less than well-educated high-income earners. When do these sorts of differences become a long-run threat to institutions?
2. Modern central banks typically seek to maintain their operational independence from parliaments and governments. What do institutions whose legitimacy relies on expertise need to do to maintain their autonomy within political systems where the main source of legitimacy is democratic elections and popular will?
3. How do trusted and effective institutions communicate their strategies and intentions to political decision-makers, business organizations and other stakeholders and to the general public?
4. The Riksbank has been widely credited for saving the Swedish economy in 1992. How did the bank do this and how has this performance affected its institutional status?
5. The Riksbank's e-krona project has met with significant criticism among commentators and stakeholders who believe that it is risky and radical, but so far, the Riksbank has maintained that the e-krona is a necessary step to take because of rapid technological and economic change. How do successful institutions strike a balance between maintaining their core competencies and adapting to a changing world?

Notes

1. In my own discipline of political science, institutions are typically defined as rules—written or unwritten—and not as organizations. In this chapter, in a manner consistent with the book's terminology, I use the term in the sociological sense of 'responsive, adaptive organism' (Selznick 1957: 5).
2. For a recent history of the Riksbank in English, see Fregert (2018); for a more detailed history in Swedish, see Wetterberg (2009).
3. The goals are defined in Chapter 1, article 3 of The Sveriges Riksbank Act (Lagen [1988:1385] om Sveriges Riksbank).
4. During some of the more absolutist phases in Sweden's early-modern history, as Wetterberg (2009) notes, the bank remained formally responsible to parliament, but de facto, the monarch exercised a great deal of influence; see, for instance, 53–54 on Charles XI and 68–74 on Charles XII; but see also p. 129 on the bank's relative autonomy under Gustav III.
5. 'Riksens ständers bank förblifver hädanefter, som den hittills varit, under riksens ständers egen garanti och vård'.
6. For a discussion of the Riksbank's role and independence in the beginning of the twentieth century, see Cassel (1908).
7. This was actually not the first time that the bank pursued a policy of negative interest rates, since the bank's overnight-deposit rate is typically 0.5 percentage points lower than the repo rate.
8. The e-krona project is not uncontroversial. When the Riksbank's second report on the e-krona project was issued in late 2018, corporations, special interest groups and public agencies were invited to comment on the proposal. Several of the replies were critical of the project, but it is moving forward nevertheless. In December 2019, the Riksbank announced that it had commissioned the international consultancy Accenture to develop an e-krona trial in a laboratory environment.

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The European Court of Justice: Guardian of European Integration

Arjen Boin and Susanne K. Schmidt

A Most Influential Court

Founded in 1952, the European Court of Justice (ECJ) began as a small 'coal and steel court' that 'did little more than control the legality of the High Authority's activities' (Stone Sweet 2010: 20). Within a relatively brief period of time, the ECJ transformed into a fully fledged constitutional court of an expanding Union, prevailing over national courts and carrying an ever-growing caseload as a result. Today, the ECJ is one of the most influential institutions of the European Union (EU).

The formal objective of the ECJ (TEU, art. 19 sub. 1) is to ensure that the interpretation and application of the Treaties and of secondary EU law is observed (Amtenbrink and Vedder 2010: 94). The Court meets this objective by advising national courts how to interpret EU law (the preliminary ruling procedure), ruling on infringement procedures

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against member states (mostly initiated by the European Commission), and annulling unlawful actions by EU institutions.

The Court has consistently interpreted the founding treaties to further an ever-closer Union. Its most famous rulings (*Van Gend en Loos* and *Costa*) established what is now widely accepted as a core principle underlying the EU: the laws of the EU directly apply to the citizens of the member states and prevail over national laws. By treating the treaties as a constitutional charter, the ECJ has made the EU 'more than an organization, more like a nonunitary polity' (Weiler 1991: 247).

The ECJ's rulings have had far-reaching effects on the integration of the EU. How did the ECJ, starting out as a very small organization, 'tucked away' (Stein 1981: 1) in a provincial corner of Europe, become such an influential institution? How did it manage to impose its interpretation of the Treaties upon member states during a time when its influence was limited and its existence unknown to most EU citizens? How has it performed this feat without alienating the EU member states? And how has the Court remained relevant in the face of a changing environment (think of treaty changes, the expansion of the Union and waves of Euroscepticism)? This is the puzzle this chapter seeks to resolve.

We start with a brief institutional history of the ECJ and describe its impact over the years. We then analyse the Court as an institution, describing its institutional characteristics and analysing its trajectory of institutional development. We end this chapter with lessons for institutional architecture in the international arena.

Foundation, Organization and Impact

The European Court of Justice was founded with the Treaty of Paris (1952) that established the EU's predecessor, the European Coal and Steel Community (ECSC).[1] The official objective was to ensure that 'in the interpretation and application of this [ECSC] Treaty and of rules laid down for the interpretation thereof, the law is observed' (Saurugger and Terpan 2017: 11). In other words, the Court was created to ensure that the High Authority of the ECSC would not overstep its jurisdiction and breach the sovereignty of the member states (Tamm 2013: 16).

We don't know much about the inner workings of the Court, beyond what its statute and rules of procedure tell us.[2] The deliberations are secret and only ruling judges can attend. Dissenting opinions are not made public.[3] The Court has been compared to 'a black hole, from which

nothing – except very brief, magisterial rulings with no hint of disagreement among the judges – can escape' (Pollack 2017: 602). Secrecy was built into its DNA: one working language (French) was reportedly adopted to prevent that interpreters would attend the secret deliberations (Saurugger and Terpan 2017: 14).

The Court has an internal division of labour. It operates in chambers. The small chamber consists of three to five judges. The grand chamber is made up of 15 judges. It assembles when the case is of greater legal difficulty or importance, or when a member state or a Union institution demands it.[4] If the case is considered to be of exceptional importance, the full court takes responsibility. It also decides on serious misconduct of officials, such as Commissioners.[5] The rulings of the court are collegial and judges try to reach consensus. If this fails, a simple majority suffices (Arnull 2006: 9).

Every member state appoints one judge to the ECJ for a (renewable) six-year term (every three years half of the judges are (re)appointed). Other member states must consent with the choice. The Treaty of Lisbon introduced a new committee in Article 255 TFEU to check the suitability of candidates to be judge or advocate-general. Eleven advocate-generals assist the Court and provide the judges with an impartial, independent and reasoned advice on how to judge a case before the Court starts its deliberations. The judges don't have to follow this advice, but they generally do (Arnull 2006). Judges are supported by a cabinet of legal *référendaires* (junior lawyers) and supportive staff (including clerks, a research and documentation service and interpreters).[6]

Judges are supposed to act independently and impartially, not representing their home country. To limit potential conflicts of interest, judges are not appointed as rapporteurs on cases from their home country. The secrecy surrounding the proceedings and the absence of dissenting opinions protect individual judges from external scrutiny. As judges are term-limited and (re-)appointed by their home governments, the salary gap to national judges in most member states is said to be used as possible lever as political pressure (Schmidt 2018: 28).

Scholars agree that the ECJ has been highly influential in advancing European integration beyond what could have been achieved via decisions of the EU's political institutions (Schmidt 2018: 27; Stone Sweet 2010). According to Stone Sweet (2010: 2), the 'significance of the ECJ's impacts rivals that of the world's most powerful courts'.

The Court's initial prospects for becoming a powerful institution were rather slim, however. The mere 'coal and steel court' was not intended to function as a court but rather as an arbitration tribunal (Vauchez 2015: 45–46). The limited mission was reflected in the composition of the Court: only three members had a legal degree, the others were technical experts.

The Court obtained a more prominent position with the Treaty of Rome (Tamm 2013: 16). The 1957 Treaty created the European Economic Community (EEC), incorporating the ECSC. In addition, it established the European Atomic Energy Community (EURATOM). To prevent a proliferation of European institutions, the Treaty 'pooled' the institutions for these communities, with the Court obtaining jurisdiction over the EEC and EURATOM (Arnull 2006: 6–7).

The Rome Treaty also expanded the Court's competences. The introduction of the preliminary ruling procedure allowed lower courts to directly ask the ECJ how a European law or regulation should be interpreted. The preliminary ruling procedure has become an especially effective mechanism, both for fostering European integration and for the ECJ to establish itself as more than just an international court (Tamm 2013: 24). Intended as a means to clarify the meaning of EEC rules, it evolved into a mechanism in which national courts check the compliance of national rules with EU law in response to the claims of private litigants. In practice, this provided near-direct access to the ECJ for citizens and corporations (without having to litigate through the national court hierarchy first). It did not take long for lawyers with an interest in European law to understand the opportunity that this new competence had created (Vauchez 2015).

In addition, the Rome Treaty introduced the annulment procedure, which allowed the ECJ to review the legality of acts produced by the European Commission and the European Council (Adam et al. 2020). The Rome Treaty also created the infringement procedure to ensure that member states comply with Community law. Both the Commission and member states could start an infringement procedure at the Court, which would then judge whether a member state was in violation. These procedures each elevated the importance of the ECJ as a protector of the EU Treaties against undermining efforts of either member states or EU institutions.

After a careful start marked by 'self limitation' (Vauchez 2015: 48–49), two landmark rulings spurred a transformation of the European legal

order, and the Court's competences. Both rulings were triggered by a request for a preliminary ruling submitted by a national court (Arnull 2006: 640). The first landmark ruling (*Van Gend en Loos*) in 1963 gave private plaintiffs the right to evoke a European provision directly in a national court; this principle became known as the principle of direct effect (Weiler 1991). In those days, international agreements usually did not directly impact citizens unless these agreements were transformed into national law. The *Van Gend en Loos* ruling established that citizens and corporations could directly invoke European law, superseding national legislation. EU law in effect became national law (Alter 2009: 113–115), thus eroding the sovereignty of member states.

The implications of the *Van Gend en Loos* ruling were not immediately understood outside legal circles, however. This was partly the result of the careful wording of the ECJ ruling and the limited attention that, in those days, national governments paid to the little Court in Luxembourg (Vauchez 2015). However, it also points to a crucial feature of the Court's power. With its rulings, the Court provides an opportunity structure that other actors, notably the European Commission, have to seize and put to use.

The second landmark ruling (Costa vs. ENEL) in 1964 clarified matters in no uncertain language. The ECJ confirmed the 'prevalence of EC law in a clear, almost provocative manner' (Vauchez 2015: 136). Not only did the ECJ confirm the *Van Gend en Loos* ruling, it established that European law always supersedes national law since states transferred rights to the community. This has become known as the principle of supremacy, and together with direct effect it gives constitutional status to EU law. The *Costa* ruling sent shockwaves through Europe. During a time when integration of the European Community was stalling (Vauchez 2015), *Costa* was immediately recognized as a landmark ruling.

The principles of direct effect and supremacy have had a profound effect on European integration. The principles enabled citizens in national courts to directly invoke European rules. In essence, these principles turned national courts into European courts, enabling individuals to force states in the national court to comply with European rules (Van Middelaar 2013: 50–51). This fostered the implementation of EU law since the task of bringing cases to the Court was no longer only upon the Commission (Van Middelaar 2013: 48–49).

The Court subsequently developed these principles further in its case law (Arnull 2006: 643–644). As a result, the European Treaties were

endowed, retrospectively, with the aura of a European constitution. The ECJ thus created a new legal layer, an alternative supreme legal order, which would ensure the impact of European rules across the member states. The policy goals of the Treaty, namely the four freedoms of goods, services, persons and capital as well as competition rules (and after the Maastricht Treaty citizenship rights) became constitutionalized, and subject to the Court's interpretation.

The ECJ did not stop there. It helped the European Parliament to increase its powers (Arnull 2006: 649). It promoted the internal market by overruling trade-inhibiting measures (Arnull 2006: 647–648). And it established fundamental rights that cannot be found in the Treaties (Saurugger and Terpan 2017: 26–28), in response to criticism of some national supreme courts. Today's Court 'applies Treaty law to policy areas that were formerly assumed to be in the domain of national governance, interprets EU statutes as if certain provisions express values of higher, constitutional status, and holds that specific policy dispositions are required by Treaty Law' (Stone Sweet 2010: 25). Altogether, the Court has extended its competences beyond what could be imagined in the 1950s.[7]

This development is remarkable because the principles that ended up underpinning it had never been incorporated into the Treaty texts. Nor did member states necessarily agree that community law should supersede national law and that citizens could derive rights directly from the Treaty (Alter 2009: 95; Van Middelaar 2013: 49). The EU Treaties do not contain a Bill of Rights, but the Court constructed a formidable apparatus to review Community Acts against it anyway (Weiler 1991: 2437). By securing direct effect and supremacy, the Court, in effect, 'rewrote the Treaty' (Stone Sweet 2010: 15).

The Court's impact has been immense. Its rulings have pushed integration in a large variety of EU domains (Schmidt 2018: 246). The Court can set the agenda if the treaty is silent or ambiguous, which usually results in empowering the Commission to act (Dehousse 1998: 82–84). In periods of stagnating integration, the Court functions as a policy innovator, with its ruling, for example, invigorating the harmonization of product standards (Dehousse 1998: 84–88; Saurugger and Terpan 2017: 201–203). ECJ rulings can spur EC legislation by pressuring member states to form EU policy. The writing on the wall is clear: if they don't act, the ECJ will rule on the basis of the Treaty instead of on secondary law, so that member states will forego influence over the outcome.

The Institutionalization of the Court

The ECJ has proven an important force in the integration of EU member states. In fact, the Court has steadily ascended the ladder of institutionalization, even as European integration itself has followed a more erratic pattern. To assess the ECJ's level of institutionalization, we make use of Selznick's (1957) three analytical dimensions: mission, inculcation and legitimacy. The first dimension (mission) refers to the envisioned identity of the organization: what does it stand for? What does it seek to accomplish and how? The second dimension (inculcation) refers to the dedication of the workforce to the espoused mission of the organization: are employees unified in their belief in the mission? The third dimension (legitimacy) refers to the external support that every public organization needs: do relevant stakeholders accept and defend the Court's mission and proposed ways of working? By assessing the ECJ on each of the three dimensions, we create an 'institutional picture' of the level of institutionalization.

A Clear Mission: Furthering 'Europe'

Most observers seem to agree that over time, the ECJ has come to adhere to a set of guiding principles in its daily work. The Court has been committed to the ideal of an 'ever-closer Union' (Schmidt 2018: 51; Vauchez 2015); its working practice being informed by the 'spirit of the treaty' (Van Middelaar 2013: 50; Burley and Mattli 1993: 68; Saurugger and Terpan 2017: 22; Tamm 2013: 14). The Court has cast itself as the guardian of the Treaties, offering as proof its landmark rulings that were delivered during the Court's 'revolutionary years' (Vauchez 2012: 60). There seems to be little doubt within the Court with regard to its *raison d'être*. The legal doctrines of direct effect and supremacy have been translated into what Vauchez (2012: 55) describes as a 'specific judicial style' which has given rise to a 'striking linguistic and legal stability of EU case law' (Vauchez 2015: 188).

Over time, the ECJ built up a unique competence as the Chief Interpreter of the European Treaties. As the Treaties have become the touchstone for the development of European case law, the texts remain in constant need of authoritative interpretation and judgement. During the 1960s, the period of institutional ascendency, the Court had six judges who had directly participated in the negotiations preceding the

Paris/Rome treaties. The Court housed a unique group of founding fathers invested with authority to interpret the treaties (Vauchez 2015: 112).

The ECJ's unique competence and its distinct judicial style turned the Court into a key venue for those lawyers schooled in its 'distinctive rules and operational logic'. Those who remained unschooled in its way of operation found it hard to win their case (Vauchez 2015: 83, 104). This created opportunities for those who were knowledgeable—Vauchez (2015) calls them Euro-lawyers—and who just happened to believe in the same ideals that the Court sought to achieve. The ECJ's mission thus had a far-reaching effect on those who sought to fight or employ European law.

A Dedicated Workforce

The Court has been described in near-idyllic terms, as a 'family' that lunches together while engaging in 'intense debates [that] take the form of disinterested legal discussion based on esteem and friendship' (Vauchez 2015: 164). Students of the Court recognize a 'transnational judicial esprit de corps' that is supported by institutional rituals, like celebrating its anniversaries and publishing *Festschriften* to honour retiring distinguished judges (Vauchez 2015: 53, 159–160; see below).

The Court, as an organization, has been marked by strong leadership of a kind that has been described as being 'more pronounced than is found in other courts' (Cohen 2017: 65). There is a focus on the consistency of rulings, which is considered crucial for achieving compliance. The Court has in place a system of 'strong internal monitoring for uniformity', which is applied through the lawyer-linguists, the lecteurs d'arrêts, who check the briefs before they are discussed in the ECJ chambers.

The consistency of the Court's judicial style and jurisprudence is impressive given the big changes that were visited upon the Court over the years. The enlargement of the EU, the widening of the EU's policy scope and the transformations that followed eight reform treaties created new audiences and new demands. Legendary judges retired and the Court expanded with the admission of new member states. In a period of three years (2004–2007), the Court doubled in size (Vauchez 2015: 155). In 2018, 75 judges were working at the ECJ and the General Court. There were 11 Advocates General. In total, there were 537 posts in the cabinets, and 994 posts in the language services (CJEU 2019b: 55, c: 18).

A High Level of Legitimacy

The Court has become the authoritative interpreter of EU law (Stone Sweet 2010: 15). But the ECJ, as any court, cannot enforce its rulings: 'it does not enjoy the power of the purse nor that of the sword' (Pollack 2017: 143). Gaining legitimacy is notoriously hard for international organizations that, by definition, are not democratically accountable, not grounded in domestic law and do not answer to national politicians. The ECJ is not different: it relies entirely on its legitimacy for its rulings to be accepted in the member states—especially when the Court rules against a member state. When the Court is not considered a legitimate source of legal authority, member states may become less responsive to its rulings.

The environment in which the Court operates has become more challenging over time. While the ECJ could still deliver monumental rulings without much notice in the early 1960s, those days would soon be over. The mid-1970s proved a turning point. As the EC did not manage to cope with the economic crises of the 1970s in a cooperative way, its institutions came under fire. The ECJ received its 'first barrage of criticism' from national governments, which produced threats to redefine the Court's powers (Vauchez 2015: 157).

Viewed from this angle, the ECJ can be considered highly successful. The ECJ's key external stakeholders—national governments, national courts and the general public (Dehousse 1998: 135)—demonstrate acceptance if not outright support for the Court.

It is true that *member states* have at times expressed reservations with the expanding mandate of the Court.[8] The Court had successfully pushed integration beyond what national governments would have agreed to (or did agree to) during intergovernmental negotiations (Stone Sweet 2010). But member states did not clip the Court's wings during the many Treaty negotiations that over the years have presented them with opportunities to do so. The Court is funded on a structural basis, the AGs and judges are frequently reappointed by the member states (Schmidt 2018: 29) and compliance with ECJ rulings is high (e.g. Saurugger and Terpan 2017: 117). A powerful indicator of the Court's legitimacy is that the member states accept Court rulings even when the rulings are (seemingly) against their interests (Dehousse 1998: 142).[9] Altogether, the ECJ has been fairly resistant to mechanisms of court curbing (overriding verdicts, resource punishment, jurisdiction stripping, court packing, judicial selection and

reappointment and eroding public opinion) (Kelemen 2012: 44–45) that the member states might use to keep the ECJ in check.

Support from *national courts* has been especially important. The ECJ has no means to force national courts to comply with its rulings (Dehousse 1998: 138). If national courts would not acknowledge the ECJ's principles of direct effect and supremacy, EU law could simply be ignored (Alter 2009: 94–95). The ECJ has consistently received support from national (especially lower) courts, which also allows them to bypass higher courts. Compliance with preliminary rulings is nearly perfect (Stone Sweet 2010: 17). The high caseload can be seen as further proof of legitimacy (Schmidt 2018: 37). It helps that support for the Court in the EU's *legal community* has always been high (Schmidt 2018: 18). The wider legal community of lawyers and scholars appears reluctant to criticize ECJ in academic journals; Conway (2012: xv) speaks of a 'language of love' between EU lawyers and the ECJ.

It is notoriously difficult to gauge *community support* for an organization of which the larger public is mostly unaware. Even those who are aware of its existence are generally not informed about the actions of the Court (Dehousse 1998: 145; Gibson and Caldeira 1995: 470). While the data is limited in scope, it does at least suggest that the Court enjoys a level of social capital (cf. Alter 2009: 82). Eurobarometer data suggests that the ECJ is the most trusted EU institution, enjoying higher levels of public support than national political actors (Kelemen 2012: 47–49). Even when the ECJ rules against the interest of a member state, this does not influence citizens' trust levels in the affected member state (Kelemen 2012). The active use of European rights by private litigants is another indicator of the ECJ's legitimacy—why else would they bother to turn to the Court (Schmidt 2018: 35)?

Explaining Institutionalization: Path Dependency and Institutional Leadership

There was nothing inevitable about the institutional ascendance of the ECJ. In its early years, the caseload of the Court was low; judges reportedly broke out champagne every time a new appeal was notified (Vauchez 2015: 49). The few rulings it produced were rather technical and did not draw much attention (Saurugger and Terpan 2017: 16; Tamm 2013: 18). Any ambitions the Court might harbour met with

'national courts, academics, zealous guardians of national and international State sovereignty [who] were against the in-house doctrines being formulated in Luxembourg' (Vauchez 2015: 77). Some lawyers argued that the Court should become a chamber of the International Court of Justice (Vauchez 2015: 49).

Nevertheless, as we have just seen, the ECJ has taken on the characteristics of an institution. It has adopted a consistent way of working by a dedicated workforce that has proven effective over time. The Court delivered authoritative rulings that continued to further integration even at times of political stand-offs about the trajectory and pace of future integration, and outright backlash against the European project. Grumbling as they did at times, member states have never once intervened to curtail the Court's judicial reach, while European citizens and corporations have found their way to the Court in ever-increasing numbers (Strasser 1995; CJEU 2019a: 121), as Table 6.1 illustrates.

So how did this happen? The Treaties were vague or open-ended, creating ambiguities that had to be resolved (Garrett and Weingast 1993). By filling in the gaps in these 'incomplete contracts' of European law, the ECJ fulfilled a critical function in furthering European integration. In academic language, we recognize a fortuitous combination of path dependency and institutional momentum (Stone Sweet 2010: 7): the Court's caseload kept rising; in its decisions, the Court provided 'defensible reasons' that honoured precedents; national courts and the member states accepted the Court's rulings, which, in turn, led to more cases before the Court. The rising number of cases had something to do with the introduction of the preliminary ruling. This 'judicial gadget' created a relation between the ECJ and national judges who could directly access the Court without referral to higher national courts. This made lower courts more receptive to both using the ECJ and accepting its rulings

Table 6.1 Cases put before the European Court of Justice, 1960–2018

Year	No of cases
1960	28
1970	80
1980	280
1990	381
2000	503
2010	631
2018	849

(Stone Sweet 2010: 17). The completion of the internal market further inflated the number of cases (Stone Sweet 2010: 19).

In short: as EU law became more important, the ECJ attracted increased litigation; and by appealing to EU law, litigants in turn legitimized the Court and its ongoing production of EU law. To understand the willingness of national courts of turning to the ECJ, it is central to see that the European legal order in many instances provides alternative rights that lower courts and litigants may prefer to their own national legal order (Schmidt 2018: 59). National courts perceive clear advantages in pushing and promoting the European vis-à-vis applying their national legal order.

An interesting example is the *Mangold* ruling (C-144/04) that prohibits age discrimination. It was particularly controversial in Germany (Stone Sweet and Stranz 2012). The ruling goes back to a fabricated case, where a lawyer employed an elderly person on a limited contract with the express intention of having the rule of the German labour law declared void in court afterwards.

Embedding the case in the context of anti-discrimination litigation in Germany, Stone Sweet and Stranz show how different cases, particularly with regards to women's rights since the 1970s, helped the Federal Labour Court to establish its preferred broad definition of discrimination against the narrower framing of the German Constitutional Court (Stone Sweet and Stranz 2012).

A key driver of positive feedback thus appears to be *demonstrated functionality*. The ECJ fulfilled a function that garnered support for its existence. Key actors benefited from a strong court, which means they helped strengthen the ECJ, or at least did nothing to question it. This strengthening, in turn, enhanced the Court's capacity to fulfil that function.

But this still begs the question how the ECJ arrived on this virtuous path of endless institutionalization. Here we arrive at an additional explanation: institutional leadership. While the inner life of the Court remains hard to analyse, a few students of the Court have parsed together evidence that points at institutional strategizing by powerful judges. At key moments in time, ECJ judges initiated important strategies that propelled the Court when it was stuck or set it on a different path. We will now consider how these strategies furthered the Court's mission, internal cohesion and external legitimacy.

Creating a Mission

A critical development in the ECJ's institutional trajectory was the emergence of its mission, during the early 1960s. An incoming group of pro-European judges began to cast the Court in its verdicts as the guardian of European integration. An overarching, teleological method of interpreting the Treaties as a constitution for the European entity became a hallmark of the Court. Already in its first ruling on the ECSC, the Court had stipulated that a decision should not be taken based on an individual article, but a 'dispute must be examined in relation to the Treaty in its entirety' (*French Republic vs. High Authority of the ECSC*, Opinion of the advocate-general, 1/54 in: Saurugger and Terpan 2017: 16). Referring to the Treaty as a whole indicated an emphasis on the *telos* of integration.[10] The Court's sense of mission found its first public expression in the *Van Gend en Loos* and *Costa* rulings.

The Court applied its newly discovered mission with measured zeal, relying on an incremental way of operating (Weiler 1991). Typically, the ECJ would test new and potentially far-reaching interpretations in relatively insignificant cases (Alter 1998). The new interpretations would have no immediate effects, but they did create precedents for future cases. The incremental development of case law—building on precedent—became key to the institutional expansion of the Court (Schmidt 2018: 240).

Euro law associations played an important role in the Court's discovery of its mission. With the founding of the Economic Community in 1958, Euro law associations were established at the domestic level by lawyers closely engaged with the integration process.[11] These associations consisted of lawyers, political actors and other well-placed individuals with (close) ties to the European Community, who were interested and committed to the cause of European integration under the rule of law (Alter 2009: 65–66). The Commission also established an umbrella organization: the Fédération Internationale de Droit Européen (FIDE), which organized international meetings where pro-integration lawyers could meet each other, and other lawyers could be informed about the possibilities of European law (Alter 2009: 68–69; Vauchez 2015: 119).

The impact of these 'Euro lawyers' on the formation and interpretation of EU law was vast (Alter 2009). Initial discussions about the ECJ were monopolized by lawyers who were committed to the European project (Vauchez 2015: 55). Recent historical work has uncovered the intense exchange between judges, the legal community and the legal service of

the European Commission (Rasmussen 2012), considering possible inter-pretations of the Treaty of Rome in order to further integration (Nicola and Davies 2017). The Court used arguments that were posed by Euro law lawyers to back their rulings: they served as the kitchen's cabinet (Alter 2009: 76–78). Through the FIDE meetings, the Court could test innovative legal reasoning at national lawyers. If they could not find any support for their arguments, they would simply not pursue them (see also Saurugger and Terpan 2017: 132). But they could also borrow arguments from lawyers to strengthen the ECJ's position.

Engineering Cohesion

It is one thing to establish an institutional mission—core values, clear goals, a way of working—but it is quite another to build an organi-zation that can fulfil that mission. The ECJ never had the luxury of selecting its judges and AGs. There is no common training or education for incoming judges and the Court has no influence over their recruit-ment (Vauchez 2012: 54–55). In the beginning, it was unclear which qualifications someone should have to become an international judge. The first batch of judges had a wide variety of backgrounds.

An important development therefore was the appointment between 1958 and 1962 of five new judges (Lecourt, Donner, Catalano, Monaco and Trabucchi) who were lawyers and were deeply committed to the European project and the constitutional character of the Court, or at least the political and legal unity of the Communities (Vauchez 2015: 54–55; Phelan 2017).

Over time, the various enlargements of the EU resulted in increasing numbers of judges and growing diversity of legal cultures, making the task of maintaining a committed group both harder and increasingly impor-tant (Tamm 2013). The inevitable diversification of the ECJ 'chipped away at internal unity, putting at risk its doctrine'. This emerging risk required a 'collective strategy from the most integrated judges' (Vauchez 2015: 154–155). It was highly important for the ECJ to succeed in shaping a strong internal culture, fostering cohesiveness and a shared outlook.

The Court, therefore, had to foster a shared interpretation of mission and operations among a very diverse group of people, who did not exactly arrive *tabula rasa*. In response, the judges streamlined procedures to defend the Court's jurisprudential acquis. Two strategies were employed:

the codification of jurisprudence (through rules, SOPs, databases) and the centralization of judicial decision-making process (in the hands of centrally placed judges) (Vauchez 2015: 158). One of the judges, Pescatore, wrote a Vademecum that defined the Court's judicial style as 'an overall process of codification around a limited number of highly standardized formulas' (Vauchez 2015: 187).

The *référendaires* and *lecteurs d'arrêts* (lawyer-linguists) played an important role in forging a uniform way of working (Cohen 2017). The référendaires draft the ruling. Before the draft ruling is handed for the first time to the chamber, the lecteurs d'arrêts read the draft for inconsistencies, and also for contradictions with existing case law (Cohen 2017: 69). The lecteurs d'arrêts receive detailed training. Until the early 1970s, each judge had only one référendaire, and these référendaires were permanent staff, so that new judges inherited the référendaire of their predecessor. The use of French as the Court's working language also played a role (McAuliffe 2017). Many of those working at the Courts are not native French speakers. They tend to work with citations of earlier rulings, thus unwittingly strengthening continuity in Court proceedings.

In addition to engineering organizational mechanisms to maintain consistency, the Court also makes a strong effort to socialize incoming judges to the Court's mission and its jurisprudential acquis (Vauchez 2012: 52). This socialization effort, aimed at creating a 'transnational esprit de corps' (Vauchez 2012) can be distilled from different traditions and ceremonies.[12] Common to all these ceremonies and traditions is that they link today's Court to the Court's past (Alter 2009). The revolutionary years (1960s) of the Court are employed to reiterate the 'original prophecy' that provides current judges with a 'timeless truth' regarding their role and a 'juridical foundation' for their work (Vauchez 2012: 61, 63). This way the Court creates an invented tradition of one 'jurisprudential acquis' (Vauchez 2015: 162).

These ceremonies do not only socialize quite diverse judges into one community, making them feel part of a cohesive unit, but they also ensure intergenerational continuity by passing the legacy of the court on to new generations (Vauchez 2012: 63–64, 2015: 166). In descriptions of the Court, metaphors of family, community and brotherhood are often used. These ceremonies help shape a posterchild judge: an accomplished legal practitioner and renowned scholar, who represents a national legal culture, but is also a convinced European. A good judge adheres to

the EU's judicial spirit, and acts 'as a pontiff, a bridge between different interests in EU polity' (Vauchez 2012: 67).

Protecting and Adapting the Institution

The institutional design of the Court allows for plenty of autonomy to perform its mission. But formal autonomy is no guarantee for a high degree of institutionalization (Groenleer 2009). An institution can only exist when it enjoys the support of its stakeholders and remains largely noncontroversial. But even when stakeholders are content with the performance of the institution and support is granted, the institution cannot sit on its laurels. The world changes and so do the expectations of stakeholders, requiring an institution to adapt.

Importantly, discussions about the democratic nature of the ECJ provide a constant source of potential controversy (Schmidt 2018: 12–13, 245). The realization that a small group of judges imposes significant constraints on policy-making at the national and European level provides the ingredients for a domestic political backlash against the Court and Union, as we have seen in the debate surrounding the UK referendum. In these discussions, the rights of EU citizens to national welfare dominated the agenda; rights that were largely shaped by the Court and not by political majorities. The German President Roman Herzog at some point even pledged to stop the ECJ. During treaty negotiations—the only moment member states can rein the Court in should they so desire—the ECJ has come up (Schmidt 2018: 40–41). We may thus conclude that the level of legitimacy enjoyed by the ECJ is tenuous and vulnerable to political mood swings at the national level.

An important strategy to protect the autonomy of the Court has been its emphasis on precedent (Schmidt 2018; Stone Sweet 2002). By referring to its own jurisprudence, it can guard against criticism that the Court is overstepping its mandate. As long as the Court can make the argument that it does what it has always done, it is possible to rule on controversial cases without prompting a barrage of critique (De Somer 2019). Legal precedent therefore plays an important role in EU jurisprudence. Legal concepts that are established in one area, are taken up and adopted in another one, driven by litigants that perceive this development as advantageous. Importantly, when individuals base their claims on EU law they do not only act in their own interests, but they also legitimate European laws and ensure compliance (Van Middelaar 2013: 50). If the Court were

to change its interpretation of EU law often, it could hardly aspire to decentralized enforcement via national courts.

Some actors necessarily lose out in this process of expanding case-law development, and it is crucial to understand why they cannot block it. The highest national courts have lost their exceptional position since the ECJ became the apex of the European court hierarchy. These courts understandably were reluctant to accept the constitutionalization of EU law. Especially the French *Conseil d'État* ('supremacy challenges the sovereignty of the French Parliament') and the German *Bundesverfassungsgericht* ('the Community lacks democracy and basic rights') were reluctant. Eventually, the courts of these most powerful member states accepted the supreme position of the ECJ (France in 1989 and 1999, and Germany in 1986) (Saurugger and Terpan 2017: 33, 109–114).

Important for this step was the adaptation strategy of the ECJ, most notable vis-à-vis the German constitutional court (GCC). After the GCC had been reluctant to accept supremacy because of the missing fundamental rights protection in the framework of EU law in a decision in 1974, the ECJ developed such rights in its jurisprudence, so that the GCC could denounce the need to provide for this protection by itself in 1986 (Davies 2012).

The next question is: why did the *member states* permit the court to gain so much power? A purely functional line of argumentation, as we have seen above, would point out that the ECJ helped to clarify the ambiguities of the European Treaties. A political approach would suggest that the ECJ acted in accordance with the interests of powerful states (Garrett 1995; Stone Sweet 2010: 17). After all, the Court can only count on continued member state compliance when its rulings do not venture too far away from member state preferences. Member states can too easily ignore ECJ decisions if they are against their interests (Garrett 1995).

The ECJ has been careful not to cross any red lines that the member states had drawn (Garrett 1995: 172; Alter 2009: 120; Schmidt 2018: 42–43). The Court has not become a 'lone ranger pushing the development of case law' and has 'shown itself responsive to the way that member states intervene' (Schmidt 2018: 237, 239). It appears to assess the political ramifications of its rulings. For instance, the ECJ stopped the expansion of entitlements of economically inactive EU citizens after the issue got increasingly politicized in richer Western member states (Blauberger et al. 2018). More in general, the Court is attentive to the thrust of (written and oral) observations that governments can submit to

make their legal interpretation heard to the Court, following these about 50% of the time (Larsson and Naurin 2016).[13]

The ECJ appears to mediate between judicial activism (furthering integration) and listening carefully to the concerns of member states. The Court usually tries to justify its decisions by pointing to the common interest of the member states and the objectives of the treaty (Burley and Mattli 1993: 68). Moreover, the Court tests the impact of potentially important rulings through its incremental building of case law (Alter 1998). The preliminary ruling procedure has also been helpful in shielding the Court from national criticism. It allows the Court to avoid conflict with member states, as the formal ruling is left to the national court (Weiler 1991).

Crucial is that in building EU law the Court can rely on those *private actors* that pursue interests compatible with those of the Community (Stone Sweet 2010: 17). European law provides an opportunity structure for private actors. They can turn to European law, for instance for strengthening liberalization via the four freedoms and competition law, or further non-discrimination policies via turning to the ECJ. States are no longer gatekeepers to the EU polity (Schmidt 2018: 50). The involvement of private actors simultaneously boosts the legitimacy of the Court. Its rulings respond to needs voiced by actors that are also important interlocutors at the national level.

In addition, the Court's long-term investment in building a transnational legal community pays off (Vauchez 2015). In the early years, when the Court's existence was anything but guaranteed, ECJ personnel worked hard to establish the Court as the supreme court on questions of EU law (Burley and Mattli 1993: 62–63), ensuring that lawyers were aware of the (benefits of) the preliminary ruling procedure. The ECJ organized trips to Luxembourg for national judges, where they were wined and dined. The ECJ helped national judges by framing and writing their preliminary ruling requests. National judges were socialized into viewing the ECJ as an alternative venue that could benefit their position. European judges participated in scholarly conferences and contributed to legal journals (Alter 2009: 70). As a result, this emerging European legal community widely deliberated on the ECJ's rulings, heightening broader awareness of the Court's importance (Alter 2009: 73–76; Vauchez 2015: 124–129).

Finally, ECJ judges visited national capitals to generate news coverage and inform the general public (Alter 2009: 71). Such networking activities remain an important part of the Court's daily business. In 2018, the Court received 2292 national judges in Luxembourg for visits or training seminars (CJEU 2019c: 19). The year 2018 saw the founding of the Judicial Network of the European Union (JNEU), which links the supreme and constitutional courts of member states with the ECJ, and fosters information exchange on the interpretation of EU law and on training material (CJEU 2019c: 57).

The ECJ learned early on that it might have to sell its mission and deeds to the world. *Van Gend en Loos* presented a unique vision of Europe's nature and future: 'a unified legal order where EC norms have direct effect and prevail over national norms' (Vauchez 2015: 116). Its seminal rulings initially appeared meek. All the Court can do is providing an opportunity structure to other actors. Thus, *Van Gend en Loos* had to be used by the law community and the Commission, and the same is true for other judgements, such as the *Cassis de Dijon* ruling, which helped completing of the single market (Alter and Meunier-Aitsahalia 1994). As such, seminal rulings are ambiguously formulated and do not speak for themselves. Euro-lawyers, Court members and the Commission first have to engage in a form of 'interpretative activism' to clarify the importance of rulings, constructing each one as a 'constitutive principle of an overall doctrine' (Vauchez 2015: 125–127).

The Unplanned Institutionalization of the ECJ

The story of the ECJ reminds us how much institutionalization matters. Becoming an institution meant that a particular vision of the European treaties—as a constitution imposed on the legal order of member states—was enshrined in the thinking and ruling of a small group of appointed judges. Institutionalization guaranteed that, over time, new judges stuck with this vision and employed to formulate rights that are nowhere to be found in European treaties. By becoming an institution, the ECJ 'weaponized' (cf. Selznick 1952) a particular vision of the EU that has had tremendous impact on member states and EU institutions alike.

In its early years, the Court was an unlikely candidate for becoming one of the most important European institutions. Institutional status had to be earned. Once achieved, it remained precarious. So how did a small 'coal and steel court' become such a powerful institution? The chapter

has shown that the ECJ's institutionalization was not designed, but rather discovered. In hindsight, we can recognize certain patterns of behaviour that helped to lift the Court from its initial invisibility and expected insignificance. The eventual invention of its current mission as guardian of European integration was made possible by the appointment to the Court of a small group of influential 'believers' in the early 1960s. They introduced and organized around a powerful idea that provided guidance in the development of the Court's practices.

Once the importance of the mission was realized, its maintenance became an objective in itself. Organizational mechanisms were designed that instil a shared sense of purpose in new members, and ensure continuity and uniformity. Rituals were introduced that reiterated the importance of the golden years and the 'Big Men' who had made the Court. At the same time, the mission was applied in practice with guarded zealousness. An example is the caution of the principle that big decisions are best tested in small cases—allowing the Court a way out if it would become clear that big ideas provoke unsuspected resistance.

While Court members believed in the mission, they had an acute understanding of the importance of building strong relations with national courts, the European Commission and member states. They sensed that any of these critical stakeholders was easily rubbed the wrong way. The Court therefore built on the support of national courts and litigants while taking pains to listen to member states' perspectives. This long-term effort to create an ecology of believers who become supporters proved very helpful over the years.

Institutionalization is the path that organizations follow to become institutions. This path may be short and straight; it often turns out to be long and winding. This case study reminds us that institutionalization may also harbour the roots of future deinstitutionalization. The Court's most enduring source of legitimacy, the constitutionalization of EU treaties, has the potential to become a cause of discontent. The mechanisms that maintain the Court's mission are also the mechanisms that make adaptation hard.

Questions for Discussion

1. Can you summarize the impact that the ECJ has had on the integration of EU member states over the years?
2. We know very little about the internal functioning of the ECJ. Do you think this absence of transparency worked well for the institutionalization of the Court? What difference would a higher level of transparency have made in this regard?
3. Can you think of a scenario in which the ECJ would suffer a sustained phase of delegitimization?
4. In your opinion, who are the most important actors in the ECJ's authorizing environment?
5. The ECJ enjoys a lot of autonomy. Is that a good thing?

Notes

1. The French legal advisor Lagrange played a central role in designing the initial court. He based its design mainly on the French Conseil d'État (Tamm 2013: 17).
2. These are published on its website https://curia.europa.eu/jcms/jcms/Jo2_7031/en/.
3. Article 35 of the Statute; Article 32 of Rules of Procedure.
4. Article 60, Article 16.
5. Article 245 TFEU.
6. In 2018, 2217 employees worked at these supportive services. The ECJs' budget was 410 million euros (CJEU 2019c: 18).
7. In 1988 the Court of First Instance (especially for cases concerning competition and intellectual property) was established to deal with the increasing workload. After Lisbon, the position of the Court changed, because the pillar system was dissolved and the Court obtained competences in the area of freedom, security and justice (with some exceptions), and the Fundamental Rights Charter was granted the same status as the Treaties (Arnull 2006: 650–657).
8. These concerns have been echoed by academics. Arguing that the ECJ has turned the intergovernmental Treaty into a constitution, Grimm (2017) argues that policy decisions are increasingly made by the Court (rather than EU legislature) and therefore speaks of 'over-constitutionalisation'. Stone Sweet (2007) even speaks of a 'juridical *coup d'état*'.

9. Intriguingly, the larger states were litigated against, and lost, more often than smaller states (Germany lost more consistently than any other state) (Stone Sweet 2010: 21).

10. The Court also started using the terms 'charter of the community' and 'constitutionality' (Tamm 2013: 19).

11. The Commission also established EU law as an academic field. European law institutes were founded at several universities, where the Commission financed doctoral positions and other Community related research. European law journals were founded in which academics could publish their research on European law and the Court's rulings (Alter 2009: 69–70). By creating a European legal academic community, groups were created which had an interest in expanding the position of the Court (Burley and Mattli 1993: 65).

12. From the mid-1970s, says Vauchez (2012: 60), the Court 'began celebrating itself as an institution'. There are ceremonies to praise departing judges, and to welcome new judges. Since the 1970s the number of commemorative venues has increased (also because of increasing turnover). *Festschriften* are partly written by former ECJ judges and there are always 'old great men' who attend the ceremonies of the ECJ. The Court also celebrates its own anniversaries.

13. Article 23 of the Protocol No. 3 on the Statute of the Court of Justice of the European Union.

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The Amsterdam Concertgebouw Orchestra: Guardian of Symphonic Music

Bert Koopman

An Institution Under Pressure

The Concertgebouw Orchestra performs symphonic music at the highest level and across a broad spectrum of canonical and avant-garde orchestral music. The orchestra has developed a distinctive sound, conserves specific orchestral genres (passion music and late Romantic music) while developing a hitherto unprecedented stylistic flexibility through covering classical, twentieth-century, contemporary music and mastery of both the Germanic and the French schools. It delivers the magic of live concerts, creating a sense of the ephemeral. The Orchestra performs timeless works of art, keeping the canon of classical music alive for the next generation. For these reasons, the long-serving (and late) chief conductor, Mariss Jansons, spoke of the 'universal orchestra'.

In the fall of 2019, things were in disarray. Only two years after joining the orchestra, chief conductor Daniele Gatti had been forced to step down following allegations of 'inappropriate behavior'. After a successful 11-year run, Managing Director Jan Raes was about to leave the orchestra, just months after both the chairman and the treasurer of the Foundation

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board had completed their terms in office. Adding to the exodus, Artistic Director Joel Fried announced his retirement, taking effect in 2020.

This major succession challenge at the top came at a time when the orchestra was confronted with the pressures of a new *Zeitgeist*. A considerable part of its audience was ageing, but a new generation of listeners remained conspicuously absent. The solemnity of the old concert hall and the classical repertoire no longer seemed attractive to young art lovers. Government funding was under pressure as well. In 2017, the influential Dutch Council for the Arts chastised government funders for their bias towards elite pastimes such as classical music and opera. The Council advocated a less elitist funding policy that pays more attention to contemporary music such as hip hop, R&B, dance and electronic music.

The Concertgebouw Orchestra depends almost half of its annual budget—around 29 million Euro—on public money. Without annual subsidies, the Concertgebouw Orchestra cannot survive. Appealing to everlasting cultural values will not suffice in a neoliberal climate. Frustratingly, traditional audiences continue to age and the influx of young people is stagnating. Most youngsters do not seem to buy the notion that classical music is that interesting (Van Putten 2016). Performing a 'museum' function is not enough. The Orchestra has to renew the old canon, adding new classics and reworking accepted ones to remain attractive to an audience that has many entertainment choices.

That is exactly what the Orchestra has tried to do. The Orchestra continually seeks to renew itself, while staying true to its identity as a cultural carrier. It has created partnerships with other cultural organizations such as museums and theatres. It has designed new forms of presentation, such as short late-night concerts for 'yuppies' without intermission and followed by cocktails. The Orchestra's value proposition has been clear and consistent: preserving a cultural heritage for new generations, while providing a platform for the works of contemporary innovators of orchestral music.

Yet behind the scenes, the ride to stay on top of its game has been a rocky one. In its long existence, the Concertgebouw Orchestra has faced a crisis of sorts nearly every decade or so, often revolving around conflicts between artistic and business interests. The Orchestra has survived each and every one of these crises. With the Gatti case—a rare Me-Too eruption on the Dutch classical music scene—the Orchestra weathered yet another storm. Sponsors, donors and the audience remained fiercely loyal to the orchestra proving itself a 'strong brand' that elicits robust support

at a time when it could easily have become vulnerable. Over the years, it has demonstrated an enduring vitality in the face of recurrent turbulence.

The Orchestra is more than a group of top musicians, excelling on international stages. The Concertgebouw Orchestra provides a sense of identity to a city and its urban elites. Influential patrons have traditionally supported the institution with their money and political acumen. The nineteenth-century founders of the Concertgebouw building and the Concertgebouw Orchestra were members of the urban aristocracy who wanted to provide allure to the city of Amsterdam, while rubbing themselves into that newfound allure. They wanted to be identified with a majestic concert hall and the elevated practice of symphonic music. To this day, the concert hall and the orchestra both have a robust appeal to a select group of wealthy sponsors and corporate donors, including some of the Netherlands' most prestigious corporations.

How did the orchestra evolve into an institution, defined here as an organizational form that reliably performs a societal task or function in a highly valued way? This chapter investigates how the Concertgebouw Orchestra learned to navigate two sets of colliding forces and how that has shaped its character. One such force was organizational in character and pertains to the complex relation between the Concertgebouw building and the Concertgebouw orchestra. The second source of turbulence has been the tension between artistic and commercial visions. These two forces continually test the relationship between the chief conductor and the business director of any top orchestra. By mastering these challenges, the Concertgebouw Orchestra has become an enduring institution.

An Auspicious Beginning

The early decades of the Concertgebouw Orchestra make for a compelling story of legendary chief conductors and a superior concert hall.[1] In the late 1880s, a new music temple with unique acoustics was built on the southern edge of Amsterdam. It was founded and funded by six wealthy citizens—a lawyer, an equity trader, a banker, a cotton trader, a wine merchant and an attorney—who thought the time was ripe for the city to boast an ambitious, high-performing orchestra and a concert hall to match it. To this effect, they invested part of their private fortunes, earned in the Dutch East Indies and on the Amsterdam stock exchange, and founded the Concertgebouw Ltd. They governed both building and orchestra, acting as the employer of its musicians and staff (until 1952).

The Concertgebouw opened its doors in the Spring of 1888. Six months later, the Concertgebouw Orchestra staged its first performance. Violinist, conductor and composer Willem Kes was the first permanent chief conductor and artistic leader of the orchestra. He introduced a broad repertoire, including contemporary orchestral music, to the Amsterdam audience and instilled a culture of disciplined musicianship within the orchestra. Under Kes's 7-year reign, the concertgoing public was socialized into the kind of concert etiquette that prevailed in other major centres of classical music around Europe, banning waiters, smoking and chatting during performances that had been customary around Amsterdam prior to the opening of the Concertgebouw.[2]

In 1895, Kes was succeeded by Willem Mengelberg—at just 24 years of age. In his extraordinary half-a-century reign as chief conductor and leader of the orchestra, Mengelberg turned the Orchestra into a top-tier musical institution. Craving for perfection, Mengelberg transformed peripheral and pedestrian Amsterdam into an internationally respected centre of classical music on par with traditional strongholds such as Berlin and Vienna. His music, portions of which have been recorded, stood out by compelling interpretations rooted in the architecture of the compositions. Especially striking were Mengelberg's engaging style of conducting, the blending of the instruments, the extraordinary rhythmic precision, and his strongly developed sense for detail and transparent orchestral sound (Zwart 1999).

Institution-Building Leadership

The authoritarian Mengelberg turned the orchestra into a highly disciplined and cohesive unit, thanks to a rigorous selection of orchestra musicians and uncompromising performance expectations. Endless rehearsals lifted the orchestra to an ever-higher level. Film footage shows how he conducted: with radiant energy, demonstrating a clear and demonstrative baton technique (Bowen and Holden 2005: 127).

Mengelberg struck a judicious balance between devoting much attention to monumental and iconic works of classical music such as Bach's *Matthäus-Passion* and the avant-garde of contemporary composers, such as Mahler, Richard Strauss and Schönberg. Mengelberg's commitment to performing both iconic and emerging composers gave the orchestra its distinctive character and shaped its size and staffing. Mengelberg invited conducting composers to Amsterdam, such as Debussy, Grieg

and Schönberg. Furthermore, he brought works of Dutch composers such as Diepenbrock and Dopper to the Amsterdam audience. The musicians' curiosity and commitment in performing lesser-known pieces and composers contributed to the orchestra's much-lauded chameleonic character.

His close ties with living composers helped shape the orchestra's distinctive character as both guardian and modernizer of classical music. His friendship with leading contemporary international composers such as Gustav Mahler and Richard Strauss proved an artistic asset. Both regularly came to Amsterdam to conduct their own works, as Mengelberg vigorously championed their music. Mahler considered the Netherlands his second cultural homeland after his native Austria. The acoustics of the Concertgebouw building were ideal for this late Romantic repertoire. A grateful Strauss dedicated his symphonic poem *Ein Heldenleben* to Mengelberg and the Orchestra.

Quality control in selection and retention of musicians was and remains a cornerstone of the Concertgebouw Orchestra's quality and reputation. The audition process originally set up by Mengelberg and evolving further under his successors boils down to a big knockout competition—with the musician coming in and playing behind a screen to ensure the influence of considerations concerning gender, ethnicity, age and appearance. Only one per cent of the candidates end up in the Orchestra. The process is nerve-wracking for the musicians being auditioned. Auditioning successfully requires a complete fusion of musician, music and instrument. The difference between good and outstanding is small but critical and the jury is extremely selective. A vacancy remains unfilled until someone is found who has the desired level. Until then, the orchestra will fall back on substitutes. Once in the seat, the musician must display a sufficiently strong personality, yet prove flexible and able to adapt in what is a demanding job involving ceaseless study, rehearsal, performances, travel, recordings, meetings with sponsors and the need to 'get along' in a community of precocious talents. The musicians must sacrifice economic comfort for artistic integrity: they earn on average 35% less than their colleagues in other top orchestras.

Part of the Orchestra's reputation for the vigilance and adaptability of its musicians stemmed from an unexpected quarter: the peculiar acoustics of the Concertgebouw. On the concert stage, musicians were not seated particularly near to each other and could not hear each other very well (and this is still the case today). Therefore, they were compelled to listen

very intently during play. This bred a level of concentration and alertness that was second nature and became a source of the young orchestra's growing reputation (Ferwerda 2013: 127).

The creation of the orchestra had occurred under a lucky star. The economic growth at the end of the nineteenth century was a major contributing factor. Yet financing the two-pronged endeavour—the building and the orchestra from scratch—entirely with private money proved challenging. From the 1910s onwards, first municipal and then national government funding was required. In return for the subsidies, government funders demanded subscription concerts as well as 'people's concerts' for music lovers who were less well-off. Both types of concerts required the orchestra to diversify its programming and further broaden its repertoire to cater to the tastes of a broader public.

Its public stature increased thanks to the touring of major concert halls in several European countries, starting in 1895, and thanks to its growing body of recordings—initially released on 78 rpm records. International tours and recordings reinforced each other in the orchestra's quest for artistic prestige. In sum, within two decades after its founding, the orchestra could pride itself on a distinct identity, a highly rated competence and a fast-growing international reputation. The latter found expression in endorsements from members of the royal family, ministers, musicologists and composers from across Europe. The daily *La Libre Belgique* wrote in 1926 that 'the Concertgebouw Orchestra, together with the Vienna Philharmonic Orchestra, has mastery over the symphonic world' (Bottenheim 1950: 81).

The Mahler festival, organized in 1919/1920 on the occasion of Mengelberg's 25th anniversary as chief conductor, formed a first apotheosis of the orchestra's ascent. It was not just an artistic highlight in the life of the building and the orchestra: with musicians from around Europe participating in the proceedings it became somewhat of a cultural peace conference, reuniting key players from Germany and France who had been on opposite sides of the Great War and had barely interacted since.

As the institution-building leader who had brought the orchestra up to world class, Mengelberg became a revered figure. As his fame spread, he made a series of high-profile guest appearances throughout eastern and western Europe and the United States, with an important side engagement as principal conductor of the New York Philharmonic Orchestra between 1922 and 1930 (Bowen and Holden 2005: 126). The second

half of Mengelberg's career took a darker turn, getting hamstrung by fiscal and financial malaise and eventually ruined by his pro-German attitude and behaviour during the German occupation of the Netherlands during World War II. The former folk hero fell from grace after the end of the war and was no longer allowed to conduct in the Netherlands. Until his death in 1951 he lived a reclusive life in Switzerland, feeling banished and misunderstood (Zwart 2019).

Tensions and Conflicts

Behind the façade of the ostensibly seamless upward trajectory of the orchestra, significant tensions occasionally flared up. Firstly, there was the uneasy duopoly—common in many arts organizations—between the Chief Conductor and the Business Director, each representing a particular set of values and priorities within the orchestra's system. As early as 1902/1903 a power struggle took place between Mengelberg and business director (and previously a horn-playing member of the orchestra) Willem Hutschenruyter. This so-called 'Concertgebouw conflict' took place against the background of growing disgruntlement of the musicians about the great difference in salary between themselves and the conductor, who earned eight times as much as they did. It evolved around four issues: the position of the orchestra vis-à-vis the board of the Concertgebouw Ltd. that owned and operated both the building and the orchestra; the position of the orchestra vis-à-vis the chief conductor; the position of the business director within the orchestra-conductor force field; and, perhaps most important of all, Mengelberg's dictatorial behaviour towards the musicians (Samama 1988: 20–21). All parties made their complaints known to the board. Emotions ran high. The board sided with the chief conductor; the business director left and the orchestra had to cop it.

Notwithstanding—or perhaps as a response to—Mengelberg's long reign characterized by autocratic leadership, the orchestra's musicians developed a remarkable democratic self-consciousness. In 1915, they founded the Association 'Het Concertgebouworchest' (sic) in order to promote their interests with the board of the Concertgebouw and the chief conductor. Meanwhile in the 1930s, history repeated itself when conductor Mengelberg came into conflict with another business director, his namesake and distant relative Rudolf Mengelberg. As far as the conductor was concerned, Rudolf Mengelberg was to have position nor

title on a par with his own stature, but nevertheless was expected to solve all the orchestra's organizational problems, including financial setbacks (Zwart 2016: 342). The director stood his ground and demanded to be given a suitable level of authority. This time, the conductor backed down and the board retained the director.

Secondly, almost from day one there were financial troubles. This should not come as a surprise; many cultural institutions suffer from them. American economists William Baumol and William G. Bowen made a connection between expenses of performing arts institutions (ballet, dance, music, theatre) and technological progress, which in most economic sectors boosts productivity. Orchestral labour productivity hardly rises. To perform a Mahler symphony, a certain number of musicians and a certain amount of time are needed. Playing faster with fewer musicians is not an option. Expenses in the labour-intensive orchestra world rise faster than in market-oriented sectors which have substantial possibilities to boost productivity. The consequence of this is a 'cost disease' which will inevitably cause budgetary problems, though orchestras such as André Rieu's that confine themselves to highly popular niches within orchestral music may at times beat the odds (Koopman 2018: 231–233).

In Amsterdam, the orchestra's private founders were faced with refinancing challenges and budget overruns. As maintenance costs of the building increased and wages of musicians and the chief conductor rose, it became more difficult to stay in the black, which was reflected in the patterns of patronage. In the decade following 1910, the traditional patronage proved insufficient to cover the costs. Public funding in the form of subsidies from the city and the state became a necessity, but with it came another set of actors whose views had to be taken into account in charting the course of the orchestra and rendering account of how the public's money was being spent.

Thirdly, the relation between the chief conductor and the business director had become an endemic source of tension. From day one, the regents of the building had given the chief conductor a very wide berth. This model regularly caused tensions involving Mengelberg and his successors and their business director counterparts. Given the fact that the board had few levers at its disposal to diffuse these tensions, conflicts could easily spin out of control. The demarcation of tasks and responsibilities was blurred. The director was supposed to implement decisions of the board and focus on administrative tasks. In consultation with the

board he had to find a balance between the artistic mission zealously pursued and defended by the chief conductor and the personal, financial and organizational possibilities of the institution.

A cultural institution like the Amsterdam Orchestra can thus be deconstructed in various organizational units (Orchestra, building, commerce). Each of these units is represented by what Selznick (1957) referred to as administrative elites. An institution can only move forward and stay true to its founding mission if these elites find a way to work together. Institutional leadership is effective if it becomes collective leadership. In the remainder of this chapter, we will see that institutional balance is both jeopardized and achieved by these administrative elites.

Post-War Consolidation: Towards Self-Governance

The Second World War had a major impact on the institution. During the war years, both the building and the Orchestra benefited from the German occupier's expansive culture funding. Budgets had grown exponentially in 1940–1944, especially in the music sector. Post-war culture ministers stuck to this budget, even stretching it further.

At the same time, the Orchestra's wartime choices scarred its reputation. The military authority and the *Ereraad voor Muziek*, a post-war purging body, assessed that the board, the artistic management and the orchestra had done too little to resist the assault on its music by the German occupier. The government had expected a stronger sense of responsibility. Conductor Mengelberg was banned from ever conducting again in the Netherlands because of his compliant attitude towards the occupation. His intended successor Van Beinum was reprimanded and Rudolf Mengelberg was suspended as a director of the Concertgebouw for two years. Thirteen of the sixteen Jewish members of the orchestra who had been fired in 1941 had survived the war and returned to the orchestra.

Van Beinum eventually did take over the baton from Mengelberg. Using a more democratic leadership style than Mengelberg, Van Beinum succeeded in re-energizing the musicians and steering the orchestra back to public popularity, although not without significant hiccups. When experiencing a period of ill health he was obliged to hand over the baton to a guest conductor. The job was given to Paul van Kempen who was controversial because of his musical activities in Germany during the

Second World War. Such a tainted past was extremely sensitive shortly after the war, when right in front of the Concertgebouw, there were still German bunkers. A fierce row erupted, including major protest actions outside the concert hall that even made it into *The New York Times.*

The uproar reopened a fault line in the governance of the institution. The musicians had become tired of the paternalistic style of the regents of the building, who under the existing governance structure could unilaterally set wages and hire and fire conductors and business directors. The regents were businessmen, and the musicians felt that the orchestra's artistic and organizational interests were held back by the regents' inclination to put the running of the building first and that of the orchestra second. They wanted to escape this straightjacket.

The quest for autonomy of the orchestra musicians and the political support for this ambition among the Amsterdam city council and part of the press had grown to such an extent that the unrest could no longer be squelched. The conflict became public in 1950, dragged on for many months, regularly creating headlines and triggering passionate political debates. Eventually, a solution was reached that involved a new set of arrangements between four parties: the ministry of Education, Arts and Sciences, the city of Amsterdam; the Concertgebouw Ltd.; and the Concertgebouw Orchestra, which was now acknowledged as a separate entity for the first time. In 1951, a direct relationship was created between the two governments and the orchestra, which meant that the subsidies no longer flowed via the Concertgebouw Ltd. In 1954, after a transition phase, a permanent foundation was established to be at the helm of the governance of the orchestra. Day-to-day management was put into the hands of a triumvirate: the Chief Conductor and a 2-person executive consisting of an artistic and a business director.

Though governance and revenue streams of building and orchestra had been decoupled, the Concertgebouw building remained the namesake and sound chamber of the Orchestra. The Concertgebouw Ltd. remained its landlord and service provider—being the owner/operator of the large instruments and the music library as well as the party handling the Orchestra's financial and subscriptions administration on a fee-for-service basis. Having lost government subsidies (which now went entirely to the Orchestra), the Concertgebouw building got into dire straits financially, causing the building to slide into a state of disrepair in the 1950s. Climate control suffered. In winter, people would turn up their collars or wear their coats and scarves. In summer, temperatures could surge and

the windows at the top of the hall were opened, producing a downdraft over audience and orchestra members. Strings players' shoulders and arms hurt, wind instrument players struggled with condensation, harps had to be retuned (Koopman and Berkhout 2015: 26).

The new governance structure meant a new beginning for the Orchestra. The founding document of the newly independent Orchestra states: 'The purpose of the foundation is to promote the Dutch music culture by means of the conservation and development of the Concertgebouw Orchestra and by staging music performances by this orchestra, using all the legal purposes serving this goal'. This formula remains valid today.[3]

With the separation, the Orchestra gained autonomy. A form of self-governance was introduced. The Foundation Royal Concertgebouw Orchestra employs the staff and musicians, most of whom are members of the aforementioned Association. Three members of its board are also member of the foundation board and are thus directly involved in all board decisions. The orchestra's artistic and business directors—who are named by the foundation board and may not be a member of the Association—interact with musicians on all levels. Artistic policy is determined by the Artistic Council (*Artistiek Beraad)* which includes the chief conductor, the artistic leader and representatives of the management and the orchestra.

It seems, as one former director once sighed, that everybody is forever evaluating everybody else at the orchestra. At times, this has certainly bred conflicts, slowing down decision-making and causing a degree of inertia. But this adversarial process also helped the administrative elites to find the required balance that a cultural institution under pressure so badly needs.

Dealing with New Maestros

Within any orchestra, the margin between order and chaos is small. Top orchestras need strong leadership. But a chief conductor has to earn and then use the hard-gained authority to imbue the orchestra with a musical vision and equip it to deliver on that vision.

In many ways, the leadership style of Mengelberg's post-war successors Eduard van Beinum (1945–1959) and Bernard Haitink (1963–1988) was refreshing after more than half a century of Mengelberg's authoritarian leadership. Both chose to give the musicians room to develop themselves and demonstrate their skills. And unlike Mengelberg, both were adverse

to snobbery. The drawback of Van Beinum's personable, informal style was that it might open the door to a decline in the discipline instilled by Mengelberg and which had served the orchestra well. His term as a chief conductor ended abruptly when died of a heart attack during a rehearsal, not even 60 years old.

His legacy was soon eclipsed by Haitink, who became the stand-out conductor of the post-war orchestra. He took up the position when he was in his early thirties, and was initially seconded by the experienced German conductor Eugen Jochum. His early period with the orchestra was anything but easy. Originally trained as a violin player and relatively inexperienced as a conductor, he had to become an authority figure for an orchestra whose veteran musicians had played under the great Mengelberg and had internalized his style and standards. It was a hard grind, but his dedication and technique helped win them over.

He was helped along by demographic change. Just as the young Haitink was gaining some authority with the group, a watershed generational change occurred. The old guard gradually made way for a younger cohort that brought the spirit of the roaring sixties into the Concertgebouw. They no longer took the power of authority figures for granted, and were wont to argue with conductor and directors every step of the way. Yet, within the orchestral world with its internal focus, where in the end one single man decides, a more democratic culture is difficult to instil.

Indeed, initiatives and innovations not advocated for or at least condoned by the chief conductor were therefore bound to have a hard time. For example, the energetic post-war orchestra director Piet Heuwekemeijer had a vision of a large pool of musicians from which he could form a symphonic core as well as a chamber orchestra and several smaller ensembles. In his view, musicians could perform a broad repertoire that way.

Heuwekemeijer, who had played the violin in the Orchestra in the past, sought to revive this vision, which he had originally developed during the last years of the war. But his ideas, however visionary, went too far for Haitink and part of the orchestra. They feared his plan might damage the orchestral sound crafted under Mengelberg. In addition, the musicians also anticipated logistical and practical obstacles. The board eventually sided with the chief conductor—as it had done during the notorious Concertgebouw clash of 1903/1904. Another director bit the dust: Heuwekemeijer left.

The emerging new culture of classical music not only was a divisive element internally, it also prompted major criticism from the outside world. Haitink was not neglecting the new music, but gave it less attention than his 'progressive' critics desired, notwithstanding his frequent performances of music of moderate modern and sometimes less moderate modern contemporaries. Five young composers demanded that the orchestra's management appoint another conductor alongside Haitink, who was to be specialized in new music. In their eyes, this expert—they favoured the charismatic Bruno Maderna—would be the spiritual successor of Mengelberg, who in his day had introduced the musical innovators of the era, such as Mahler and Richard Straus, to the orchestra. In late 1969, the rebelling composers disrupted a concert with rattles, horns and the occasional flute. Some concertgoers cracked nuts. But the protests failed to achieve their objective. Artistic Director Marius Flothuis protected Haitink and the orchestra board chose to weather the onslaught of the angry young men.

Haitink would evolve into a major conductor of global stature. He spoke about his predecessor Van Beinum respectfully, built a broad repertoire without precedent and was acclaimed for his interpretations, which besides an intense musicality displayed both respect for the score as well as sensitivity for the nature of the orchestra. He thus developed his own sound signature. He succeeded in maintaining and exploiting the orchestra's Mahler tradition initiated by Mengelberg in an inimitable way, reaching millions with countless recordings, intercontinental tours to the United States and Japan and Eurovision Christmas matinee performances. Besides his commission at the Concertgebouw Orchestra he pursued a successful second career in England, not only as an orchestra leader but also as an opera conductor.

An austere man, his professional persona was far removed from the jet-setting *prima donna* type modelled by his illustrious contemporaries Herbert von Karajan and Leonard Bernstein. Under his leadership, the Concertgebouw Orchestra once again became a close-knit team, inspired by Haitink and eager to perform. Haitink, in turn, was inspired by the input of solo instrumentalists within the orchestra. At times, this brought about magical moments during concerts in which the well-attuned musicians felt exactly what others wanted or would do. A feeling of radical unity—an *unio mystica* (Zijderveld 1998: 21; Bekaert et al. 2016: 21).

After the rise of the ensemble culture in the 1960s, the 1980s again brought new changes impacting symphonic orchestras' fortunes. The

shelf life of chief conductors began to diminish. A term of a quarter of a century, like Haitink or Von Karajan had served, became a thing of the past. Influenced by the trend of globalization, an army of guest conductors travelled around the world with their one-night stands, generally drawing on a limited repertoire. Long-serving chief conductors with an exceptionally large repertoire, like Haitink, became a rarity. Guest conductors with a specific focus or specific skills were brought in, such as Nikolaus Harnoncourt for the performance of old music.

The orchestra's management failed to communicate its increasing engagements with guest conductors clearly to Haitink, who himself worked in England part of the time. A feeling of discomfort and a level of distrust of the Concertgebouw Orchestra's management emerged inside Haitink, and continued to fester ever after (Hagmann and Singer 2019: 22–23, 58–59). The arrival of Harnoncourt imposed limitations on Haitink's repertoire. He had to remove works by Bach, Haydn and Mozart from his programs. This, in addition to the fact that the orchestra's musical director Van Royen had set his eye on the young Italian conductor Riccardo Chailly as Haitink's successor and had unveiled this early on, set the stage for a protracted, tense and emotional final period of Haitink's tenure. Dismissal letters were written and withdrawn. A whirlwind of rumours occurred and accusations were widely reported in the media.

In the final phase, Haitink only interacted with the orchestra inspector, the manager of the podium staff who operates in the bowels of the building. The orchestra's audience base was incensed by the drama and so were the main subsidy providers. The national government's arts ministers Elco Brinkman urged the parties publicly to cool it, as did Amsterdam mayor Ed van Thijn. But there was no backing down. Haitink left full of resentment, disillusioned by the politics of the orchestra's management, an abrupt farewell of a chief conductor who had succeeded in ensuring the post-war orchestra retained its world-class status.

Balancing Artistic and Commercial Interests

During the reign of Haitink's successor Riccardo Chailly (1988–2004), tensions between commercial and artistic interests were stretched to the limit. The post-war orchestra had become strongly subsidy-driven. As long as the state and the city's money continued to flow in, the orchestra contentedly accepted it without thinking of alternative funding. When

faced with fiscal crisis in the early 1980s, Dutch authorities began to curb spending drastically. The ensuing subsidy cuts hit the orchestra hard. Contributions from sponsors and donors were needed to save the orchestra from bankruptcy. In the foundation board, thoughtful lawyers and public administrators made way for entrepreneurs and executives from the financial world. They knew how to bind companies and banks to the Orchestra.

Business Director Willem Wijnbergen, who in 1992 had joined the orchestra following a career at Procter & Gamble, set about 'cleaning up' what he considered to be its dusty and tired back office. He also pursued a strong foreign presence for the orchestra, intensifying its international touring commitments. By virtue of higher fees paid by foreign concert halls and numerous CD recordings, he managed to reduce the deficit on the orchestra's budget. The orchestra remained dependent on subsidies but now for slightly less than half of its annual budget—around 29 million euros today. Over time, the financial reserve built by Wijnbergen in those years laid the foundation for an endowment whose revenues were used for the purchase of expensive music instruments and the pursuit of special projects.[4]

At this time, the Concertgebouw building's finances were in better shape than those of the orchestra. Its Director, Martijn Sanders, who had worked in the movie theatre business, had managed to win the support of top businesses, authorities and individuals for the ailing institution with an American-style fundraising campaign. Twenty million euros were spent to put the sagging building on a new foundation, modernize it and add an extension, a new cellar and modern technical installations. The concerts continued during the renovations.

The building's executive board pursued event programming policies that gave more airtime to other musical acts. It featured a series of 'World famous symphonic orchestras'. It also set up an endowment to benefit the preservation of the monumental building as well as projects in the field of music education and involvement. One thing remained unchanged: the endemic tension between the operating logic of the building and that of the orchestra. For example, legal wrangling regarding the settlement of the division of the assets between building and orchestra continued four decades after the 1951 act of separation between the two.

The Orchestra's artistic integrity remained intact. The arrival of Riccardo Chailly in 1988 initially brought in a new era with much late Romantic, twentieth century and contemporary work. Chailly—in his

thirties and the first foreign-born chief conductor—was a mediagenic maestro who eagerly positioned himself in the tradition of Mengelberg. He sharpened the orchestra's artistic profile. His choices forced the orchestra to study many complex parts within a short period of time. On top of that, Chailly—a control freak and precision fanatic—rehearsed in a stricter manner than Haitink had done, leaving the musicians less room for personal input that they had become accustomed to.

A New Lease on Life

Tensions between administrative elites kept making victims. Wijnbergen's commercial approach eventually got him into strife with the well-respected Artistic Director Jan Zekveld who had joined the orchestra in 1993 but then left prematurely and to considerable media and political fanfare in 1996. One year later, then-state secretary of Culture Aad Nuis warned of a downward spiral in which the orchestra produced an ever-rising number of CDs geared to attract prestige abroad, and trading its artistic excellence for a safer 'middle of the road' repertoire that was required to sell CDs. Wijnbergen saw the writing on the wall and resigned in 1998.

He was succeeded in 1998 by the experienced Orchestra Director Jan Willem Loot. Upon his arrival, Loot pioneered a new management model. The co-equal triumvirate model with a chief conductor, a business and an artistic director had outlasted its usefulness, with more and more unresolved conflicts between them landing on the desks of the orchestra's foundation's board. Under the new model, the executive board became a triumvirate, yet with Loot as a clear primus inter pares as general managing director, to be seconded and supported by an artistic and a business director. In relation to the chief conductor, he opted for a form of shared, complementary leadership: the managing director and the chief conductor became equal partners.

Entrepreneurship soon flourished. The Orchestra relied on three complementary forms of patronage—traditional patronage, considerable levels of public funding and corporate sponsorship. Managing Director Loot caused a stir with the creation of a dedicated new record label for the orchestra.[5] Loot also invested in a concert series with an adventurous repertoire, which attracted a lot of attention. His equally experienced successor Jan Raes likewise was unafraid to take risks. He professionalized the in-house orchestral academy for emerging talent, raised the number

of family concerts, educational apps, interdisciplinary concert formulas in cooperation with other Amsterdam art institutions and partnerships with primary and secondary education. These initiatives helped to preserve a balance between the Orchestra's financial needs and its institutional integrity.

But it was an uneasy balance, which chief conductors not always found easy to handle. Chailly, a classic prima donna who had already struggled with the Amsterdam orchestral democracy upon his arrival, found it especially difficult. Chailly's leadership style gradually prompted rising irritation and increasing levels of sick leave among the orchestra musicians. In the middle of the 1990s, there was criticism of Chailly's interpretations of French and late Romantic music, among which that of Mahler—the historical trademark of the orchestra. Yet there was also a kind of gritted respect for the ease with which he conducted the modern repertoire and opera music. But the general atmosphere in and around the orchestra left much to be desired at this time. Disappointed by what he saw as disrespectful machinations, Chailly moved to Leipzig in 2004—yet another painful parting of a long-serving chief conductor.

With his successor Jansons, the partnership model proved very effective. The 61-year-old Latvian, the first incoming chief conductor with decades of world-class experience under his belt, turned out to be the mature and visionary orchestra leader everybody wanted. In his view, the chief conductor is someone who takes care of his orchestra members while guarding his artistic and human principles. Setting extremely high standards in recruitment and retention, he was at the same time deeply respected within the Orchestra for his empathy and professionalism. One concern was the fact that Jansons—like Van Beinum—had a heart condition, was under permanent medical supervision and was sometimes absent.

Under Jansons, the orchestra flourished artistically. He questioned nearly everything. Following a day of rehearsing in a certain tempo, he could easily surprise the Orchestra in the evening by opting for another tempo at the concert. This was in sharp contrast with Chailly, who rarely deviated from the rehearsed tempo. Jansons could master almost every style. He extended the Orchestra's repertoire, fitting well his notion of the 'universal orchestra'. Jansons also upheld the Amsterdam Mahler tradition. In his opinion, few composers were able to express such an unparalleled spectrum of moods and thoughts, from drama and joy to sarcasm and hatred.

In 2013, the orchestra went on a world tour, also visiting Africa and Australia. The documentary of this tour was a major hit on Dutch television, introducing the Orchestra to a large audience and turning its musicians into public personalities. Between 2016 and 2018, the orchestra visited all EU member states. It performed together with local youth orchestras. Raes also initiated a European orchestra project for young talent. Moreover, in 2018 he signed for the acquisition and renovation of the privately financed RCO House. The new accommodation combined staff offices, rehearsal studios and a small concert hall for chamber music—a €10 million project.

Jansons succeeded in firmly embedding the orchestra within the highest levels of the symphonic premier league. In 2008, British magazine *Gramophone* declared the Concertgebouw Orchestra best in the world, based on a survey among international music critics associated with among others *Die Presse*, *Le Monde* and *The New Yorker*. Loved by the orchestra, the critics and the public, he left amicably in 2015.

THRIVING DESPITE TURBULENCE: A RESILIENT INSTITUTION

A top orchestra reaches an institutional equilibrium when it reaches artistic excellence within robust budgetary boundaries while answering to the notions of external critics with regard to the nature of a top orchestra (Tovey 2003: 214). Scottish moral philosopher Alasdair MacIntyre sees a connection between practices and institutions (MacIntyre 2007: 218–226). Respect for traditions—conceived of by MacIntyre (2007: 257) as 'embodying continuities of conflict'—is a *sine qua non* for artistic labour.[6] To enter a practice is to enter into a relationship not only with one's contemporary practitioners, but also with those who have preceded us in the practice, particularly those whose achievements extended the reach of the practice to its present point.

Projecting MacIntyre's philosophy onto the Orchestra, we recognize the everlasting battle between artistic aspirations and commercial interests; between traditions, meanings and values and techniques, processes and procedures—in short, between substantial and functional rationality. When artistic goals are pursued so strongly as to dwarf commercial considerations an orchestra can rapidly drift into dire straits. Conversely, when commercialism reigns, safe mainstream programming may ensue and compromise the artistic stature of an orchestra.

Balance remains critical. Institutions must acquire money and other material goods; they are structured in terms of power and status, and they distribute money, power and status as rewards. Nor could they do otherwise if they are to sustain the valued, artistic practices of which they are the bearers. For no practices can survive for any length of time when institutions cannot sustain them.

Navigating these competing values has proven challenging for the Concertgebouw Orchestra. As we have seen, it encountered a crisis of sorts nearly every decade in its existence, usually stemming from escalating conflicts in negotiating its two embedded fault lines: building v. orchestra, artistry v. business. Its initial governance was rooted in paternalism and autocracy. Over time a system of commissions, decision rights and consultation structures evolved that ensured the success of the Orchestra as an institution. Institutional resilience did not only spring from the leadership of chief conductors and business directors. It also resides with the members of the Orchestra—one hundred and twenty strong personalities submitting themselves to one entity, assuming shared responsibility for maintaining the Orchestra's values and standards of excellence.

This chapter shows that organizational design is also critically important for an institution. During the 1980s/1990s, the Orchestra's virtuous cycle came perilously close to sliding into a vicious cycle of decline. The dyadic structure of an artistic and a business director that was in place at that time failed to resolve the inherent tensions between artistic ambitions and commercial imperatives; it even began to undermine effective governance. Business Director Wijnbergen was focused on generating income through numerous foreign concerts and an extensive program of CD recordings, while Artistic Director Zekveld was bent on presenting the demanding Amsterdam audience with the most magnificent (and expensive) billings. The duopoly model lacked a primus inter pares with the authority to restrain both parties' behaviour. There were simply too many conflicts that paralyzed the organization and risked rendering it stagnant.

It was not until the orchestra's governance structure was changed and long-serving general managing directors with broad authority were appointed (Loot, 1998–2008, and Raes, 2008–2019) at the top of what was now a triad that a mature and balanced approach began to emerge. Within this more stable governance framework, artistic dreams could be spun and musical beauty could be created without losing sight of the precarious business realities. The subtle balance between home and

abroad was maintained: the Concertgebouw Orchestra remains both an Amsterdam orchestra and a global player.

What has remained is the Orchestra's musical DNA: its velvet string sound, the golden sound of the brass, the personal timbre of the wood-wind players and the stylistic flexibility. This DNA has been firmly embedded within the organization, is difficult to copy and apparently not dependent on one or a few visionary individuals. The metaphor of the Ship of Theseus in ancient Athens comes to mind. Each rotting plank was being replaced and as the years went by, ultimately not a single plank was original. The ship nevertheless remained, in a sense, Theseus' ship. With some luck, an attentive listener can sometimes hear remnants of Mengelberg's orchestral sound in today's orchestra, even though none of the original musicians play in the orchestra today, and there are musicians from more than twenty nationalities. It is the mystery of the creative process.

Maintaining Balance in the Face of Future Challenges

The symphony orchestra is one of the great cultural achievements of European civilization. It is also one of Europe's most significant cultural exports. What began as relatively small collections of musicians in the courts of central Europe in the seventeenth century has not only grown in size but also achieved wide geographical spread. Institutionalization of these orchestras is based on a delicate compromise between financial needs and basic artistic principles that motivate a community of musicians and help to win the respect of the public.

Leadership clearly matters in bringing about institutionalization. The Concertgebouw Orchestra's musical DNA and international reputation builds on Mengelberg's conductorship. He laid the foundation for the Mahler tradition, an interactive practice that continues to be maintained and exploited today. The orchestra leader made ample use of the freedom granted to him by the Concertgebouw's culture regents. This regularly caused tensions between conductor and director, and among his successors. This model, a recurring rupture, proved a fruitful basis for an ever-renewing and successful orchestra.

The Concertgebouw Orchestra will have to find an answer to the changing audience demographic and preferences. This does not mean it needs to bring in laser beams and smoke machines or perform one

blockbuster after another to please the audience. The solution might be found within the orchestra's own history. Mengelberg made friends with composing contemporaries. The current orchestra could reach out to leading twenty-first-century composers who have breached into younger and bigger audiences, such as Christiaan Richter.

Tensions will always remain. Financially, the Orchestra is always skating on thin ice. The Orchestra most likely will remain dependent on sponsor and donor contributions. So far, this has not damaged its artistic autonomy and there are no indications that its decline is imminent. But institutional balance between artistic necessities and financial needs is essential. Competing orchestras in Germany, Austria or the United States are always tugging on Amsterdam's top talents. Moreover, for financial reasons, international top talent looking for an orchestra position is likely to think twice before auditioning in Amsterdam, where one has to accept substantially lower salaries. Artistic standards and institutional integrity must be defended. The Orchestra is too important to be allowed to subside into cultural antiquity for an ever-shrinking group of interested music historians (Cottrell 2005: 251, 264).

Questions for Discussion

1. Maintaining a balance between artistic vision and financial realities is a central challenge for any cultural organization. What can be learned from the Concertgebouw Orchestra's institutional journey?
2. What lessons can be drawn from the Concertgebouw Orchestra's experiences in striving to balance 'museal' and the 'laboratory' functions that other cultural organizations might find useful?
3. How has the Concertgebouw Orchestra's authorizing environment evolved over time and how have these changes impact upon its institutional legitimacy?
4. The story of the Concertgebouw Orchestra is a story about organizational elites. What lessons can be learned that may be useful for the management of the various elites in an institution?
5. What key challenges to the value propositions and mission of cultural institutions exist at the present time? How might institutional leaders tackle them?

Notes

1. Since 1988, the Concertgebouw Orchestra has the predicate Royal. Abroad, it uses the name Concertgebouw Orchestra.
2. He left after 7 years, joining the Scottish Orchestra in Glasgow which offered more artistic leeway and higher earnings.
3. The meaning of the broad formulation 'music culture' remains unclear.
4. In the years until 2019 a total of 42 million euro's in donations was received.
5. Chailly had taken his contract with Decca with him to Leipzig.
6. Historians are more used to invented traditions—a term used by the British historian Eric Hobsbawm and his African colleague Terence O. Ranger to refer to the mythical historical stories used by for example nineteenth-century nation states to provide themselves with impressive genealogies. They consider these stories of ancestry a form of 'false consciousness'. See Paul (2014: 74).

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The World Anti-Doping Agency: Guardian of Elite Sport's Credibility

Maarten van Bottenburg, Arnout Geeraert, and Olivier de Hon

INTRODUCTION

In 2013, Lance Armstrong received global condemnation when he admitted to having used doping to help secure all seven of his Tour de France victories. This remarkable fall from grace from an all-American hero shows how society does not tolerate the use of performance-enhancing drugs. Doping thus poses a major problem for all sport organizations and their stakeholders, ranging from corporate sponsors and media companies to public authorities: it affects the credibility of international sports competitions and therefore the legitimacy of their

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policies. A globally standardized anti-doping policy has consequently been developed and refined over time. But no matter how tight the rules have become, doping abuses keep coming to light, ranging from use at the individual level to large-scale, state-supported doping programs. The standard response has been to further strengthen the fight against doping.

The World Anti-Doping Agency (WADA) is the umbrella organization that has been created to lead the global fight against doping. It promotes and coordinates harmonized rules, procedures and sanctions, and monitors their application by sports organizations and governments. It also encourages research and the development of education and prevention programs.

The establishment of WADA in 1999 was a milestone in the endeavour to establish a globally harmonized and coordinated anti-doping policy. Previously, this policy was characterized by fragmentation, lack of resources, and ineffectiveness. The International Olympic Committee (IOC) and the international sport federations (ISFs) each had their own regulations. A small number of governments had introduced national anti-doping legislation. Overall, however, there was a lack of serious commitment to the fight against doping and a growing, mutual distrust between governments and the sports world, which both had reasons not to take doping abuse too seriously (Houlihan 2002a, b, 2004).

Understandably, there was scepticism about whether the establishment of WADA could change this state of affairs (Hoberman and Møller 2004). Already in 2005, however, one of the sharpest anti-doping policy critics, John Hoberman (2005), noted that WADA had achieved a credibility that the IOC had never earned. It managed to develop into an organization with a distinct, legitimate identity that is now considered indispensable in a system that pursues a doping-free world of sports.

The development and implementation of the World Anti-Doping Code (WADC) in particular commanded a great deal of respect. With this Code, WADA ensured a significant degree of harmonization in the anti-doping policy. It also laid the foundation for closer cooperation between governments and sports organizations on the doping problem (Hanstad 2009). The WADC has been adopted worldwide by more than 600 sports organizations, including the IOC, and by far the majority of national governments worldwide. By doing so, they pledge to follow the Code regulations that apply to them, including a sanctioning regime if they are declared non-compliant. Pielke and Boye (2019: 295) call it 'one of the

most successful examples of international cooperation in history'. And that is not an exaggeration.

WADA receives support from both sports organizations and governments not just for what it does, but also for what it *is* (cf. Boin and Christensen 2008). Amid the divergent and often opposing interests of competing athletes, teams, sports organizations and countries in the global battle for medals and championships, WADA is considered to be the impartial, objective, balanced and transparent referee on doping cases. It presents itself as 'the guardian of the values and spirit inherent in the Code' (WADA 2019b). With this, WADA not only appeals to sport ethics, but also to more general public values, in particular health, integrity and equality. These values underpin WADA's specific mission: 'to lead a collaborative worldwide movement for doping-free sport' (WADA 2019b).

As a global standard setter and guardian of these values, WADA has built up prestige and trust worldwide. That does not mean that its role in anti-doping policy has been undisputed. On the contrary, in the twenty years of its existence, the Agency has endured many storms of criticism. Questions have been raised about the independence and democratic legitimacy of WADA and the many negative consequences of the near zero-tolerance approach in anti-doping policy.

Compliance with the WADC is also a continuous source of concern. Tellingly, increasing evidence shows that the percentage of sanctioned anti-doping rule violations falls far short of the actual use of doping. Various scandals have shown that athletes, their teams and sometimes the states for which they compete, evade doping regulations in an organized manner. As the recent Russian doping scandal shows (more on that later), this can lead to large-scale doping, accompanied by corruption, forgery, blackmail and threats.

Despite these difficulties, WADA's stakeholders have not called for the abolition of WADA. Instead, they advocate reform and institutional strengthening through the expansion of WADA's authority and autonomy. For most stakeholders, WADA stands for more than an agency. It represents and reflects a core value that underlies the current sporting world: to 'play true', as WADA's tagline states. And more importantly: it preserves the credibility of elite sport. As such it protects what Pierre Bourdieu has called 'the *illusio*, the fundamental belief in the value of the stakes and of the game itself' (Bourdieu 2005: 9). In other words: WADA reinforces the belief that international sport competition is based on fair

play and worth the investment by sport organizations, private companies, and public authorities.

This chapter explores why and how WADA has developed into an institution that leads the global fight against doping. How did it build its own place and identity in the sporting world? What enabled it to grow into an institution with control over powerful ISFs and national states? What impact does its reputation have on sports organizations and governments? And how does it deal with the criticisms and scandals that threaten to jeopardize this reputation?

WADA differs in a number of respects from the other institutions discussed in this book. It is the youngest organization in our sample. As a result, this organization has been able to root itself less deeply as an institution than the other portrayed organizations, making it more susceptible to the volatility of its environment. In addition, WADA is unique in that it is a hybrid organization that is funded and managed by both public and private authorities. This hybrid structure ensures support and commitment from its authorizing environment and, thus, legitimacy. But that legitimacy does not automatically increase its autonomy. WADA must constantly be careful not to be crushed between the forces that the sporting and public authorities exert on each other. That requires strength and flexibility that grows as the organization acquires the character of an institution.

A Moral Crisis in Elite Sport

The founding of WADA was a solution for a joint problem of sports organizations and national governments: restoring and maintaining the credibility of international sport competition. In brief, the recurring mediatized doping scandals in the second half of the twentieth century resulted in the construction of a societal need for preserving the credibility of elite sport. The resulting pressure constituted the driving force behind a coordinated global approach to anti-doping. Distrust in the sports movement's ability to credibly and effectively lead the global fight against doping led to the establishment of an 'independent' (i.e. hybrid) agency tasked with coordinating the global fight against doping.

The use of stimulants in sport did not give rise to organized doping control for a long time. It was long seen as a more or less acceptable form of personal preparation and care. A number of deaths, in particular those of cyclists Knud Jensen during the Rome 1960 Olympic Games and Tom

Simpson on the flanks of Mont Ventoux during the 1967 Tour de France changed the dominant attitude towards doping and increased the pressure to prohibit the use of performance enhancing drugs (Dimeo 2008).

A limited number of ISFs and the IOC responded to this pressure by introducing modest in-competition drug testing programs. However, they had compelling reasons not to investigate allegations of doping too seriously: Developing, organizing and conducting doping tests is very expensive, suspending athletes can result in lengthy litigation, and revelations of doping abuse can damage sport as a commercial product (Hoberman 2005; Houlihan 2002a). National governments, moreover, generally saw doping as a sport-specific problem that had to be solved by the sports movement (Hanstad et al. 2008; Houlihan 2001). A large number of governments were passive about the issue as they did not want to invest major resources in anti-doping or jeopardize their international sporting successes.

The prohibition of doping set requirements and expectations for policy implementation that no single sports organization could meet as many questions were left unanswered. Which resources and methods did and did not increase performance? How could doping be monitored during and outside of sports competitions? How could the reliability of laboratory results be guaranteed? How could the rights of athletes be protected? How and by whom should the controls, analyses and administration of a global anti-doping policy be organized and financed? No single sports organization had the authority and expertise to establish a credible system that answered all these questions and could be applied to all sports in all countries (Hoberman and Møller 2004; Houlihan 2002a; Hunt 2011; Krieger 2016). In fact, without the joint and combined efforts of sporting authorities and public authorities, an effective drug control regime could simply not exist (Ritchie and Jackson 2014).

This situation changed from the 1980s. Various Western governments increasingly attached importance to high-level performance of national teams. Canada, Australia and France in particular took the lead in this respect, followed by various other European countries, including the United Kingdom, Germany and the Netherlands. They drastically increased their elite sport budgets and legitimized the prioritization of elite sport with reference to its assumed effects on sport participation, public health, social cohesion, national pride and international prestige (Houlihan and Green 2013; Van Bottenburg 2013). It should therefore come as no surprise that the doping scandal enveloping Canadian

sprinter Ben Johnson at the 1988 Seoul Olympic Games hit like a bomb; worldwide and especially in Canada. A series of inquiries into the values and belief systems underpinning Canada's elite sport system followed the Ben Johnson demasqué. Almost simultaneously, inquiries were held into major doping scandals in the United Kingdom and Australia. These inquiries resulted in increasing societal pressure to pay more attention to the dangers and downside of elite sport, including doping.

Giving an impulse to anti-doping policy only made sense for governments if this were to be done globally to create a level-playing field. First, domestic tests did not affect athletes that would train and compete in events in other jurisdictions where testing was unavailable or ineffective (Houlihan 2002a). Second, having more effective domestic anti-doping policies than rival countries meant losing out on the opportunities for international prestige offered by sporting success at major events (Houlihan 2001). Finally, ineffective anti-doping policies increasingly undermined the credibility of national performances in international sport competitions, the more society came to associate elite sports with doping (Houlihan 2004).

As multiple allegations of doping abuse and doping cover-ups emerged in the 1980s and 1990s, activist anti-doping nations increased their pressure on the IOC and the ISFs (Hanstad et al. 2008; Verroken 2005). The sports movement responded with inertia and vacuous optimistic rhetoric about the successes of their anti-doping policies (Houlihan 2001). The 1998 Tour de France doping scandal proved a watershed in this respect. Three days before the start of the Tour, the French police found a large number of doping products in the car of Willy Voet, the Belgian soigneur of the Festina cycling team. This was followed by raids on other cycling teams and arrests of cycling team directors, doctors, soigneurs and riders. The drug finds and confessions revealed a large-scale, systematic and organized use of doping in professional cycling.

The broader significance of this scandal was in the strong governmental intervention it elicited (Houlihan 2002a). This showed that (in this case: the French) public authorities were ready to take action and intervene in challenging the deeply embedded culture of doping in sports, that generated more and more media attention and caused public outrage (Hoberman 2005). Doping was no longer only an issue for athletes; it had become a matter of global public concern.

Aware of the threat of increased public intervention, the IOC responded by convening a World Anti-Doping Conference in Lausanne in

February 1999. Its aims were to restore the public image of the IOC and reclaim its leadership of the anti-doping movement. But the conference went differently than the IOC expected. Its moral leadership was questioned when several politicians lambasted the IOC for its past inaction on the doping issue (Hanstad 2009). Moreover, the conference was held at a time when the IOC's credibility had been further weakened by the fallout from the Salt Lake City corruption scandal. Members of the IOC were accused of taking gifts from the Salt Lake Organizing Committee during the bidding process for hosting the 2002 Summer Olympics.

In this atmosphere, the IOC was not resistant to the joint action of public authorities that demanded a more significant role in anti-doping policy for themselves. What was originally proposed by the IOC as an IOC-led Olympic Movement Anti-Doping Agency thus became the World Anti-Doping Agency (Hanstad et al. 2008). To ensure an acceptable degree of independence, public authorities requested that the agency was not placed under the control of sport organizations. Moreover, Canada was successful in its lobby to situate WADA's permanent headquarters in Montreal, and not Lausanne, where the IOC is based. Even though this was a 'win' by the narrowest of margins, its symbolism cannot be overstated.

The creation of WADA was an irreversible step for the public authorities: they would not allow the responsibility for anti-doping to return entirely to the sports organizations. Conversely, from the outset, sports organizations strongly opposed attempts to further the independence of WADA from the sports world (Hanstad 2009; Houlihan 2002a). Both parties agreed to make WADA the leading global organization in anti-doping policy based on joint funding and governance. As such, WADA became the vehicle for the solution of a shared problem: it potentially restored the credibility of international sport competitions to global audiences, reconfirmed the leading role of sport organizations in organizing these competitions, and legitimized and protected the investments in elite sport and anti-doping policies by a growing number of national governments.

A Global Public–Private Body

The dependence of WADA on both sporting authorities and public authorities and the struggle for an equal distribution of power between these parties determine the organizational DNA of the World Anti-Doping Agency. Both elements are reflected in the design and governance

of WADA. They have also been decisive for how WADA has built its institutional status and has responded to fundamental questions and deep crises during its existence.

The Agency was constituted on 10 November 1999 as a foundation in the meaning of the Swiss Civil Code. Its legal seat is, therefore, in Switzerland, like the IOC and many other ISFs, though its principal office is located in Canada. It was founded by the IOC, represented by its president, Juan Antonio Samaranch, and its Director-General, François Carrard. At the request of the public authorities, the IOC funded WADA entirely for its first two years of operation. It endowed the Agency with an initial capital of five million Swiss francs, followed by a contribution of 18.3 million USD in its first two years of existence. According to Toohey and Beaton (2017), this was a significant gesture by the IOC to restore its credibility. While outwardly supportive, the IOC was not convinced of WADA's sustainability. At least some of its members hoped that sport's anti-doping leadership would return to the IOC if public authorities failed to reach an agreement regarding their share of the funding (Hanstad et al. 2008). After the initial two years, WADA's funding was sourced equally from the sports movement and national governments.

In 2018, WADA worked with a total budget of USD 32.1 million (WADA 2019a). The IOC's contribution is drawn from its Olympic Games revenues (Chappelet and Van Luijk 2018). The contribution of the governments differs per Olympic continental region. To achieve global public support for the agency, governments from North America, Oceania and Europe, in particular, agreed to pay disproportionally more than their Asian, South American and African counterparts (Toohey and Beaton 2017). In addition, WADA receives a subsidy from the Canadian government to help cover the lease of its Montreal headquarters (Chappelet and Van Luijk 2018).

According to the statutes, WADA is composed of a Foundation Board, an Executive Committee and several committees. The Foundation Board is the supreme decision-making body that delegates the current management and running of the agency to the Executive Committee. Both forums are composed equally of representatives from the sporting authorities and public authorities. The Foundation Board takes its decisions by an absolute majority of the votes of the members present; in the event of a tie, the chairman has the casting vote. Important elements of WADA's policy, such as amendments to the WADC, require a two-thirds

majority and therefore involve an extensive consultative process (Casini 2009; Chappelet and Van Luijk 2018).

WADA's statutes provide that the Foundation Board will ensure that the position of chairman alternates between the Olympic Movement and public authorities. This occurs after two three-year terms, unless no alternative nomination is made. To further promote and preserve parity among the stakeholders, the vice chairman must be a personality nominated by the public authorities if the chairman is a person nominated by the Olympic Movement, and vice versa (Casini 2009).

This alternating presidency was meant to create equal power relations. Government representatives, however, often had an inferior information position in comparison with their counterparts from the sporting authorities. Most public representatives 'come and go' as a result of constant changes in national cabinets, while representatives of the sports movement occupy their seats longer than good governance principles might consider desirable. In the Foundation Board and Executive Board, this works out in the advantage of the sports movement because they have far more knowledge and experience than their counterparts (Toohey and Beaton 2017).

When the Agency's headquarters were moved to Montreal in April 2002, an office remained in Lausanne to serve the European Region. Similar offices were set up in November 2003 to serve the Asia/Oceania Region (based in Tokyo, Japan) and the African Continent (based in Cape Town, South Africa). A Latin American Regional Office was created in 2005 in Montevideo (Uruguay). Their symbolic value was critical to WADA's successful establishment, facilitating WADA's geopolitical legitimacy in these areas. As a WADA staff member observed: 'now somebody from the region is representing WADA they can relate to somebody from the region. Somebody that understands the issues facing countries, which knows how to interact and is at least familiar with the protocols involved by going to their meetings' (Toohey and Beaton 2017: 490). In 2018, WADA employed 117 staff members with 48 nationalities, of whom 99 were located in Montreal, 10 in Lausanne and 8 in Montevideo, Cape Town and Tokyo (WADA 2019b).

This structure makes WADA an unusual, and possibly unique, hybrid intergovernmental–private body (Casini 2009; Chappelet and Van Luijk 2018). It is funded and governed on an equal basis by sports organizations and national governments: the standards and rules that WADA develops are established in consultation with these stakeholders. This

promotes the normative effect emanating from WADA. Its objectives, rules and procedures directly influence the regulations of sports organizations, the national legislation of states and the daily lives of athletes. WADA has become 'a very significant institutional model' (Casini 2009) for effective international regulation in other areas, such as those of environmental or health regulation (Casini 2009; Jenart 2018).

WADA is not the only international organization whose members are drawn from both the public authorities and NGOs or other private institutions (Chappelet and Van Luijk 2018). WADA, however, constitutes a rare case of 'true joint decision-making, where private actors hold veto power' in international politics (Börzel and Risse 2005: 202). The equality between public and private actors in the governance and funding of WADA is also quite uncommon among hybrid public–private bodies.

Establishing Performance and Reputation

Despite initial scepticism about its ability to overcome the manifold challenges in anti-doping governance, WADA quickly built up both a sound reputation and a good level of credibility. Leadership played a key role in this regard. While IOC Director-General François Carrard was instrumental in coordinating the negotiations with public authorities leading to the establishment of the agency in 1999, it was WADA's first Chairman, the Canadian Richard 'Dick' Pound, who had proposed establishing an independent global anti-doping agency following the Tour de France doping scandal. Subsequently, he successfully advocated the equal funding of WADA by sports movement and public authorities, thus securing the latter's commitment to the issue (Pound 2006).

Before his appointment as WADA's chairman, Pound, a former Olympic athlete, had served sixteen years as a member of the IOC Executive Committee and eight as vice president. A lawyer and an accountant, Pound 'was considered to be among the IOC's most effective administrators' (Hunt 2011: 112), combining 'excellent leadership skills' with 'immediate charisma and presence' (Parent and Séguin 2018: 232). As the head of the committee negotiating television and sponsorship deals on behalf of the IOC, he laid the basis for the strong commercialization of the Olympic Games in the 1980s and 1990s. His work as chairman of the ad hoc commission on the Salt Lake City corruption scandal solidified his reputation as the "go-to guy" to investigate allegations and/or tackle highly sensitive cases (Parent and Séguin 2018: 234).

Following WADA's establishment, Pound contributed greatly to its success by 'put[ting] his strong leadership in the service of the anti-doping effort'. Parent and Séguin (2018: 222) contend that, as chairman of WADA, 'Pound committed himself wholeheartedly to the fight against doping, building up the agency, raising athletes' awareness of the problem of doping, chairing international conferences and overseeing the preparation of [the WADC]'. Pound used his extensive network that reached across business, politics and the sports movement, to build relations and establish support for WADA (Pound 2006). He furthermore used his media-savviness to figure prominently in global anti-doping discourse, conveying 'honesty, integrity, and sense of justice' through 'his trademark straight-shooter approach' (Parent and Séguin 2018: 231). While sports leaders had been criticized for either sweeping doping under the carpet or adopting a compromising attitude, Pound made it abundantly clear that he supported an 'aggressive anti-doping mechanism' (Hunt 2011: 135). Unafraid to speak his mind to uphold the value of doping-free sport, he contributed to WADA's identity as an independent uncompromising anti-doping agency by engaging in public fights with recalcitrant ISFs and high-profile athletes (Parent and Séguin 2018). In short, Pound was 'a near perfect match for WADA's need of an aggressive leader' (Hunt 2011: 113).

Pound's efforts were backed by WADA's growing track record. WADA quickly controlled all discussions and policy developments that had to do with international doping policy (Beamish 2013). Moreover, WADA showed the world that it could deliver on its mission by successfully tackling a number of large doping cases surrounded by a great deal of publicity. Although WADA was established only in November 1999, it succeeded in making 'a significant and favorite impression' at the Sydney 2000 Olympic Games (Houlihan 2002a). By conducting additional out-of-competition doping tests in advance and setting up an office of independent observers during the Olympic Games, WADA immediately demonstrated that it wanted to create new confidence in global anti-doping policy. During the Nordic World Ski Championship in Lahti, Finland, WADA helped to uncover a wide use of blood doping among cross-country skiers from the home country.[1] WADA emerged from this highly mediatized 'Lahti scandal' as a new power, boosting its legitimacy and credibility (Hanstad et al. 2008). 'We started looking professional. We had a budget which was well prepared (…) We had very concrete programs in place. I think all that helped people realizing that they

were not giving money to a black hole', a WADA representative recalled (Toohey and Beaton 2017).

Soon after the Nordic Skiing World Championships in Lahti, WADA announced plans for 8000 out-of-competition tests over the next two years. WADA also accepted the IOC's invitation to observe all anti-doping activities during the 2002 Winter Olympics in Salt Lake City. With the successful performance during major sporting events, WADA was able to show immediately that it was a new powerful actor.

But these were just quick wins compared to the effect of the drafting, acceptance and implementation of the WADC, the 'fundamental and universal document upon which the World Anti-Doping Program in sport is based' (WADA 2019c). This Code provides the overall framework for anti-doping policies, rules and regulations within sports organizations and among public authorities. Together with a number of International Standards, it indicates which substances and methods are prohibited, how they are checked, which sanctions are imposed on violations, what the rights and obligations of athletes are, and which laboratories and agencies in the global anti-doping policy are recognized by WADA.

The Code was accepted after extensive consultations among all stakeholders and came into effect as of 1 January 2004. The signatories of the Code included the IOC, ISFs, the International Paralympic Committee, NOCs, National Paralympic Committees, Major Event Organizations, National Anti-Doping Organizations, and WADA. Around 600 sports organizations have thus accepted the WADC. Moreover, it was included in the Olympic Charter. The adoption and the implementation of the Code was now mandatory. Governments or sporting institutions that fail to comply with the WADC might be rendered ineligible for bids related to the Olympic Games or other major international events (Casini 2009; Jenart 2018).

As the WADC is embedded in private law, WADA cannot force any national government to formally comply with the Code. But it can bound national authorities to Code through a UNESCO Convention. In October 2005, the International Convention against Doping in Sport (an international treaty), was unanimously approved by 191 governments at UNESCO's General Conference. The Convention enabled national governments to align their domestic policy with the Code, thereby harmonizing the regulation and legislation of anti-doping policies (Beamish 2013; Casini 2009). More than 180 countries have ratified the Convention (WADA 2019b). This worldwide acceptance has greatly

contributed to cementing WADA's moral and geopolitical legitimacy (Toohey and Beaton 2017).

The WADC is not a static document. It has been modified over time, following rulings on doping-related disputes by the Court for Arbitration for Sport, the evolution of the use of doping, concerns over athletes' rights and new analytical techniques and detection tools. Following broad rounds of stakeholder consultation, revised versions of the Code entered into force in 2009 and 2015.[2] These have various extensions and specifications, which have greatly increased WADA's mandate. Examples are the introduction of whereabouts and the Athlete Biological Passport, and the acceptance of new or adapted rules regarding sanctioning, registration and information exchange.

For a reliable implementation of the Code, WADA has accredited several dozen laboratories worldwide for testing blood and urine samples. These samples are collected from athletes by doping control officers from National or Regional Anti-Doping Organizations (NADOs/RADOs), ISFs, or so-called 'service providers' (commercial companies that can be hired by anti-doping organizations to perform anti-doping work). All affiliated states must have a NADO or join a RADO.[3]

Over the years, WADA has evolved into a global standard setter that carries out significant normative functions and produces 'soft-law' in the form of recommendations and good practices. Looking back, Houlihan (2014: 274–275) concluded that 'in the thirteen years since its establishment, WADA has been extremely successful in developing a coordinated approach to doping (…). The speed with which the Code was ratified by IF's and other sports organizations, especially the IOC, was exceptional, but no less so than the speed with which the UNESCO Convention was ratified. Within six years of its establishment WADA could rightly claim that the architecture of a robust anti-doping policy regime was firmly in place'.

That does not mean that the use of doping has decreased as a result of WADA's successful policy. In the context of this book, 'being successful' means that WADA is recognized and esteemed in its role as guardian of the values and spirit of the World Anti-Doping Code, thereby gaining reputation and legitimacy as an institution. That the anti-doping regime is becoming more strict, the costs of this policy are increasing and the privacy of athletes is coming under increasing pressure, while it cannot be demonstrated that the policy is becoming more effective in reducing

doping in sports, is another matter (De Hon 2016; Waddington and Møller 2019).

Mission Mystique in a Challenging Environment

WADA's image differs from other international sport organizations that operate in the highly challenging world of commercial and professional sports. This is a transnational, non-governmental world of high passion and big money. Cheating, bribery and corruption risks are real. Transparency, democracy and internal accountability are at relatively low levels (Geeraert 2015). In this challenging environment, WADA manifests itself as an oasis of credibility. This contrast gives WADA's 'mission mystique' (see Table 8.1) something special, endowing it with enhanced value and profound meaning (Goodsell 2011). This applies to both WADA's sense

Table 8.1 WADA's mission mystique (based on Goodsell 2011)

	Prime qualities	*Essential elaborations*	*Temporal aspects*
A purposive aura	*Direction*: leading a collaborative movement to realize a doping-free sport as impartial, objective, balanced and transparent referee agency in a contrasting and challenging environment	*Importance*: aiming to restore and safeguard the credibility of sport competitions and sport performances and related public values and public investments	*Confidence*: presented as the guardian of the values and spirit inherent in the globally accepted and valued World Anti-Doping Code
Internal commitment	*Dedication*: dedicated and committed staff members and volunteers convinced to fight for the good cause	*Community*: proud to be a unique public–private referee agency that leads the play	*Identity*: repeatedly celebrating its history and achievements with internal and external stakeholders
Sustaining features	*Dissent*: always collecting feedback from all stakeholders with each renewal of the Code, International Standards, and Technical Documents, though little open to criticism and offering limited explanation of decisions made	*Policy space*: pursuit of independence and autonomy; navigating cautiously partial interests of its public and private stakeholders	*Renewal*: increased funding and governance reforms in response to crisis

of purpose, the passion and commitment with which it pursues its mission and the way in which the Agency strives for organizational transparency, autonomy and renewal in the execution of that mission.

Mission

WADA has what Goodsell (2011) calls a 'specified mission': by accepting the WADC, the sporting and public authorities have delegated to WADA the authority to act as a global standard setter and referee agency, amidst divergent interests of athletes, teams, sports organizations and countries in the global battle for medals and championships. This mission has assumed the status of an 'agency mantra': it is 'repeated over and over' (Goodsell 2011: 16) in its documents and, thanks to its treatment of high-profile cases, also in public discourse.

Intentionally or unintentionally, WADA's logo accentuates the contrast between the Agency and its environment: a black square against a white background with a green 'equal sign' in the box and the words 'play true' as tag line under the name of the organization. The square shape represents the customs and the rules that define sport. The colour black evokes neutrality and refers to the traditional colour of the referee in the world of sports: WADA wants to be seen as a referee agency with impartial, objective, balanced and transparent judgements. The 'equal sign' in the black square shape expresses equity and fairness. 'We observe the highest ethical standards and avoid improper influences or conflicts of interests that would undermine our independent and unbiased judgment', WADA emphasizes as its core values (WADA 2019b).

Passion and Commitment

WADA is proud of the way in which it manages to implement its mission. The first motivation for this is that WADA performs its extensive tasks in a surprisingly small organization. At the end of 2019, WADA had a staff of around 100 employees. Second, the passion and commitment of these employees is grounded in the conviction that it is necessary to fight for the good cause: to protect athletes, to protect sports and greater public health; to promote honesty, integrity and equality; and to fight against cheating and the dangers and consequences of doping in an environment where bribery and corruption are always looming. 'Our fight is everyone's fight (…) We are proud to be leading the play', WADA states in

an introduction video of its activities (WADA 2019b). Third, the pride in the organization is based on the conviction that WADA can make a difference. As WADA Director-General, David Howman, underlined in 2015: 'Sometimes we forget how unique WADA is on the international sport and political stage and how the achievement of harmonizing rules is very rarely done globally'. This joint cooperation between public and sporting authorities 'gives us real strength', a WADA representative declared. 'They realize that it is impossible not to think about having sport and government together. Sports failed prior to WADA' (cited in Toohey and Beaton 2017: 489).

In order to cultivate and institutionalize this 'esprit de corps', WADA regularly pays attention to its origins and historical highlights. It commemorated, for example, the signature of the 100th, 125th, 150th and 175th government to ratify the International Convention against Doping in Sport. It has been celebrating 'Play True Day' every year on 10 April since 2013 along with athletes and anti-doping stakeholders around the globe. And of course, it used its own anniversaries to look back at its historical development and achievements. In 2019, it published a video celebrating its 20th anniversary, which was premiered during the Agency's Fifth World Conference on Doping in Sport in Katowice, Poland. The video featured a number of WADA's external and internal stakeholders speaking of how WADA came about, its leaders, its progress and its challenges.

Transparency, Autonomy and Renewal

As a result of the participation of public authorities in its funding and governance, WADA is experiencing greater internal and external pressures to be impartial, transparent and accountable than private international sports organizations do. These core values therefore constantly recur in WADA publications, both with regard to its functioning as an organization and its anti-doping policy. To give substance to this, WADA always collects feedback from all stakeholders with each renewal of the Code, International Standards and Technical Documents. It promotes scientific research to ensure that its policy is accurate, comprehensive and up-to-date. And it publishes Annual Reports with extensive financial reporting and statistical data on anti-doping tests worldwide.

Nonetheless, WADA faces strong criticism, in particular from NADOs, athletes, academics and journalists. The criticism mainly focuses on

WADA's rigid approach to the principles of the anti-doping policy, its convoluted internal decision-making processes, its failure to give athletes a strong voice in these processes, and its overall unresponsiveness to criticism (Dimeo and Møller 2018; Waddington and Møller 2019). Here the relative youthfulness of WADA as an institution seems to be avenging itself. More than institutions that for many decades and sometimes even centuries have managed to acquire a rock-solid position, WADA often appears uncertain in debates about its functioning.

WADA's quest for autonomy and impartiality is a common thread throughout its history. The hybrid nature of the organization puts WADA by definition under influence and supervision of the sporting authorities and public authorities. This can, of course, easily lead to conflicts of interests. Chappelet and Van Luijk explain that '[a]mong the Code signatories there are definitely different cultures, attitudes and approaches to issues such as nationalism and patriotism on the one side, and corruption, fraud, nepotism, cronyism and bribery on the other, which directly impact on WADA's work targeting cheating in sport' (Chappelet and Van Luijk 2018: 181). WADA must navigate smartly, cautiously and independently through the geopolitical and sector-specific interests of sports organizations and national governments to avoid improper influences that would undermine the impartial and unbiased nature of judgements and decisions.

WADA's pursuit of autonomy and independence is accompanied by calls for more funding and governance reforms (Chappelet and Van Luijk 2018; Landrove and Hendriks 2017). Whereas the WADA budget increased annually by 3.5% from USD 20 million in 2004 to USD 32 million in 2018, the Board agreed to an annual growth of 8% for the period 2018–2022. Moreover, the Board implemented various reforms of its widely discussed governance model. This included the appointment of an independent committee to identify and vet members of the inaugural Nominations Committee, the establishment of an Ethics Panel that provides independent expert ethical opinion of urgent or contentious issues, and the establishment of an external, independent Compliance Review Committee to monitor Anti-Doping Organizations' compliance with the WADC.

This renewal can be seen as an attempt to restore the damaged trust in WADA's leading role in the fight against doping, resulting from the biggest crisis it has faced in its existence: the Russian doping scandal. This doping scandal came to light in 2014 and threatened to throw WADA

into an institutional crisis for a long time. The next session will discuss the depth and impact of that crisis.

An Institutional Crisis

More than ten years after its establishment, Houlihan (2014: 274–275) concluded that WADA had been extremely successful. He also cautioned that 'there is substantial evidence of a shallow level of commitment from a number of important governments and international sports federations' with compliance as 'the central problem facing WADA'. The ink of this publication had not yet dried when a Russian doping scandal highlighted the scale of the compliance problem that WADA faced.

The crisis started in 2014, when the German public TV channel ARD broadcasted an alarming documentary about Russian doping practices on the basis of anonymous tips, secret recordings and whistleblower's testimonies. The crisis deepened in May 2016 when the former head of the Moscow anti-doping laboratory, Grigory Rodchenkov, disclosed doping practices during the Sochi 2014 Olympic Games. Investigations initiated by WADA in response to these testimonies confirmed and substantiated the image outlined in the media (McLaren 2016a, b; Pound et al. 2015, 2016).

The investigations were chaired by former WADA-president Richard Pound. His commission confirmed that Russian athletes were using doping on a large scale, that trainers were systematically integrating doping into their training and competition schedules, and that Russian authorities had developed a failsafe strategy to avoid punishment even when discovered. The Russian secret service developed a technique to exchange sealed urine samples for clean ones, allowing positive analytical findings to be turned into negative outcomes. During the 2014 Sochi Winter Olympics, the Russian authorities went one step further: to escape the eyes of many foreign anti-doping experts, the secret service exchanged the urine samples through a hole in the wall of one of the rooms of the testing laboratory.

A trail of corruption, forgery, blackmail and threats came to light: top officials from the Russian and international athletics federations demanded large sums of money from Russian athletes to cover up positive tests and delay sanctions against these athletes; Russian sports associations offered money to Doping Control Officers to turn positive tests into negative ones; and the whistleblowers who brought this to light felt

forced to move abroad for fear of reprisals, continuing their lives under different names and in changing places.

The most problematic part of this affair for WADA was not so much the large-scale use of doping among Russian athletes. More fundamental was that there was a coordinated policy behind this from the Russian Ministry of Sport, the Russian Federal Security Service, the Russian Olympic Committee, the Russian national sport federations, the national anti-doping agency RUSADA and the WADA accredited Moscow and Sochi Laboratories. Moreover, the top of an ISF, the International Association of Athletics Federations (IAAF), also appeared to be involved in masking and corruption. It became clear that large-scale corruption could exist within the carefully designed global anti-doping system full of checks and balances. It took several whistleblowers to expose this scheme. It was never picked up by WADA's own policing efforts.

WADA's initial response deepened the crisis. Whistleblowers who passed on information about the abuse in Russia before the affair came out, were referred too easily to RUSADA, which later turned out to be corrupt (Harris 2016). Moreover, WADA did initially not succeed in bringing international sports organizations in line regarding the sanctioning of Russia. Despite a broad call to take action, the IOC decided to admit individual Russian athletes under a neutral flag to Rio 2016 and Pyeongchang 2018. The unanimous decision by WADA in September 2018 to declare RUSADA compliant again was also heavily criticized. This allowed Russia to fully participate in the international sports competitions again. Critics charged that WADA had succumbed to Russia's power and pressure from the IOC. The American double Olympic hurdle champion and president of the United States Anti-Doping Agency, Edwin Moses, called the decision of WADA 'the U-turn of all U-turns (…) which has sparked shock among sports fans and clean athletes worldwide' (Moses 2018).

The saga is not finished yet, as doping-related cases often linger for a long time. WADA's decision to reinstate RUSADA was subject to the strict condition that the authentic data and raw underlying analytical data from the former Moscow Laboratory would be handed over to WADA. Indeed, this condition contributed to the retrieving of raw data and samples. Some of this data appeared to have been manipulated and tampered with before it was retrieved by WADA. In response to this, WADA decided to ban Russia from major international sporting events for four years, on charges of tampering with doping-related reports. At

the moment of writing the appeal by Russia at the Court of Arbitration for Sport is still pending.

Challenges to Institutional Resilience

The Russian doping crisis can be seen as a litmus test of the institutional status that WADA has built up since 1999. Previous doping affairs (the Lahti scandal in 2001, the BALCO scandal in 2002, Puerto in 2006, the Armstrong affair in 2012, to mention only the most dramatic ones) did not harm WADA's reputation and authority. On the contrary, the outcome contributed to its development into an institution. But that was only the case as long as the Agency joined forces with national governments and the sports movement and was not pressured by those who mitigated the seriousness of the issues or wanted to cover up.

Leadership was crucial in these cases. Lance Armstrong's fierce fight, backed by the International Cycling Union (UCI), against WADA and Richard Pound in 2008 is a case in point. In a letter to IOC President Jacques Rogge, Armstrong asked for the suspension of Pound as an IOC member, whereupon the IOC ethics committee recommended that Pound should exercise greater prudence in his public pronouncements. In response, Pound said he was accountable to WADA, not to the IOC. In the Russian doping affair, it was again Pound who took a firm and keen position vis-à-vis Russian sport federations and governmental authorities. Although he has long since abandoned his formal leadership position, he played a crucial role in the management of the Russian doping crisis. Pound acted openly in the press against decisions that were not in line with the serious facts that the independent investigation under his leadership had brought forward. He realized like no other that the action of WADA in this doping scandal is a crucial case for the credibility and future of WADA as an institution.

WADA has been fiercely criticized for how it has handled the Russian doping affair, but virtually none of the critics called for its abolition. On the contrary, they can be interpreted as pleas for a sense of reality, reform and even institutional strengthening of WADA: to increase its independence from the IOC and national governments; to raise its budget; to achieve (better) compliance with the WADC; to strengthen its investigations and intelligence gathering capacity; to better institutionalize the viewpoints of athletes; and to balance the ideal of a doping-free sport

with athletes' fundamental (human) rights concerning privacy, discrimination, fair trial and the like (Houlihan and Hanstad 2019; Landrove and Hendriks 2017; Read et al. 2019; Waddington and Møller 2019). The solution of these issues is mainly sought in and requested from WADA itself.

The bottom line is that its authority has not been called into question. The idea remains that without WADA there can be no credible anti-doping policy. And without anti-doping policy, in turn, credible sport competition cannot exist. WADA therefore stands for more than an agency. It stands for a core value that underlies the current world of sports and that is widely supported by sports organizations, governments and the public at large, despite many reservations and open criticisms about the functioning of the anti-doping system. WADA's mission mystique is fundamentally rooted in the societal value of doping-free sport. As long as the public shares the dominant belief that doping-free sport is both desirable and feasible, this mystique appears sustainable beyond criticism of WADA's modus operandi.

WADA's Experience in Perspective

With its central mission 'to lead a collaborative worldwide movement for doping-free sport', the public–private World Anti-Doping Agency was given a distinct identity upon inception. In the initial phase, it managed to gain prestige through quick wins. Within a decade, it was able to establish its reputation by developing and coordinating a globally harmonized anti-doping system to which almost all sports organizations and national governments committed themselves. This policy fulfilled a specific function for the international sports organizations and national governments that established, govern and fund WADA. It had to restore and maintain the credibility of the international sports competition for the general public and to legitimize their role in it.

WADA was able to grow into a broadly trusted and well-respected organization because it could present itself as a neutral, impartial and objective standard setter and referee agent in a morally challenging and risky organizational field. As long as doping-free sport continues to exist as a societal value, high-level sport competition is hardly or not imaginable without this organization. WADA's staff is aware of this mission and proud of the struggle it is conducting as members of a relatively small organization: against the use of doping by athletes, but certainly

also against powerful nations and international sports organizations who try to mitigate the seriousness of this issue or want to cover up.

Nonetheless, being a relatively young institution, its position is not undisputed yet, as the Russian doping affair has shown. In such cases, WADA must act vigorously and adopt an autonomous, impartial stance. This requires strong leadership, which was offered by its first chairman, Dick Pound. The Russian doping scandal made it painfully clear, however, that his personal leadership has not yet been transformed into institutional leadership as a collective endeavour.

WADA's hybrid structure is both its strength and a weakness. On one hand, important decisions do not come about without the consent of major international sport organizations and public authorities. Moreover, both public and private authorities keep each other in balance, making it easier for WADA to transcend the interests of individual sport organizations and national states. On the other hand, WADA ultimately cannot make decisions autonomously of its stakeholders. In response to the recent crisis, governments and sports organizations have agreed with WADA governance reforms that increase the organization's budget and further institutionalize the consultation of athletes (without giving the latter decision-making power). However, as an institution, WADA appears not yet powerful enough to act as a fully autonomous referee agent.

As with other 'wicked problems', such as poverty, drugs, crime or obesity, it is not to be expected that WADA will solve the doping problem. But it does contribute to the public credibility of the sport. That was also the reason for the sporting and public authorities to create WADA. Recurring, highly mediatized doping scandals put the romance of sports competitions under pressure, precisely at a time when commercial and public investments in international sports increased. WADA was an answer where an urgent need of sports organizations, companies, governments, media and the general public came together.

QUESTIONS FOR DISCUSSION

1. WADA is unique in that it is a hybrid organization that is funded and managed by both public and private authorities. What has this construction meant for its development as an institution?
2. In a relatively short time, WADA created a virtuous cycle of institutionalization (see the introduction chapter of this book). Can

you describe what that cycle and explain how it benefitted the institutionalization process?

3. How has WADA's authority and legitimacy enhanced its autonomy?
4. Defend or attack the following statement: WADA will neither disappear nor develop into a fully autonomous organization.
5. WADA experienced an institutional crisis. What caused this crisis and how did WADA survive it?

Notes

1. After a cross-country skier from the host country failed an in-competition doping test on the opening day of the competition, substantial out-of-competition testing initiated by WADA was carried out on the whole of the Finnish team. As a result, a total of six cross-country skiers were sanctioned for violations of the doping regulations.
2. A new version was scheduled for 2021.
3. In some countries NADOs are funded jointly by national sporting and public authorities. Many NADOs, however, are funded entirely by their national government or part of the NOC, although they are supposed to be independent from them.

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CHAPTER 9

CERN: Guardian of the Human Aspiration to Understand the Universe

Jos Engelen and Paul 't Hart

High Modernity in Geneva

The campus of the European Organization for Nuclear Research, known the world over as CERN, does not immediately light a spark in those who visit it. The visitor centre does impress with dynamic visual displays of space, matter, movement and energy. But it is not until one is taken underground deep below the Geneva countryside and into the organization's current crown jewel, the Large Hadron Collider, that the lure of the endeavour becomes irresistible. It is like that moment about two-thirds into any James Bond movie, when Bond is being led—often at gunpoint—into the villain's subterranean headquarters and encounters a hidden world of shafts, staircases, miles and miles of electrical cables, gigantic machines, control panels, busy technicians in overalls and focused scientists donning hardhats.

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It is a captivating spectacle. Indeed, as one observer put it, '[t]he idea of accelerating subatomic particles to almost the speed of light, and smashing them into each other deep under the French and Swiss countryside, has a Bond-villain grandeur that has manifestly caught the public imagination' (O'Neill 2008). It is in these bowels of the Large Hadron Collider that one sees CERN's craft epitomized: high science being put to work to comprehend the origins and dynamics of the universe.

The official name of this organization—Conseil Européen pour la Recherche Nucléaire (CERN)—does not reflect what it does. No nuclear fusion or fission is attempted there. It is not in the business of generating energy, let alone building weapons of mass destruction. CERN is best described as the world's most formidable centre for particle physics. Its mission is radically ambitious: uncovering what the universe is made of and how it works. CERN hopes to achieve that mission by providing particle accelerator facilities that enable world-class research in fundamental physics, bringing together scientists from all over the world to push the frontiers of science and technology. Having made discernible progress on its mission over the course of the past half-century, it has become widely recognized as one of the most successful cross-national collaborative research organizations of all times.

CERN is a European organization with permeable boundaries that has developed into the undisputable hub of a global network of scientists without peer. The CERN Community, both at its Geneva campus and its many tentacles in research institutes around the world, has invented and built the capacity to sift through many billions of particle collisions and detecting promising patterns among them. CERN's Data Centre is widely regarded as pioneering the future of computing, with very large quantities of data—about 1% of daily global data traffic—being continuously analysed through seamless connectivity to 170 other data centres in 36 countries (Cogen 2016). CERN has gifted its most renowned spinoff technology—the World Wide Web—to the world for all to use (Gillies and Cailliau 2000).

To get to this point, CERN has managed to resolve the existential political conundrum that plagues most large-scale public endeavour (see Schulman 1980). For more than six decades it has managed to straddle the inevitable gap between the requisite multi-year up-front investment of money, infrastructure and human effort, and the eventual accomplishments that make everyone feel it has all been worthwhile—in its case scientific breakthroughs in the world of particle physics.

As we will show in this chapter, CERN is without a doubt to be considered an institution as defined in this volume and yet it is an unlikely organization to achieve this lofty status. Its mission is elusive and it has no preordained path to achieve it; in fact, the whole point of its mission is to discover such pathways towards new knowledge of the fundamental particles and forces that govern nature at the deepest level, which demands incessant, vast, costly experimentation. It is a multinational endeavour that requires physicists to collaborate on an even keel with engineers and, even more challenging, with government bureaucrats from almost two dozen member states. As an intergovernmental organization it has to navigate geopolitical complexities, diplomatic challenges and misalignment between the organization's needs and the political and budgetary realities of its member state funders.

Its unparalleled analytical capability has enabled CERN's scientists to achieve its greatest deliverable so far: the discovery of the Higgs boson particle. The jewel in the crown of the Standard Model of Physics, it had been the last hold-out particle remaining hidden during the quest to check the accuracy of the Model which describes three out of four fundamental forces (not covering gravitation) in the universe and classifies all elementary particles known to man. The Standard Model has become 'the most accurate scientific theory known to human beings' (Starkman 2018) and the discovery of its hitherto only hypothesized linchpin, the Higgs boson, validated more than a generation of scientific endeavour within particle physics.

CERN has been able to thrive, we argue, by evolving a particular mode of harnessing human ingenuity: overcoming the fault lines and centrifugal forces that inevitably arise between the various parties involved. CERN as a cooperative venture has been driven by a sense of interdependence, entrenched norms of mutual respect, trust, empathy and consensual decision-making. CERN's ethos is one of transparency and knowledge sharing. Its governance has been far-sighted. It has delivered scientific advances, technological breakthroughs, spinoff technologies and a thriving global scientific community. It has been able to do so on the wings of consistent support from member state governments and favourable media coverage. Robinson (2019: 48), who studied its governance up close, observes that

> CERN has an unchallenged standing of legitimacy and enjoys a shared set
> of normative and principled beliefs, shared causal beliefs, shared notions

of validity and a common policy enterprise throughout its epistemic community.

The thriving development of CERN, continuing for over 65 years, is best described as a combination of a smart institutional design, good governance, resourceful leadership and resilient collaboration. This powerful mix provides the spring board for the astute adaptation and dogged determination that allow CERN to sustain its performance. But in the beginning, this was all far from certain. This chapter tells the story of how CERN got to where it is today. We will explore what constellation of circumstances, choices and practices has allowed it to become and remain a global science institution. Moreover, we will examine CERN's future in view of the growing tension between the size and duration of requisite investments and the uncertainty about if and when it will deliver its next piece of magic.

Working on a Dream: Building CERN

CERN was founded in September 1954. Its roots lie in two sweeping developments. One was the coming together of scientific aspirations to move beyond the state of the art of mid-twentieth-century physics. Another was the cooperative spirit that pushed diplomats, businessmen, academics and other elites towards greater unity among the countries of Europe in the wake of the Second World War. Acting against the gloomy backdrop of the escalating Cold War which was dividing the continent, this informal but influential network saw that science had a crucial role to play in doing so. At their instigation, leading French quantum physicist Louis de Broglie had an address delivered in his name to the first Conference on European Culture, hosted by the Swiss writer and promotor of European federalism Denis de Rougemont in Lausanne in December 1949. He observed that

> [A]t a time when we are talking about the peoples of Europe, the question now arises of developing [a] new international unit, a laboratory or institution where it would be possible to work scientifically in a manner outside and above the framework of the different participating nations. As a result of the cooperation of a large number of European States, this body could be endowed with more resources than those available to national laboratories and could subsequently undertake tasks which by virtue of their size

and costs remain prohibitive to these [national laboratories]. (quoted in Gillies 2018: 12)

De Broglie was talking about scale. The need for resource-pooling proved a powerful rhetorical tool for the advocates of an advanced European physics laboratory. Robinson (2019: 43) notes that eventually:

Consensus to form CERN was reached through the timely and powerful combination of … European-minded politicians and single-minded European particle physicists. The politicians were looking for practical ways of reorienting Europe and the physicists were looking for their facility.

It was a case of scientific idealism challenging scientific realism. The Manhattan Project and the race to develop ever more powerful weapons of mass destruction that was taking shape in the early post-war years were the palpable developments against which De Broglie and a core group of academic colleagues from around Europe sought to cast the new European scientific collaboration. CERN was to be a purely scientific venture and not to engage in military R&D. It was to be genuinely European and thus not dependent upon collaboration with the United States (where influential fellow physicists such as Isidor Rabi helpfully lobbied for the cause of European physics). And it was rooted in the recognition that the cash-strapped impoverished nations of Europe could only hope to do something worthwhile in this high-investment area of scientific research if they were going to pool their resources. It took De Broglie, Rabi and other scientific champions another five years of advocacy and deft manoeuvering of the geopolitics of science—particularly in a sensitive field such as 'nuclear' research—before there were enough signatures on the intergovernmental convention document establishing the new institute.

The Early Years: Overcoming Challenges

The early decades that followed its founding were not easy. CERN was a 'shell organization', with a name, a site, a budget, a formal governance structure, a dedicated group of foundational leaders and a rump staff. It was many years away from being in a position to deliver the kind of scientific breakthroughs it aspired to bring about. A study of the early years of CERN's institutional development shows how during its first decade and

beyond, the organization was struggling to find its feet. It was dealing with several challenges.

First and foremost, the scientists and non-scientists (science administrators from the member states) had to learn to get along. Trawling through the paper trail of memos, minutes and reports from those early years, Pestre (1988: section 9.1.2.1) notes that despite the overall atmosphere of goodwill and mutual respect, various forms of 'incomprehension or of denigration' lurked in the background, ready to surface when there were tensions about budgets, priorities and allocation of contracts for the construction of facilities and equipment:

> Th[e] esteem which the scientists have [for the non-scientists on the CERN Council and in key committees, see further below] is never blind, is never as total as it appears to be between the members of the physics clan themselves. It is limited precisely because the 'politicians' are not, after all, high-energy physicists… [T]his is sometimes expressed in … a measure of condescension towards the non-scientists – and notably he 'politicians', those who stop them from doing their job properly, who always introduce unnecessary complications, who never grant even the budgetary minimum without looking sour, without bickering – and who want to control.

In their efforts to persuade 'the politicians', the scientists regularly resorted to 'offensive selling' of their projects and their budgetary claims:

> Since CERN always had to act *quickly* – CERN was to be the first in the world [to achieve this or that scientific or technological milestone] – and since CERN had to have the *best* men and the *best* equipment, it was always easy and tempting to present the 'politicians' with a *fait accompli*, … [making] abundant use of the argument that things were 'urgent' and top priority. (Pestre 1988: section 9.1.2)

Likewise, to obtain decisions from the CERN Council, CERN's scientific leaders regularly invoked the threat of losing out the physics race to the Americans, with their massive science community and post-World War II opulence and momentum. The civil servants serving on the Council and its Finance Committee, who had to straddle the mandates provided to them by their national government superiors and the desire to be seen to be a constructive partner in the great cooperative venture envisaged by the scientists, found it hard to challenge their claims.

Secondly, not all European physicists were internationalists. While subscribing to the general idea of a joint facility, they also kept in mind and promoted the interests of their own research programs, their own teams, their own labs back home. This guarded posturing was prevalent in the early years when CERN had not yet proven its worth and had not yet delivered on its aspiration to become the hub of the European high-energy accelerator fraternity. And there were the British, who were fundamentally ambiguous about what really was in it for them, given that they had made significant advances in particle physics on their own during and following World War II.

Third, CERN's governance structure—which envisages a balance of power between the (supranational and scientifically driven) Director-General and the elite scientists whispering in the DG's ear on the one hand, and the (intergovernmental and policy-driven) Council on the other—had to settle in. The CERN-based actors sought, and by and large managed, to keep national bureaucracies at arm's length and gain a measure of autonomy in setting directions for the institution. Pestre (1988: section 9.1.3.1) characterizes the early governance of CERN in terms of a 'jealously guarded autonomy of the Council' and machinations of a 'pro-CERN lobby at its heart' designed to 'neutralize' any initiative from any of the member state authorities seeking to bypass it.

Fourth, there were protracted and heated discussions about CERN's internal management. The early Director-Generals, particularly Cornelis Bakker (1955–1960) and Victor Weisskopf (1961–1965) faced the challenge of herding cats, with powerful divisional directors such as the head of the synchrotron division (and future director) John Adams looking to build their autonomy. There were constant proposals and debates about internal organization, which were essentially about where the power of policy initiative and investment decision-making would come to lie in the organization, and how accountability for policies and expenditures was to be organized.

Achieving Momentum

It was not until the early to mid-1960s that the incentives for commitment to this form of international scientific cooperation started to kick in. In 1959, CERN's first major common pool resource, the proton synchrotron—then the world's highest energy particle accelerator—became available. Many high-profile experimentalist physicists began to

use it, which cemented commitment to CERN beyond its close-knit founding community. It was a watershed moment, laying the foundation for what became the politically impenetrable fortress of scientific collaboration that CERN has since become:

> Not constituted from above, by a juxtaposition of delegates nominated administratively by the states…, the central core of the Council built itself up in the course of a battle which lasted several years. From these beginnings an unusual degree of cohesion was born, along with a determination to succeed, which bore fruit thanks to the favourable context in which it emerged, the context of a Europe looking for ways to unite, and fascinated by all that was nuclear… Once the leaders of European nuclear physics realized, early in the 1960s, that there was no alternative to building a central installation for the ever-heavier equipment their science demanded, and once they accepted that this installation would be CERN, they no longer submitted their national authorities to conflicting pressures… Speaking with a single voice to the exterior, they ensured the continued good health and the success of the organization and left the member states watching developments from afar. (Pestre 1988: section 9.1.4)

Fast forward fifty years and a picture of a settled institution and a cohesive science community emerges. A series of landmark achievements demonstrated the added value of the collaboration across disciplinary and national boundaries. The institution leans on decades of 'identity work' to ensure that the constant flow of new and eager scientists come to regard CERN as not just a tool to be used but as a place that confers identity and respect on them. Here we see a virtuous cycle. A deep sense of commitment and loyalty feeds into high performance by virtue of CERN's ability to continuously attract top staff and make them work together to achieve both scientific advances and tangible, brand-enhancing outcomes:

> The combination of … high scientific and political standing, ambitious forward-looking research programme, independence as a supra-national organisation [and] cash-based finances results in an ability to recruit and retain very competent staff. As an established international organisation… CERN is able to offer attractive employment conditions (salaries, pensions, etc.). The staff form an interacting community characterised by a vigorous exchange of ideas. At times, ideas emerge that can be transformed into innovative new technologies, even commercial products. (OECD 2014: 64)

How CERN Is Governed and Managed

Robinson (2019) identifies a range of what he calls 'mechanisms' that are embedded in CERN's institutional design that have allowed it to overcome the threat of gridlock that besets any multilateral collaborative endeavour. The pathways in the left-hand column of Table 9.1 refers to Hale and Held's (2017) theory of gridlock-busting factors. The right-hand column then details to which extent and in which forms these factors can be found within CERN. Let us now take a closer look at what lies behind these mechanisms.

Smart Institutional Design

The 1953 Convention articulates CERN's mission and institutional design. It offers a sense of purpose and ground rules for governance that have stood the organization in good stead. It is crystal clear about what CERN is to be and not to be. The Convention explicitly instructs all staff to work without fear or favour for the benefit of the international, collaborative entity that CERN is and not to be influenced by preferences, demands and hints from any of the member states or other research institutes. The Convention stipulates that the fruits of all its work should be made publicly available.

The Convention also limits CERN's activities to scientific collaborative research on high-energy particles, laying down clear boundaries and norms for how it is to pursue its activities: 'The Organization shall have no concern with work for military requirements and the results of its experimental and theoretical work shall be published or otherwise made generally available' (Convention 1953, Article II,1). A former director-general notes: 'The spirit from the beginning, was that we are not at CERN to profit; we are there to help to achieve the common objective. A principle introduced by the founding fathers that still exists today' (quoted in Robinson 2019: 43).

This clear delimitation of CERN's mission—no military pursuits— provides the Council with a key lever to check on mission creep and ensure the coherence of resource allocations without stifling innovation in how CERN researchers pursue the mandate. The CERN Council is the supreme authority of the organization. Appointed by the Council for a single 5-year term, the Director-General leads the CERN Laboratory on a day-to-day basis, supported by a senior management team called the

Table 9.1 Pathways to effective international collaboration: the case of CERN

Pathway	CERN community mechanism
1. Shifts in major powers' core interests	• Catastrophic Second World War led to incentivisation for States through the European Movement and embryonic UNESCO to combine with visionary European particle physicists to create the Organisation
2. Autonomous and adaptive international institutions	• Governing bodies have been given inimitable capabilities to adapt to emerging issues and shifting constellations of power and interests • Member States have one vote each in Council; the primacy of the State is sacrosanct • Science Committee members are elected solely on merit by peers and are independent of national and/or other institutional affiliations
3. Technical groups with effective and legitimate processes	• Experiment team's authority comes from intellectual contribution and consensual decision-making; project adhocracy and trust in the workforce leaves teams of experts to solve complex problems in whatever manner they see fit • The name 'CERN' is synonymous with the very best scientific research standards, execution and delivery
4. Multiple, diverse organisations and institutions coalesce around common goals/norms	• Unmatched global reach: over 12000 researchers from institutes in over 70 countries being actively engaged • World-wide connectivity with very large quantities of data being continuously analysed through seamless connectivity to 170 other data centres in 36 countries • Centre of excellence for holding of global fundamental physics seminars, conferences and events

Table 9.1 (continued)

Pathway	CERN community mechanism
5. Mobilisation of domestic constituencies	• The data confirmed that these two Beyond Gridlock pathways do not fully feature
6. Civil society coalitions with reformist states	
7. Innovative leadership as a reaction to gridlock	• Leadership is characterised by inclusivity and equality of contributing disciplines in terms of voice and status
	• Leadership has an aura of invincibility within the global fundamental physics community. A reputation borne out of its repeated scientific successes and its ability to overcome obstacles, threats and set-backs by fair, timely and consensual governance
	• See (3) above for leadership of technical teams
8. Innovative Funding	• Scrupulously fair funding formula based on Member State economic strength for annual cash contributions
	• Procurement protocols help maintain alignment of work share to contributions but are not bound by strict 'juste retour'
	• Experiment projects are effective collaborations of in-kind contributions

Source Robinson (2019: 50)

Directorate. Below them operate a series of departments. All major policy and funding decisions require Council approval. The Council controls CERN's activities in all matters scientific, technical and administrative. It approves programs of activity, adopts the budgets and reviews expenditure. Each of the 23 member states has two delegates on the Council: one science administrator and one leading scientist.

The Convention provides for a 'one member, one vote' decision-making mechanism within the Council, thus steering CERN's governance away from the politics of (financial) weight that plague so many other intergovernmental organizations (Goetz and Patz 2017). This mechanism creates a stable, level-playing field and has survived the growth of the

organization from 12 to 23 member states (late 2019) and the attendant differentiation of member state resources and capabilities.

Most Council decisions require a simple majority, but some, such as the appointment of a new director-general, require two-thirds majorities. In practice, the Council reaches decisions by consensus and strives for unanimity. The Council is supported by two pivotal advisory committees: the Scientific Policy Committee and the Finance Committee. The Scientific committee is composed of top scientists regardless of nationality who are elected into membership by their peers on the committee. The Finance Committee consists of technical experts from the member states and mainly focuses on matters related to financial contributions.

In Robinson's (2019) fieldwork at CERN, many long-serving staff voiced how proud they were of 'their' Convention as a document that sets the scene for fostering international collaboration and provides a healthy balance between top-down and bottom-up management approaches. As one interviewee granted: 'we owe a lot to our founding fathers both on the scientific side and wise people in the ministries and governments at that time who made that happen' (Robinson 2019: 43).

A Conducive Culture

CERN's leading figures embraced the norms of collaboration, trust, transparency early on. As an example, the internal norm became that of individual but collective authorship of papers, both within as well as, when pertinent, across the collaborative experiments. This has meant alphabetically listing all members of a collaboration as authors on any paper written based on data from that project by any member of that collaboration. As a result, some CERN papers ended up having over 500 authors. Though not without difficulties and trade-offs for the career choices of the individuals involved (Birnholtz 2008), this norm of credit-sharing helped the CERN circumnavigate most of the credit-driven professional competition and rivalries between individual researchers and groups within the organization that have such a debilitating effect in many other laboratories and research groups in the academic world.

CERN's institutionalization owes a lot to the way in which it has evolved norms and practices of balance-seeking. Balance between funding member states and the spending CERN administrators. Balance between small and large contributors. Balance between centralized lab and infrastructure funding and bottom-up funding of the experiments. Balance

between getting on with current work and preparing the ground for taking on new challenges and realizing future ambitions that may be decades away. Balance between the scientists' advances in fundamental physics and the engineers' development of the technological tools required to test them. Balance between running a tight ship financially and maintaining the ability to respond flexibly to financial setbacks or emerging expenditures. Balance between the patience required to achieve major scientific breakthroughs and the need to be seen to be active, relevant and impactful *now*, which is critical to maintaining a global public and political support base. Balance between banking on the authority of established scientific leaders and empowering the innovative irreverence of emerging research talents.

Such balancing is necessary to prevent the twin dangers of gridlock and mission creep (Selznick [1957] referred to conservatism and opportunism). The conditions for a balanced institution must be created in its organizational structure and nourished through its organizational culture. Take the 'power distance' (Hofstede 1991) between the established 'God-professors' and next-generation budding talents. In its examination of the economic and societal impact of CERN, the OECD (2014) paints a picture that epitomizes what Goodsell (2011) considers a 'prime quality' of public institutions: its official truths are open to contestation because this power distance is actively kept within bounds. Here's what the OECD (2014: 65) reports about CERN:

> All large research institutions are necessarily hierarchical organisations, with well-defined structures and procedures for ensuring responsibility, accountability and reporting. CERN's version of the hierarchy is relatively "flat", especially where it concerns communication and interaction across the vertical dimension of the hierarchy. It is not unusual for junior members of the staff, or researchers from collaborating institutions (even graduate students) to "buttonhole" the senior laboratory leaders in order to present original ideas or opinions. In part, this is a consequence of the inherently meritocratic nature of scientific research but, at CERN, it is reinforced by the special status of the laboratory that sets it apart from traditional institutions.

Another good example is the funding regime. Its ingenuous architecture is a key source of CERN's strength. It provides a solid central base funding but allows no one to get 'fat' and complacent. It incentivizes entrepreneurship and coalition-building among staff members,

research institutes and nation states while hedging against excessive risk accumulation:

> Countries contribute to a central fund for the infrastructure of the lab as a whole. However, while the infrastructure of the lab comes from the pooled fund, the experiments do not. This means that while the Large Hadron Collider (LHC) was built by CERN using the money contributed to the central fund, the four giant detector experiments were funded, designed, and built by independent collaborations of nations. This way, if one falls behind, it doesn't necessarily mean the entire project will suffer. (Lucibella 2014)

The funding regime spreads the load fairly among member states; their contributions are pegged to (developments in) their GDP. If times are lean in a particular member state, its representatives in the Council do not face pressure to go home and fight unwinnable budgetary battles with their science and treasury departments in order to maintain a set contribution amount. Moreover, as critical episodes involving budgetary and political turbulence in the United Kingdom and then Germany in the 1980s and 1990s have shown, there is a collective norm of empathy and a propensity for pragmatic long-term thinking within the Council and in CERN's Directorate and Finance Committee. This leads them to respond flexibly to the budgetary and political exigencies of the moment by accommodating the predicaments of certain member states through collective burden-sharing. Grand as it may sound, particularly when it comes to the politics of budgetary processes within publicly funded organizations, fairness, empathy and adaptability are demonstrably built into the fabric of CERN's decision-making structures and the rules by which they operate.

The Importance of Leadership

CERN would never have existed but for the *visionary leadership* of its founders. In the late 1940s and early 1950s, leading physicists such as De Broglie and Rabi gelled with diplomats and other promotors of European cooperation to argue the case for transnational science collaboration. To persuade not just small states (who had nowhere else to go anyhow) but also Europe's major powers France and Great Britain (whose geostrategic preferences and academic chauvinism might otherwise have led them to

turn against participation in a joint enterprise) and their World War 2 opponents Germany and Italy to partake in this coalition was a major coup of academic entrepreneurship and diplomatic ingenuity.

Also, the sheer *stability* of its scientific and administrative leadership cadres in the critical early years of the organization has proved an important factor. During the first fifteen years of its lifespan the Council was dominated by a core group of men—they were all men—of the first hour who had held key positions in CERN and/or were representatives of countries that carried weight. The same goes to a large extent for the Scientific Policy Committee. This stability at the core helped to create interpersonal trust between these institution-building leaders. It helped them to contain centrifugal forces and deal with emerging conflicts pragmatically. These members of the institution-building generation took up their roles in a particular way: they were not acting as national gatekeepers but as ambassadors for the organization within their respective constituencies (Pestre 1988).

Furthermore, with multiple power centres and multiple balancing acts between constituencies, carrying different values and interests, an organization like CERN can only be steered and adapted through a form of *dispersed l*eadership (Verbeek 2009). Over the decades, a now entrenched form of power-sharing has developed between Directorate, Council, the committees, the divisions the experimental collaborations. The rules of engagement provide a conducive setting in which individual and teams of scientists can 'do their thing', yet within parameters and levels of resourcing and accountability that are negotiated and determined in the interplay between the key institutional nodes in the governance structure. The Director-General is the face of the organization in the world outside CERN, and an influential authority figure within it, but cannot and will not impose major policy decisions on the system. Smooth relationships between DGs and Council presidents are essential for greasing the wheels of the relationship between the core executive team (the Directorate) and its 'board of directors' (the Council).

Finally, in a science organization such as CERN it is pivotal that a significant share of the leadership structures and processes are animated by *professional* authority figures, whose leadership claims are rooted in substantive expertise and peer esteem rather than managerial qualities or political networks. CERN is not run solely by 'administrators', far from it. There is a large and vocal community of scientists that jealously ensures that Parkinson's law—'(administrative) work expands so as to fill the time

available for its completion'—will not creep up on them. The scientific community needs to perceive a DG as 'one of us'; the very few that did not have a stellar scientific CV had to work hard to earn its respect.

A Path-Dependent Collaborative Regime

CERN began as a collaborative proposition. Collaboration remains at its heart today. The language of collaboration is deeply entrenched in CERN's structures and semantics. CERN's entire modus operandi belies the notion that science is essentially or even predominantly a competitive enterprise.

The genius of CERN's formula is that it does not deny the existence and propulsion power of competition between scientists, but that is has found a way of harnessing these competitive instincts within an overall framework of collaboration. In models of collaborative governance (e.g. Ansell and Gash 2008; Emerson and Nabatchi 2015), the essential fuel that makes collaborations succeed is a composite of felt interdependence around a task or ambition that is salient to all the parties involved; the growth of trust and alignment of motivations between participants that may have widely varying perspectives, responsibilities and values and are subject to their own governance structures and accountabilities; commitment to a process of joint deliberation that they consider fair, safe and effective in forging paths towards concerted action; and eventually a generative cycle of trust-building begetting joint action that produces tangible benefits to all which in turn increases the appetite for continued collaboration. The story of CERN that we have told in this chapter refers to each of these elements.

In addition, however, we should consider the important role of path dependencies that started to happen from the early 1960s on and were brought to a new level once the LHC project had begun and eventually produced the results that turned CERN into a near-mythical institution. The OECD's (2014: 63) analysis of CERN's impacts on innovation picks up on this point:

> CERN's network of institutional and personal contacts played a critical role in catalysing R&D, and in overcoming difficulties in meeting cost and schedule goals. To some extent, the network is there simply because of the passage of time (the institutions concerned have been interacting for sixty years). It is true, as well, that national research organisations receive

their funds from the same agencies that finance CERN, so that the linkages emerge naturally during the elaboration of national science policies.

Once the participating nations decided to pool their resources in this domain of science and kept at it for over a decade, this changed the incentive structures of the next generations of high-energy physicists and institutions. There was now this unique common pool resource without which the experiments that needed to be done could not be performed. As similar accelerators in the United States and Japan closed down in the 1960s–1980s or were never built, there were no alternatives left, thus raising the costs of exiting from the collaboration (or of not entering it in the first place). Once thought of as a mere resource, CERN became an intellectual 'hub' and a source of professional identity, further increasing its professional centrality, the attractiveness of membership and thus the centripetal pull of its resource claims.

A Case in Point: The Large Hadron Collider Project

Gillies' (2018) assessment of CERN's crowning achievement reflects the contemporary consensus within and far beyond the global network of scientific contributors to and users of CERN's technology and data:

> CERN's Large Hadron Collider is a triumph of human ingenuity. It has pushed technology to new and hitherto unimaginable limits. Far from struggling more than one particle collision per bunch crossing – a scenario feared when the LHC was first proposed, the experiments are dealing with dozens. The LHC produces close to a billion collisions in each detector per second, and processes have been perfected to sort out those that might contain interesting physics.

Key to the success of the LHC accelerator and detectors are the organizational capacity and performance standards that have evolved within CERN. The high-energy physics community 'self-organized' in a remarkable way from the early days of the LHC project. In the years leading up to the decision to go for the LHC, the CERN community faced a stark choice: the next step for high-energy physics after the Large Electron–Positron collider (that was in operation between 1989 and 2000) would ideally be a linear electron–positron collider, but nobody knew how to

build it. The alternative was to build a hadron collider, but nobody could build the requisite detector for catching the data it would generate. From these two 'impossible' options, the community chose the second. After years of groundbreaking R&D-work, the gamble payed off.

The LHC Committee (LHCC), a peer-review committee consisting of independent scientists, was set up in 1992 and continues to shape the experimental LHC program and provide stewardship of it. It advises on directions, monitors progress of the experiments and assesses the credibility of experimental schedules. It reports to the Directorate and Council. Although the LHCC reports 'up', it also interacts closely with the seven multinational experimental collaborations that have formed around the LHC.

Each experiment is run by collaborations of scientists from institutes all over the world. All experiments use detectors to analyse the myriad of particles produced by collisions in the accelerator, but each has its own sets of detectors and therefore data to work with. Though each experiment to some degree pursues distinct questions that emerge from scientific debates among the participating scientists, the experiments also compete on as well as cross-validate one another's observations on the big-ticket aims of CERN (i.e. discovering the Higgs boson).

In general, the LHCC's advice is accepted by the collaborations, precisely because in case of disagreements it offers an arena for open and robust debate. Trust in the integrity of its processes thus mitigates conflicts that could otherwise disrupt and delay the joint efforts (Engelen 2012).

The seven experimental collaborations—the largest of which consist of more than a thousand members hailing from dozens of different institutes and supported by dozens of funding agencies—organize themselves but adhere to a generic structure agreed with CERN. The collaborations were underpinned by memoranda of understanding (MoUs). Although not legally binding, these documents were signed between CERN and the collaborating institutes and were essential in agreeing on the contributions and long-term commitments from each of the institutes, including CERN, and then for monitoring that the various partners delivered on these commitments.

These MoUs also formed the bedrock upon which the worldwide LHC Computing Grid (wLCG) was founded. The wLCG forms the essential data-analytic support structure necessary to process the massive amounts of data generated by the experiments conducted in the LHC.

It was not until relatively late after LHC approval that it was realized that the computing effort required for processing the LHC data would need a highly innovative approach and would also require very substantial investment, both at CERN and worldwide. The MoUs, drafted at CERN's legal department and signed by delegates from the participating institutions with appropriate mandates, were particularly important as a way of communicating with the national funding agencies providing the all-important financial footing of the collaborating partner institutes and institutions.

Resources review boards (RRBs) were set up for each experiment and continue to shadow them throughout their lifetime. Their membership consists of one representative from each funding agency with the experiment's management in attendance. They are chaired by CERN's Director of Research and provide the interface between the experiments, the national funding agencies and CERN. During the long years of constructing the experiments, the RRBs were particularly crucial in securing adequate and continuing funding.

The RRBs monitored progress in light of available (or pledged) resources. For the large general-purpose experiments in the LHC, ATLAS and CMS, a ceiling of 475 million Swiss francs for each was set by the CERN Directorate as the maximum investment costs. Capping investment in this fashion proved to be a great incentive for the experimental collaborations to be as resourceful and realistic as possible. The term 'descoping' was invented to denote the process of giving up some (redundant) functionality in order to save costs. In case of unavoidable additional expenditure, the RRBs provided the platforms for assessment and for reaching agreements on additional pledges from the funding agencies and from CERN and for postponing certain investments that were less urgent than others.

This process was, not surprisingly, punctuated by conflict. For example, the management and operating costs for the experiments were not always readily accepted or even understood by some of the funding agencies. In order to make the cases as convincing as possible, a Scrutiny Group reporting to the RRBs was formed. The experiments provided detailed information on the costs incurred (retrospectively) and made estimates for the next year. After scrutiny, these costs were then shared between the participants. The discussions were often emotional. 'Users' are not used to paying for things at CERN, and yet CERN could not and would not provide financial carriage of the entire experimental program in addition

to the investments (and running costs) for its accelerator complex. The RRBs provided crucial platforms buffeted by clear rules of engagement for working through these tensions and laying the foundations for cost-sharing agreements between funding agencies (Engelen 2012).

Sustaining the Mystique: Challenges of Consolidation

As Höne and Kurbalija (2018: 70) note, CERN's governance structures and practices allow for its projects to originate from and be driven by the needs and ambitions of science, while allowing for compromise on the basis of political and resource considerations. This track record of achieving workable balances will be put to the test in the coming decades, in a European and global environment that is much more turbulent and less favourable than it was in the decades when the LHC came to fruition. Womersley (2019) reflects the ambivalence, noting that as 'the archetype of intergovernmental organization in science, [CERN] offers great stability in the face of political upheavals such as Brexit', at the same time admonishing the CERN community that 'its challenge today is to think outside the box'.

The history of CERN buffets Mazzucato's (2018) celebrated thesis that only the state—in CERN's case a growing coalition of states represented in its Council and Finance Committee—has the required capital and persistence to fund the kind of fundamental research that produces the knowledge infrastructure for highly impactful and commercially viable innovations. So far, so good. Yet, if iconic organizations (Bekaert et al. 2016) are to retain their status as institutions, they need to be able to continuously challenge the very 'way we do things around here' that has produced their past successes. Indeed, Selznick (2000) reminds us that to maintain viable, an institution will have to adapt to maintain its fruitful relation with its ever-changing environment without forgetting its founding mission, shedding competitive advantage or effectiveness, suffering identity damage—while maintaining its moral integrity. But how to accomplish this when their past and present are regularly glorified both externally and internally? As organizations institutionalize, their character and modus operandi become imbued with value. This begets stability but loses flexibility (Selznick 1957: 7).

How then, in this era of the 'Fourth Industrial Revolution' and the 'Asian Century', can an international knowledge institution such as

CERN overcome this twin threat of complacence and rigidity? Ansell et al. (2015) propose that institutional leaders should pursue a strategy of dynamic conservatism in which the organization engages in 'pre-emptive adaptation' to foreseeable and consequential changes in its operating as well as its political environment.

This is highly apposite to CERN. In today's era of 'monitory democracy' (Keane 2018) and public disenchantment with many public institutions, the benign opinion climate surrounding CERN cannot be taken for granted. Media and other watchdogs may change their tune on CERN. As one pre-Higgs Boson critic (O'Neill 2008) observed astutely:

> The media would rather talk excited gibberish about the LHC than ask hard questions about support for science in a democratic society, or the proper priorities for research in physics. The CERN scientists are happy to meet the media's demand for hyperbole, as it obscures the most important questions about funding for CERN. This should not sound too negative. The LHC is a magnificent human achievement, a great feat of collaboration and logistics, and it will surely bring fascinating scientific advances. But, in a sane democratic society, the media and the scientists themselves need to do a better job about talking sensibly about its purpose, goals and justification.

CERN wants to remain a nimble, cooperative, science-driven international organization.[1] At the same time, it has to adapt to an ever more dynamic scientific and science policy landscape and to a more complex geopolitical picture in which the European ideals and identities that helped create and sustain CERN have come under pressure. With large states such as Russia showing an interest to be included as members, the CERN Council has to weigh the extent to which such new applicants not only merit inclusion on the grounds of scientific capabilities and resources, but are likely to fit its governance culture.

Meanwhile, other large and scientifically ambitious states such as Japan, China and the United States are currently not bound into CERN by membership status (if they were to join, through the size of their GNP's they would dominate the budget vastly and throw the balanced system of governance out of joint). This being the case, some are developing their own plans for the next big post-LHC facility, effectively challenging CERN's de facto monopoly in advanced particle physics research. This only ups the ante for one of the major challenges to CERN in the coming decade: to build and sell its own business case for the next mega-facility,

whose scale and time horizon surpass anything the organization has ever tried before.

If it is to retain its iconic status, CERN will need to produce new quantum leaps in physics and technology in order to stay ahead of the pack, sustain its position as an icon of global science and deliver 'public value' above and beyond satisfying scientific curiosities. For that to happen, it needs to once again make strategic choices about its future research directions, bring its stakeholders along on that journey and secure very large amounts of money for very long periods of time. Given how many resources, careers and reputations are invested in its path leading up to the present, asking and answering these questions will require strategic leadership of the highest order. It will come down to the interplay between Directorate, Council, the CERN Community and its member states and stakeholders to rethink, retain and renew CERN's way of operating without compromising its core mission and values which have served it so well in its first six decades.

Questions for Discussion

1. Discovering what the universe is made of is just about the most elusive mission that one can think of for any organization. What role did this lofty, elusive and super long-term ambition play in the institutionalization of CERN?
2. How did CERN manage to get government policymakers from its member states to keep funding the boundless ambitions of its scientists for over nearly 70 years?
3. What risks did CERN take in pushing for the construction of the Large Hadron Collider, and how did it manage these risks?
4. What role did leadership play in building CERN into the international scientific institution it is today, who exercised this leadership and what forms did it take?
5. If you were asked to advise about the setting up of a new long-term, international scientific laboratory to be underpinned fully or mostly by public funding, what lessons from the CERN experience do you think are crucial to incorporate into that advice?

Note

1. In a break with tradition, CERN's current Director-General, Fabiola Gianotti was reappointed for another 5 years in her position after reapplying for it when her term as DG expired (Banks 2019). She envisages a post-LHC world in which CERN is no longer the only game in town. She realizes that CERN cannot afford to drag its feet in pushing for the next frontier: 'With CERN, Europe has regained leadership in fundamental physics at the energy frontier and also in the advanced technologies that are needed to do these experiments… [I]t would be a real pity if that leadership were to go elsewhere in the world' (quoted in Sample 2019).

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CHAPTER 10

Rijkswaterstaat: Guardian of the Dutch Delta

Margo van den Brink

RULER OF THE DUTCH DELTA[1]

As a country below sea level, the Netherlands has battled against the water for centuries. From pumping water to reclaim land for farms and houses, to building numerous dikes and dams for flood protection: water management has determined the spatial contours and structure of the Netherlands. The national government institution responsible for these 'water works' and giving the Netherlands its reputation as 'conqueror of the sea' (Lintsen 2002), 'ruler of the Dutch delta' (Van der Ham 1999) and indomitable 'master of the flood' (Collier 2019) is *Rijkswaterstaat*—formally known as the Directorate-General for Public Works and Water Management, located within the Ministry of Infrastructure and Water Management.

Rijkswaterstaat was founded in 1798, during the French occupation. Since then, it has evolved into an iconic institution within Dutch society. It holds a powerful position in the development of both transport and hydraulic infrastructure in the Netherlands. It is known all over the world for its engineering expertise, realizing public works of unusual scope and

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sophistication. The Zuiderzee Works (1920–1968) and the Delta Works (1954–1997) were essential in this regard.

The Zuiderzee Works involved the closure of the Zuiderzee (an inland sea in the northwest of the Netherlands) by the construction of a major dam over a length of 32 kilometres, and the reclamation of new polders in the newly created giant freshwater lake. The Delta Works included the construction of various dams, dikes and storm surge barriers, closing off nearly all sea inlets and shortening the Dutch coastline after the storm surge of 1953, which killed nearly 2000 people and devastated nearly 10% of the country's farmland. Rijkswaterstaat's more recent 'Room for the River' program (2006–2019), rather than building higher dikes, created more space for the main rivers by constructing new river branches, relocating dikes and 'de-poldering' agricultural areas (e.g. Kimmelman and Haner 2017; Van Buuren 2019).

Rijkswaterstaat is the implementation agency of the Ministry of Infrastructure and Water Management. It is one of the largest government organizations in the Netherlands, employing about 8700 staff divided across its head office, 7 regional departments and 7 national, specialist departments. It is responsible for a large part of the Dutch physical infrastructure: for flood protection; to ensure sufficient water for navigation, irrigation and as a source of clean drinking water; for the construction, day-to-day operations and maintenance of the national motorways and waterways; and for enabling smooth and safe traffic flows. Its current mission—'working to make the Netherlands safe, secure, attractive and accessible for all'—captures this broad scope of activities (Rijkswaterstaat, n.d.).

Its combined responsibilities for constructing and maintaining both 'dry' and 'wet' national infrastructures is unique in the world. Comparable government organizations focus either on water management, such as the Environment Agency in the UK and the US Army Corps of Engineers (see for a comparison between Rijkswaterstaat and the Army Corps: Lonnquest et al. 2014), or on infrastructure planning and management, such as the Highways Agency in the UK and Trafikverket in Sweden. This chapter mainly concentrates on the 'wet' side of Rijkswaterstaat, but it also draws comparisons with the 'dry' side of the organization.

This is a story about a venerable institution that, especially from the 1970s onwards, has faced major adaptive challenges in the light of socio-cultural and political changes. The explosive rise of the environmental movement, the democratization within Dutch society, and, starting in the

1980s, the rise of the neoliberal politico-economic ideology put Rijkswaterstaat's powerful position and its perceived technocratic modus operandi under pressure. As a result, it found itself on the horns of a dilemma: it needed its renowned expert status to fulfil its public responsibilities; but it also needed to distance itself from this expert status to develop into a more responsive and efficient public organization (Van den Brink 2009). In response, Rijkswaterstaat developed several proactive adaptation strategies, which focused on reinventing its organizational identity and related 'mission mystique' (Goodsell 2011a, b).

This chapter first describes the birth of Rijkswaterstaat and explains how it developed from a semi-military organization based on craftsmanship into an institution of civil engineers with a strong technocratic mission mystique. Then it focuses on the period of the 1970s and 1980s, during which the new 'waves of change' caused a deep institutional crisis. The proactive adaptation strategies that Rijkswaterstaat developed to ride these waves of change will be discussed, including the reinvention of its mission mystique in managerial terms. The chapter ends with a brief reflection on the future of Rijkswaterstaat.

The Birth of Rijkswaterstaat

Rijkswaterstaat's founding in 1798 was the result of political changes in the Netherlands. The year 1795 marked the end of the Republic of the Seven United Provinces. With the help of French troops and following the example of the French Republic, the anti-monarchist faction in Dutch politics at the time, the so-called patriots, created the Batavian Republic, in which the confederate structure of the Dutch state was replaced by a centrally governed unitary model. Within that structure, a national organization for public works was deemed desirable. There was an increasing need for more orchestrated forms of coordination and cooperation between the various provincial and regional agencies with jurisdiction on matters concerning water management and public infrastructures. For example, regular flooding of the main rivers flowing into the country from Belgium and Germany threatened lives and assets in the Dutch delta. A concerted effort to eliminate such floods was thought to require a national organization (Bosch and Van der Ham 2015).

A representative of the patriot revolution, Christiaan Brunings, the son of a vicar and former head of water management in the province of Holland, was asked to draw up a plan for this national organization

for public works. His plan substantially reduced the role of the provinces and the water boards in favour of more central government influence. It was approved in 1798. Under the slogan 'unity, simplicity and indivisibility' a national agency was set up 'for the administration of all that which pertains to public works' (Lintsen 2002: 554). Founding father Brunings became its first Director-General.

The early decades in the life of Rijkswaterstaat (1798 to circa 1850) have been described as a period of 'autocratic traditionalism' (Lintsen 1998, 2002). Rijkswaterstaat started as an organization based on traditional craftsmanship. The first hydraulic engineers were predominantly the sons of tradesmen, such as carpenters and windmill builders. They were self-made men, trained on the job and lacking social status. In those days, most politicians, administrators and civil servants were members of the aristocracy or the upper classes, who did not think of the Rijkswaterstaat engineers as their equals. In their view, the military engineers—recruited from the nobility whose skills were honed by technical training at a dedicated school—were the real professionals.

To improve its position and the status of the civil engineering profession, and to distinguish itself from the other parties involved in Dutch water management, Rijkswaterstaat set about to professionalize its organization. This was mainly achieved through the advancement and accumulation of hydraulic knowledge and expertise and by putting hydraulic engineering on the map through systematic training and professional socialization.

In 1810, after four years of the Kingdom of Holland under Louis Napoleon, the brother of the French emperor, Napoleon incorporated the Netherlands into the French state. Rijkswaterstaat was now part of the French public works agency, the *Corps des Ponts et des Chaussées*, a powerful military and bureaucratic organization (Lintsen 1980: 59–65). Rijkswaterstaat was transformed into a technical government agency along military lines, with a hierarchy of ranks and a strong emphasis on discipline. Like the military engineers, the hydraulic engineers were now allowed to add a title to their names and wear an official uniform. The corresponding 'militarization' of the Rijkswaterstaat organization is illustrated by the way in which students were prepared, professionally, physically and mentally, for engineering practice. Besides character formation and theoretical (mathematical and natural science) education, the training approach at military schools also served to promote the esprit de corps and develop common ideals, such as service to the nation.

Combined, these reforms helped raise the social status of Rijkswaterstaat's hydraulic engineers and gave the organization better access to the corridors of power.

After the demise of the Napoleonic regime in 1813, the Netherlands became a Kingdom under the monarch King Willem I. Under his rule, Rijkswaterstaat experienced a period of growth and accelerating professionalization. William I perpetuated the hierarchical, quasi-military organization model that had taken shape during the French period. In 1824 he decided on a new official uniform, and in 1829 completion of the technical training at the Royal Military Academy in Breda became an admission requirement for the 'Engineering Corps of General Public Works'. This, too, served to reinforce Rijkswaterstaat's military character. The ambitious king, bent on modernizing the country and fond of big infrastructural works, had almost 500 kilometres of new canals built. He also initiated the reclamation of the Haarlemmermeer lake southwest of Amsterdam and several other large water bodies in the west of the country. In this period, a tandem of two Director-Generals, Jan Blanken and Adrianus François Goudriaan, established Rijkswaterstaat as a competent manager of large projects, solidifying the agency's prestige.

Building the Institution: Professionalism and Technocracy

In the 1830s and 1840s, Rijkswaterstaat's credibility was put to the test. In 1830, Belgium broke away from the Kingdom. A lengthy period of mobilization ensued and until 1839, when a peace treaty was signed, investments in public works and infrastructure fell dramatically. Rijkswaterstaat was rapidly downgraded to a marginal organization with limited budget.

The malaise would last until 1848, when liberal reformers led by the Dutch constitution's chief architect and prime minister Jan Rudolf Thorbecke staged a peaceful revolution. The influence of the monarchy was cut back and a democratic polity arose. In the ensuing period (1850–1930), a gradual emancipation of the hydraulic engineering profession occurred. The establishment of the Royal Academy of Civil Engineers at Delft in 1842, the forerunner to the present Delft University of Technology, heralded the transition from a military to a quasi-academic educational system for engineers (Lintsen 2002). By putting hydraulic engineering training on an independent footing, the professionally trained hydraulic

engineers improved their social status. Between 1850 and 1860 these graduates of the Royal Academy usurped the authority previously held by the military-trained engineers (Goverde 1987).

Echoing the spirit of the peaceful revolution, the new vanguard of civil engineers spoke of 'a new-born country' and believed that the time was ripe for major undertakings (Lintsen 2002: 558). In 1850, senior engineer J.H. Ferrand and future Director-General (1858–1864) L.J.A. van der Kun presented a revolutionary plan for river improvements by regulating and standardizing the shape of the river channels and improving their navigability. This plan was implemented and proved a great success in eliminating the hitherto endemic and disruptive riverine floods. Other prestigious projects in which the Rijkswaterstaat engineers became involved were the construction of a national railway network, which started in 1860, and the excavation of canals connecting the ports of Rotterdam and Amsterdam to the North Sea, which began in the mid-1860s.

An essential element in the success of Rijkswaterstaat was the introduction of steam as a new basic technology. The wide use of steam engines enhanced the mechanization of production. The industrialization of Dutch society also had a downside, as it was accompanied by new social issues in the fields of public housing, public health and factory work. The new generation of innovation-minded civil engineers became engaged in these social questions, too. Although their involvement was partly driven by their desire to create a better world, it was also another way to further enhance the social status and employment prospects of engineers.[2]

After decades of sustained momentum, the outbreak of the First World War halted the implementation of ambitious Rijkswaterstaat plans, such as projects to further improve river navigation, reclaim parts of the Zuiderzee and build a new canal linking Amsterdam to the river Rhine. By the 1920s, politicians and press began to criticize the agency for being too bureaucratic and inefficient. Moreover, the organization was slow to adapt to the arrival of automobiles and new technological and scientific developments relevant to the construction industry.

Water Wizards

The part of the organization responsible for the 'dry' infrastructures now had to fight for its social licence to operate. Not confident that Rijkswaterstaat was capable of delivering a national road network, several Members

of Parliament questioned whether Rijkswaterstaat should remain responsible for road infrastructure. It took intervention by the minister and the introduction of a public–private advisory committee on road building for it to retain its dual (dry–wet) mandate.

In 1930, the Netherlands was on the verge of an economic depression. Nevertheless, with the appointment of a new Director-General, civil engineer Johan Ringers, things began to look up for Rijkswaterstaat. Under Ringers' supervision, Rijkswaterstaat developed into a powerful and decisive organization that operated in tune with the economic problems of that time and adapted swiftly to new challenges and technological developments. In 1935, Rijkswaterstaat even became responsible for designing and delivering infrastructure policy at large. In that capacity it went on to develop several National Road Plans (see also Bosch and Van der Ham 2015; Arts et al. 2016).

Director-General Ringers managed to radically reorganize the organization, establishing a head office in The Hague and creating specialized departments for specific projects and techniques. 'Specialization' and 'scientific management' were considered key in solving social questions and controlling the forces of nature. Within the new organizational structure, the Rijkswaterstaat engineers focused on fundamental research and experimented with new modelling methods and advanced project designs. They soon became internationally leading experts in the field, with divisions such as the National Road Laboratory and the Hydrodynamic Laboratory serving as flagship vehicles for this expertise.

This development began to insulate Rijkswaterstaat from criticism. For instance, engineer Johan van Veen predicted that the existing infrastructure would not be able to withstand peak storm surges, leaving the south-west parts of the country vulnerable to catastrophic flooding. To tackle this risk, Van Veen proposed a comprehensive plan to close the key estuaries. To his great frustration, Van Veen found the leadership of the organization unresponsive to his warnings. In time, he would be proven right and become known as the 'Father of the Delta Plan' (see further below).

The specialization and scientific development would bring about the final phase in the lengthy emancipation process of the hydraulic engineers, as the new rational-scientific approach to hydraulic engineering turned them into 'water wizards'. In his novel *Roll Back the Sea*, which tells the story of the closures of the dikes that were bombed by British aircraft in

1944 to drive the Germans out of the polders, celebrated Dutch novelist A. den Doolaard (1948: 3) offers an observation that still rings true today:

> People scarcely understand at all what these water wizards do. But no matter. The whole of modern society, after all, rests on the confidence of ordinary people in wizards. And everyone who lives below sea level in Holland sits back with implicit confidence while the hydraulic-engineer wizards plug away at the dikes.

After World War II, Rijkswaterstaat reached new heights of power and expertise. It became perceived as the 'ruler of the delta' (Van der Ham 1999). In the post-war years, some of the largest and most important public works in the history of the Netherlands were built. The post-war reconstruction and the increasing prosperity after World War II required a radical modernization of Dutch infrastructure. Moreover, immediately following the disastrous flood of 1953 that Van Veen had predicted, Rijkswaterstaat seized the crisis-driven momentum to develop and implement the large-scale and innovative Delta Works project. The working methods of the Delta Department, which was responsible for the Delta Works, gained widespread international recognition and emulation.

As a result, the size of the agency ballooned during the 1950s and 1960s—from about 350 employees in 1903 to 9940 employees in 1970—which was accompanied by a process of bureaucratization. The growth of its mandate and the now large catalogue of tasks and projects that stemmed from it required systematic coordination. This need was met by articulating elaborate systems of rules, standards and procedures, a strict hierarchy and strong social cohesion rooted in a common, Delft-based professional socialization (Bosch and Van der Ham 2015).

A Technocratic Mission Mystique

In those post-war years, Rijkswaterstaat's mandate, public stature and its influence on the physical infrastructure of the Netherlands was more prominent than ever before. Pressing environmental problems and societal demands regarding water security, such as the need to find a solution for the recurrent river floods, were a key driver. Institution-building leadership by several Director-Generals also played a key role: Brunings as founding father, Blanken and Goudriaan who established Rijkswaterstaat as competent policy implementation agency, Ferrand and van der Kun who introduced the revolutionary river standardization strategy, and

Ringers who managed to radically reorganize Rijkswaterstaat in response to new social challenges and technological developments.

Full of admiration for the work of the 'water wizards', the Dutch public and politicians put Rijkswaterstaat on a pedestal. Van der Ham (1999: 357) associates this period with the 'technocratisation of Dutch water management': policy was increasingly determined by the bureaucrat engineers rather than by senior civil servants enacting the wishes of parliament. The increasing belief that technical and scientific knowledge and expertise could be harnessed to solve social problems informed the culture of Rijkswaterstaat and the ethos of its engineers. Rijkswaterstaat had developed into an iconic institution in the Dutch landscape.

Rijkswaterstaat had acquired a distinctively technocratic 'mission mystique', as it was—in Goodsell's (2011a: 477) terms—'endowed with an aura of positive institutional charisma that is derived from the nature of its mission and how well it is carried out'. Table 10.1 describes the institution in terms of Goodsell's matrix (as presented in Chapter 1). A first

Table 10.1 Rijkswaterstaat's technocratic mission mystique in the 1950s and 1960s

	Prime qualities	Essential elaborations	Temporal aspects
A purposive aura	Central mission: ensuring dry feet, developing transport and hydraulic infrastructure	Urgent societal need: flood protection and infrastructure development as public responsibilities	Distinctive reputation: engineers as 'water wizards', RWS as 'conqueror of the sea', public admiration for water works
Internal commitment	Civil engineers employed at RWS are intrinsically motivated, proud of their work	Strong 'esprit de corps' and institutionalized technical culture and technocratic working style	Attention for agency history, celebration of achievements
Sustaining features	RWS's success and technocratic modus operandi was widely taken for granted	RWS was responsible for both policy making and implementation, thus enjoyed policy autonomy	Mainly renewal and reorganization in response to new social challenges and technological developments

important distinctive organizational feature was the presence of a purposive aura. Rijkswaterstaat was a mission-driven public agency, with, in the words of a former deputy Director-General, 'a high value profile':

> We have water that flows from high to low, and which has to be kept at bay. That is the justification for our existence. This duty will not change. You can perform it in a different way, but the job remains the same. And it has to be done now.

Since the establishment of Rijkswaterstaat, flood protection in the Netherlands has been a public rather than a private responsibility. Should a dike break, causing a flood disaster, Dutch society will hold Rijkswaterstaat responsible. People expect Rijkswaterstaat to take care of them and to make sure that they can go to bed every night without having to worry about the water. It is expected and taken for granted that Rijkswaterstaat has the expertise to prevent floods and other water-related problems.

Though it is also responsible for public works and transport infrastructure development, its institutional myth was created more in its 'wet' than in its 'dry' operations. This can be explained by the country's endemic vulnerability to flooding and attendant cultural memory of flooding, which have bred a deeply felt need for water security that Rijkswaterstaat took a leading role in meeting, earning it a strong reputation based on achievements. By comparison, the 'dry' domain was a much more complex and contentious policy domain populated by a greater variety of actors, which did not lend itself to similar acts of engineering heroism.

Rijkswaterstaat developed an effective practice to match its purposive aura. It did so through the advancement of hydraulic knowledge and expertise and experimentation with new methods and techniques. Successful projects, such as river canalization and land reclamation projects, gave rise to the emergence of an internal norm (cf. Boin and Christensen 2008) that emphasized the superiority of methodic, technical-rational ways of formulating and performing infrastructure planning processes and projects. The technocratic modus operandi bore fruit during the construction of the Zuiderzee Works, magnifying Den Doolaard's image of the Rijkswaterstaat engineers as 'water wizards'. The need for and public admiration of the grand infrastructural works solidified the technocratic way of working and paved the way for new ambitious public works, such as the construction of the Delta Works, after the disastrous flood of 1953.

Internalizing the norm, Rijkswaterstaat's civil engineers developed a strong esprit de corps. A distinctive organizational feature of Rijkswaterstaat was the clear presence of passion and commitment among its staff, buffeted by its technical engineering culture. Rijkswaterstaat engineers were typically loyal, very motivated, committed and proud of their work. But above all, they had a strong belief in their own technical abilities as well as their ability to shape Dutch society through intelligent and perfect engineering design (Bosch and Van der Ham 2015).

Rijkswaterstaat also honoured and celebrated its past in ways envisaged by Goodsell (2011a, b). An example was the elaborate celebration of the 25-year anniversary of the closure of the Afsluitdijk, the dike that tamed the Zuiderzee, turning it into the IJsselmeer. Other recurrent forms of celebrating past achievements and milestones included the preparation and publication of commemorative books, plaques and ceremonies (e.g. Stuvel 1957). Combined, they created a sense of living institutional memory and instilled pride in Rijkswaterstaat employees.

The third distinctive organizational feature identified by Goodsell (2011a, b) concerns mechanisms that sustain the institution over time, in other words its legitimacy. Especially during the 'technocratic' 1950s and 1960s, Rijkswaterstaat's success was taken for granted. The institution was not challenged. Moreover, as Rijkswaterstaat was responsible for both policy making and implementation it did have policy autonomy, which permitted it to meet new social challenges and technological developments by relying on its technocratic working style.

Under the Gun: Turbulent Times

In the 1970s, the tide turned. Whereas previous social and political developments tended to stimulate or contribute to the professionalization and technocratization of Rijkswaterstaat and the realization of its public responsibilities, new 'waves of change' (Schwartz 1993) put Rijkswaterstaat's technocratic working style under pressure and questioned its position in Dutch society.

In the early 1970s, there was an explosive rise of the environmental movement (Cramer 1989). This swing in the national mood was induced, among other things, by the publication of *The Limits to Growth* by the Club of Rome (Meadows 1972). The nationwide support that the Delta Plan had received during the 1950s and 1960s began to diminish in the 1970s and 1980s when environmental interest groups elicited popular

support. Many large flood management projects were reframed as 'man-made environmental catastrophes' instead of 'major triumphs of civil engineering' (Disco 2002). Likewise, many road construction projects became fiercely contested (Arts et al. 2016).

The rise of the environmental movement was accompanied by the democratization and emancipation of Dutch society. Citizens demanded a stronger voice in decision-making processes and revolted against the 'politics of expertise' (Fischer 1990). As a result, Rijkswaterstaat's powerful position in infrastructural development came under growing criticism. Its technocratic ethos was now perceived as an autocratic mindset lacking appropriate responsiveness to new social demands and environmental issues (Leemans and Geers 1983). Rijkswaterstaat lost control of the framing of its brand. It was now labelled a 'state within the state' that developed plans in an 'ivory tower'. It was a 'technocratic bulwark' that was 'out of touch with society' and 'pushed through its plans at any price' (Grimbergen et al. 1983; Bervaes et al. 1990). Its existence and operations were no longer taken for granted but had to be 'earned' or 'legitimized'.

The 1973 global oil price hikes was yet another development that heavily influenced the position of Rijkswaterstaat within Dutch society. The resultant economic slump during the 1970s and 1980s brought high levels of unemployment and pushed up welfare state expenditures to unprecedented levels. As a result of the fiscal crisis management that followed, funding for Rijkswaterstaat's major public works dried up. Drastic budget cuts ensued. A neoliberal politico-economic ideology questioning the primacy of state-led social problem-solving took hold in Western societies. Morphing into what became known as New Public Management (NPM), the new paradigm distrusted government monopolies (such as Rijkswaterstaat) and claimed that government agencies could improve their effectiveness and efficiency by incorporating management tools from the corporate sector (see f.i Hood 1991; Osborne and Gaebler 1992).

Rijkswaterstaat, as one of the largest government organizations, faced a fundamental reassessment of its position and the way in which it carried out its core tasks. Flood risk management and road construction plans became the subject of broad public debate and sometimes intense contestation. In particular, the proposed fixed dam in the estuary of the Oosterschelde, the planned river dike improvements and the construction

of a new highway through the Amelisweerd estate near Utrecht functioned as 'focusing projects' (Lowry 2006), damaging the public image of Rijkswaterstaat. As a result, Rijkswaterstaat entered an institutional crisis (cf. Boin and 't Hart 2000) that forced it to rethink its public value proposition as well as the way in which it conducted its business, yet without losing its deep grounding technical and scientific expertise.

RIDING THE WAVES OF CHANGE THROUGH PROACTIVE ADAPTATION

Through several decades of soul-searching and experimentation, Rijkswaterstaat eventually found a new lease on life while staying true to its core values. Ansell et al. (2015: 102) describe what is involved: 'An institution must sometimes transform itself without causing intolerable disruption (…). This type of reform has a sacrificial ring to it: something valuable, something that has proven its worth, is being altered or disbanded to preserve the whole'.

By incorporating elements from the environmental movement (the ecological turn) and the new neoliberal ideology (the managerial turn), Rijkswaterstaat initiated a strategic turn by reconsidering its societal and political position. It reinvented its engineering identity and its technical-rational value proposition. As a consequence, Rijkswaterstaat experienced a degree of deinstitutionalization.

The Ecological Turn: Integrated Water Management and Impact Assessment

Rijkswaterstaat incorporated the criticism of environmental interest groups by introducing the principle of integrated water management, by hiring biologists and ecologists to assess the ecological impacts of water management projects, and by making the environment and the landscape key issues (Disco 2002). Integrated water management concerns the integration of the various material aspects of water systems and the integration of the relevant policy sectors and corresponding interests, such as spatial planning, nature and water management.[3]

Rijkswaterstaat's technocratic culture and working style remained dominant, as it subsumed the environmental discourse into its technocratic routines. For example, one important way to assess the ecological

impacts of flood risk management and highway projects became to inter-pret these impacts in technical terms and developing ecological norms and standards which these projects had to meet. In the same way, the environment and the landscape were taken into account. Rijkswater-staat engineers thus interpreted the environmental discourse in terms of technical rationalism and a positivist conception of knowledge: tech-nical methods and methodologies were viewed as the only valid means of obtaining 'true knowledge' and as the only solid basis for solutions to social and environmental problems. Even though the environmental discourse reflected a fundamentally different set of values, Rijkswaterstaat thus managed to reconcile and connect itself with the new ecological perspective.

The Managerial Turn: Efficiency Operations and New Forms of Project Management

In the 1980s and 1990s, Rijkswaterstaat had to contend with various cutbacks and efficiency operations. The increasingly dominant NPM ideology introduced a new organizational model and an accompanying financial system. The underlying idea was that the management and control of such a large and complex organization from only one centre, namely the Rijkswaterstaat head office, was hard if not impossible. Another NPM-inspired insight held that such a large and relatively static organization was unable to cope with the increasing speed of change in the external environment (Schwartz 1993: 35–36).

In response, responsibilities within Rijkswaterstaat were extensively reorganized and decentralized to the regional and specialized depart-ments. Rijkswaterstaat also started to explore the outsourcing of some of its tasks and activities. Responding to the increasing criticism of its technocratic working style, it began to experiment with public–private partnerships. Moreover, to control and improve the effectiveness of new policies, it experimented with new forms of project management, based on an instrumental approach to interactive planning.

Despite the many sweeping reorganizations to increase the effective-ness and efficiency of the organization, Rijkswaterstaat's core tasks were never the subject of a public debate. Its technical knowledge and expertise were still considered the backbone of the organization. The traditional esprit de corps remained intact. The technocratic culture and working style of Rijkswaterstaat remained dominant. All this can be explained

by the compatibility of the neoliberal ideology and the technocratic modus operandi of Rijkswaterstaat: NPM and engineers were made for each other. Performance indicators, targets, norms, standards, service-level agreements, benchmarks, assessments, accounting procedures were all rational and technical tools introduced to measure and improve the effectiveness and efficiency of policy making and policy implementation.

The Strategic Turn: Scenario Thinking and Organizational Learning

At the end of the 1970s, Rijkswaterstaat started to reflect fundamentally on its role and position within Dutch society. Rijkswaterstaat's strategic thinking was formally embodied in 1990 with the establishment of a separate strategy department at the head office. The first important task of the strategy department was to explore and analyse the expected long-term developments in its environment (Scenarioteam RWS 2020 2007). The second task of the strategy department was to support and facilitate strategy development processes and strategic decision-making by the various management teams.

Rijkswaterstaat was inspired by the writings of Shell's former head of planning, Arie de Geus, who acted as external advisor.[4] His advice was to trigger organizational learning before the pain of a crisis by developing a set of scenarios for the future that contradict and challenge existing 'mental models'. Rijkswaterstaat started to consider itself as a 'living company' and developed various strategy development and renewal projects.[5] Their main aim was to constantly gauge and adapt Rijkswaterstaat's direction, both for the short term and the long term. Pivotal to this strategic turn was that Rijkswaterstaat, now as a 'living company', again remained true to its core values: the strategic explorations were focused on finding ways to incorporate the new waves of change in its technical-rational value proposition.

Towards a New Managerial Mission

In the early years of the twenty-first century, the position of Rijkswaterstaat and the persistence of its primarily technocratic modus operandi came under fire once again. Major budget overruns and evidence of poor management of large and contentious infrastructure projects such as the Betuwe Line (the dedicated rail freight line from Rotterdam to Germany),

started to surface. Around the same time, a parliamentary inquiry uncovered widespread and systemic fraud in the construction sector. As the major government player in the sector, Rijkswaterstaat had failed to signal let alone tackle the fraud. Both the budget excesses and the fraud case were extremely damaging for the public image of Rijkswaterstaat.

It stimulated a repositioning within the Ministry of Infrastructure and Water Management, which sought to reduce Rijkswaterstaat's dominance and autonomy and increase political control over the agency. The responsibility for infrastructure policy making was separated from that for policy implementation. Rijkswaterstaat was stripped of the former and was internally repositioned as the ministry's delivery agency. This was a fundamental break with the past—the behemoth had been slain: from then on Rijkswaterstaat's tasks and responsibilities were restricted to project management, operations and maintenance. Policy and planning were now driven by the department. The 'state within the state'—as Rijkswaterstaat was commonly referred to in public discourse about the agency—ceased to exist.

Goodsell (2011b: 24) argued that, over time, 'a mission mystique agency must be relentless in engaging in renewal processes' if it wants to keep aims and practices up with ever-changing times. The repositioning of Rijkswaterstaat as a delivery agency was accompanied by the strategic reformulation of its mission mystique and organizational identity, along the lines of the then-dominant neoliberal ideology (cf. Metze 2010).

The managerialization of Rijkswaterstaat's mission mystique was initiated by Director-General Bert Keijts, who, in response to the recent budget excesses and fraud case, felt a high sense of urgency to renew Rijkswaterstaat's technical culture and technocratic working style. In 2004, Keijts introduced a 'Business Plan' to rapidly transform the agency into a 'government business' (Rijkswaterstaat 2004; see also 2008, 2011, 2016). As stated in these business plans, without 'a clear perspective' and 'vision for the future' it would be impossible to realize the intended organizational changes. Keijts set high ambitions, as he wanted Rijkswaterstaat to become 'the most public-oriented national policy-implementing agency in the Netherlands'. The rhetoric of the Business Plan expressed these ambitions, envisaging three interrelated change trajectories: 'Public-Oriented Network Management', 'Human Resource Management' and 'House in Order'. These change trajectories aimed to adapt the agency's distinctive organizational features to the new strategic and operational environments it had come to face (Ansell et al. 2015).

A New Mission: 'From A to Better'

To improve its much-diminished public image, Rijkswaterstaat recrafted its mission and purpose. Rijkswaterstaat sought to develop from a 'traditional road and water manager' to a 'public-oriented, effective and cost-efficient government business' that acts as 'public-oriented network manager'. It wanted to focus on the 'users' of the infrastructure 'networks' (the main road network, the main waterway network and the main water system). To realize this ambition, the three networks were interpreted as 'systems' that had to be 'optimized': the main aim of operations, maintenance and construction ('network management') was to make these networks function better and improve customer service accordingly. Public-Oriented Network Management was thus defined as Rijkswaterstaat's new role and working style. Its new core task was to improve traffic flows on the main motorways and waterways and thus serve the users on their way 'from A to B', from door to door, as well as possible.

To publicize its changing role and mission, Rijkswaterstaat launched a public information campaign with the slogan 'From A to Better' (*Van A naar Beter*). Besides various television and radio commercials, signs carrying this slogan were placed above the main motorways and waterways. Rijkswaterstaat thus adopted a 'management' perspective on the way it wanted to fulfil its tasks as a policy-implementing agency, showing that the neoliberal managerial discourse again was decisive for the way in which concepts such as 'the public' (i.e. the users), 'network' (i.e. physical infrastructure systems) and 'network management' (i.e. optimizing traffic flows) were interpreted. In this way, while staying true to its technical-rational working style, Rijkswaterstaat aimed to increase its effectiveness and efficiency and to restore the relationship with the users of the infrastructure networks.

HRM as Instrument for Organizational Learning

The new way of working required new skills beyond technical knowledge and expertise. Director-General Keijts therefore prioritized Human Resource Management as an instrument to teach employees the required social skills and to stimulate organizational learning, which was a deliberate attempt to renew Rijkswaterstaat's mission mystique culture. In

the first Business Plan (Rijkswaterstaat 2004: 17), the aim of the corresponding HRM change trajectory was formulated as follows:

> We are not able to realise our targets without working on a renewed culture. Traditionally, RWS is a reliable, professional, technically oriented and loyal organisation. We want to continue making use of these traditionally strong qualities. However, the new perspective requires new emphases in the culture of RWS.

To renew its organizational culture, a Corporate Learning Centre was established and various learning programs were developed to teach Rijkswaterstaat employees the new competences and social skills that were required to put the ambitions of the Business Plan into practice. Courses varied from topics such as the 'art of professional commissioning', the 'art of Public-Oriented Network Management' and 'learning to think from the perspective of the user'. A former Director-General of a regional department explained the intended change of behaviour as follows:

> Have you ever been assisted by the car breakdown service?....The patrolmen are trained in two different ways. The most important is customer contact. This means always being courteous, polite and friendly. And of course being a super expert with cars.... In order to be a public-oriented organisation, you thus need people who are prepared to help find a solution, with the skill to listen....But like the breakdown service, people who are customer friendly but lack the necessary technical expertise are of no use. They have to be good at repairing cars. It's the same with us; employees in all positions must have the technical and practical expertise to do their jobs properly. So it is all about combining the two.

Rijkswaterstaat employees were encouraged to develop their personalities and change their patterns of behaviour. The required new social skills, such as 'user-friendliness', depended on the specific job requirements and on the specific role employees played in operations and maintenance. Hence, traditional technical knowledge was complemented with the development of social skills to better engage with stakeholders.

Centralization, Simplification and Standardization

A renewal of Rijkswaterstaat's organizational structure was also deemed necessary, in light of its new institutional position as policy-implementing

agency. Drawing on NPM ideas, the internal management of the organization had to be much simpler and uniform. For this purpose, the budget for day-to-day operations and maintenance was cut off from the precarious annual political budget allocations. Output steering on the basis of Service Level Agreements (SLAs) was introduced as an alternative allocation and control mechanism. The new system governed about 50% of Rijkswaterstaat's overall budget. The other half was for the design and construction of new projects and remained subject to political decision-making.

In another key development, Rijkswaterstaat continued its policy of contracting out a considerable part of its tasks and activities to private construction companies, requiring it to develop the competency to effectively commission projects and preserve fungible markets rather than designing, building and maintaining infrastructures in-house. This development was regarded with considerable suspicion by the engineering cores within the agency. Finally, several radical internal reorganizations were implemented to diminish the autonomy and capacity of the regional offices and create 'one Rijkswaterstaat'. The establishment of a single, integrated Corporate Services Department, including a 'Customer Service Centre', was to be a prime lever of increased centralization and uniformity. The most important aim of the reorganizations was to restore central budgetary and managerial control, which had been allowed to erode during the 1990s.

The Phoenix Rises Again

Six decades after the first paradigmatic reorganization by Director-General Ringers in the 1930s, Director-General Keijts (2003–2010) played a crucial role in institutionalizing Rijkswaterstaat's new corporate identity and developing its new organizational structure. Keijts gained recognition as 'Public Manager of the Year' in 2008 for his efforts to transform Rijkswaterstaat from a technocratic bulwark into a public-oriented policy-implementing agency. Drawing on Goodsell (2011a, b), it can be argued that Rijkswaterstaat 'managerialized' its technocratic mission mystique. Drawing on the neoliberal managerial ideology, it renewed its mission purpose, its mission mystique culture and managed to invest greatly in mechanisms that will sustain the institution, such as organizational learning and its strategic repositioning.

The threat of (further) deinstitutionalization had spurred the leadership into action. Through these waves of reform, Rijkswaterstaat could adapt to the changing tides. The techno-managerial strategy it adopted to modernize its modus operandi enabled it to preserve its strategic core: the engineering identity and a technical-rational formulation of its task in society. Table 10.2 summarizes the recalibrated mission mystique.

Table 10.2 Rijkswaterstaat's new managerial mission mystique

	Prime qualities	Essential elaborations	Temporal aspects
A purposive aura	Central mission: RWS as 'public-oriented network manager' serving the users of the Dutch water and infrastructure networks; 'working to make the Netherlands safe, secure, attractive and accessible for all'	Urgent societal need: flood protection and infrastructure development as public responsibilities	Distinctive reputation: public-oriented network management, public admiration for water works, such as the Delta Works, the Room for the River program
Internal commitment	Civil engineers employed at RWS are intrinsically motivated, proud of their work	Institutionalized technical-managerial culture and technical-rational working style, combining technical knowledge with social skills	Attention for agency history, publication of jubilee books (e.g. Bosch and Van der Ham 2015), celebration of anniversaries
Sustaining features	RWS takes into account users' preferences and beliefs—'the user first'	RWS is responsible for policy implementation (operations and maintenance), for which it enjoys policy autonomy	Investment in strategic thinking, scenario planning and organizational learning; development of a corporate mission and identity

The Continued Quest for Public Legitimacy

The story of Rijkswaterstaat highlights the power of a well-calibrated mission mystique serving as a guide for a sense of belonging among employees and action repertoires that made impossible projects real. It shows the importance of institutional leadership when agency rationale clashes with the larger Zeitgeist, resulting in institutional crises. Focusing projects and deinstitutionalization triggers forced the agency to reinvent its mission mystique through purposeful, protracted and at times painful organizational adaptation and learning.

Its new institutional position as an infrastructure delivery agency and the corresponding new managerial identity constituted an important step forward. However, Rijkswaterstaat's formal repositioning as a relatively autonomous and politically neutral policy-implementing agency explicitly concerned its operations and maintenance tasks. In discharging its construction task and in its contribution to planning studies, Rijkswaterstaat remains a political organization, contributing to the ministry's projects.

Rijkswaterstaat thus continues to face the inherent tensions of having to be a 'business-like' and a 'politically responsive' organization at the same time. The new managerial organizational identity does not yet offer a clear way for Rijkswaterstaat employees to position themselves in politically sensitive construction projects.

The main challenge for Rijkswaterstaat today is to increase its public legitimacy in both the 'wet' and the 'dry' domains. It seeks to do so by incorporating elements of the democratic governance logic in its deep-rooted technical-rational and newly embraced managerial cultures. In view of the technical and social complexity of contemporary environmental problems and risks, such as climate change, it can be assumed that Rijkswaterstaat's engineering knowledge and expertise will remain essential assets in addressing these problems. Rijkswaterstaat continues to develop its 'social license to operate' and has formulated the ambition to become a 'partner in area-based planning projects' (*gebiedspartner*) (Rijkswaterstaat 2018). Ultimately, the challenge for Rijkswaterstaat engineers will be to find a way to engage and participate actively in integrated planning projects by drawing on its technical knowledge and expertise but shedding the odour of bureaucratic paternalism and rigidity that has come to cling to it during the 1970s and beyond.

Questions for Discussion

1. Rijkswaterstaat is an old institution and is marked by a history of adaptation. What would the founders of this institution still recognize if they were to visit it today?
2. What might be the limitations of a strongly technocratic mission mystique as a foundation for institutional legitimacy in contemporary democratic societies?
3. Compare the two mission mystique tables of Rijkswaterstaat presented in this chapter. What strikes you in terms of direction and rate of Rijkswaterstaat's institutional adaptation trajectory?
4. How can an organization that outsources much of its erstwhile in-house operational capacity to the market hope to retain a strong mission mystique?
5. To what extent does Rijkwaterstaat's institutional story reveal it to be a 'learning organization'?

Notes

1. This case study builds upon my earlier monograph: Van den Brink (2009), particularly Chapters 4 and 5. I would like to thank Bert Toussaint, corporate historian at Rijkswaterstaat, and Jos Arts, Professor of Environmental and Infrastructure Planning at the University of Groningen, for sharing valuable insights and reflections about the institutional history of Rijkswaterstaat.
2. In those days, the minister responsible for water management was also responsible for trade and industry. A series of cabinet ministers with an engineering background, in particular Cornelis Lely (during his ministry from 1891 to 1894), made crucial contributions to the drafting of legislation addressing these social issues (Van der Ham 2007).
3. Although the environment also became an important aspect in highway development projects, Rijkswaterstaat found it hard to develop more integrated and holistic approaches to 'dry' infrastructure planning (Arts et al. 2016).
4. In particular his article 'Planning as learning' (De Geus 1988) and his book *The Living Company* (De Geus 1997) influenced the development of Rijkswaterstaat's strategic function. De Geus argued that organizational learning occurs when a new corporate model of reality is being built, which encompasses and surpasses the diversity of existing perspectives and insights within the organization.

5. Examples include 'Stratewa' (*Strategie Waterstaat*, carried out in 1979), 'Course 200+' (Koers 200+, carried out in 1993), and the 'RWS 2020 Strategic Explorations' (carried out in 2007).

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CHAPTER 11

Médecins Sans Frontières: Guardian of Humanitarian Values

Liesbet Heyse and Valeska Korff

Provocateurs of the Humanitarian Sector

Few organizations in the humanitarian field elicit such strong reactions as Médecins Sans Frontières (MSF), also known as Doctors without Borders. MSF was started by a handful of doctors and journalists in the early 1970s. Almost 50 years later, it has become the second biggest non-governmental organization in the world with 21 national and 17 branch offices, an annual budget of 1536 million euros, and 47,318 staff (MSF 2019b).[1]

MSF is different from other humanitarian organizations. What sets this organization apart is its defined technical and operational expertise, combined with a fundamentally different interpretation and implementation of the so-called neutrality and independence principles. Based on their interpretation of these principles, MSF has developed an 'ethics of refusal' (Redfield 2005: 342) that has made the organization withdraw

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from numerous humanitarian crises, disconnecting itself from governments and humanitarian organizations. Their critical attitude towards the humanitarian sector and, increasingly, to itself, has earned MSF the reputation of an 'outsider' and 'maverick' among the general public.

MSF has gained notoriety as a provocateur with little inhibition to deviate from presumably common norms and standards (Bortolotti 2004). This nonconformity never seems to have harmed MSF's reputation. On the contrary, their controversial acts triggered revisions of values and practices, creating an image of MSF as the 'conscience of the humanitarian world' (Rieff 2002: 83). The organization remains well-known and highly respected by the general public and is often portrayed as a paragon of aid provision in the media.

Interpreted by some as a sign of arrogance, MSF's strict autonomy and reluctance to submit to coordination efforts is not without criticism among fellow humanitarians. Yet, at the same time, MSF has impacted the way humanitarian organizations operate today in multiple ways. MSF provided an alternative to the sector's originally strong adherence to neutrality in aid provision and thereby a different way of 'doing humanitarianism'. Operationally, the organization has impacted humanitarian aid practices via contributions to the fields of humanitarian supply chain management, emergency medicine and psychosocial care.

This chapter explains how MSF evolved into a public guardian of humanitarian values and thrived as a humanitarian organization, while acting as a principled provocateur in its organizational niche. We explore how the organization was successful in assuring a firm legitimacy base while simultaneously capitalizing on a nonconformist attitude, whereas internally it navigated through 'growing pains' and conflicts. We draw on secondary sources and MSF sources for our analysis.

MSF as an Institution: A Distinctive Identity and Unique Competence

MSF provides medical assistance in areas affected by conflict or natural disaster. It operates globally with teams composed of both expatriate and national staff. MSF was founded during the Cold War, an era in which superpowers used humanitarian and development aid—and the prospect of progress and modernity this was assumed to bring as an instrument to lure African, Asian and Latin-American countries into one of the two Cold War camps. Non-state humanitarian actors had little room to stay

away from these political dynamics. The founding of MSF was a reaction to these Cold War politics, as we will show.

MSF belongs to the category of so-called 'non-governmental organizations', often defined as not-for-profit, self-governing organizations aiming at improving the life of vulnerable groups (Vakil 1997). MSF is labelled an *international* NGO, since it operates in countries beyond the country where its headquarters are located. In this category, MSF is characterized as a so-called *emergency* humanitarian organization, together with the ICRC (Barnett 2011), and NGOs such as International Medical Corps and International Rescue Committee. Since MSF aims to reduce immediate suffering, it is an *operational* NGO: it sends out medical, logistic and other expatriate staff to provide medical aid. At the other end of the spectrum there are the so-called 'alchemist' humanitarian organizations that aim to address the *roots of suffering* by providing long(-er) term aid, sometimes accompanied by short-term emergency aid. They do this predominantly through partnerships with local organizations (Barnett 2011). Examples of such INGOs are Oxfam and World Vision.

In 2018, MSF had an annual budget of 1536 million euros, was responsible for aid projects in 74 countries and employed 47,318 staff (84% national staff, 8% expatriate staff and 8% headquarter staff) (MSF 2019b). Even though employing a highly diverse workforce (Reijn 2008), medical staff is the prominent group in the organization.

The organization consists of 21 sections plus 17 so-called branch offices (MSF 2019a, see also Table 9).[2] Five *operational centres* manage operations and have decision-making authority over which projects to initiate. Sixteen *partner sections* contribute to operations via arranging staff and funds, and raising awareness. Some sections have opened *branch office*s to facilitate their work more regionally.

Each section and centre is connected to an *association*, with (former) MSF staff as its members. Each association choses a board of directors and president during a General Assembly and can provide input on MSF's social mission. There are currently 25 associations, 21 associated with the sections and centres, one with branch office East Africa, and three regional ones in West and Central Africa, and in South Asia.

All associations are represented in *MSF International* where association representatives meet annually in the General International Assembly (IGA). The IGA elects the president of MSF International and is 'responsible for safeguarding MSF's medical humanitarian mission, and provides

Table 11.1 MSF's international organizational structure

Organizational unit	Country
MSF International • General Assembly • President • Board	All countries mentioned below
Operational centres	Belgium, France, Netherlands, Spain, Switzerland
Partner sections	Australia, Austria, Brazil, Canada, Denmark, Germany, Greece, Hong Kong, Italy, Japan, Luxembourg, Norway, South Africa, Sweden, UK, USA
Branch offices	Argentina, Beijing, Colombia, Czech Republic, East Africa, Finland, India, Ireland, Lebanon, Mexico, Moscow, New Zealand, Singapore, South Korea, Taiwan, UAE, Uruguay

strategic orientation to all MSF entities. It delegates duties to the International Board, and holds the board accountable for those tasks' (MSF, n.d.b). The international board consists of a mix of representatives of the Operational Centres and elected members from the associations (Table 11.1).

Distinctive Identity: A Truly Independent Organization "Bearing Witness"

The fundamental purpose of all humanitarian activity is the global prevention and alleviation of human suffering (Calhoun 2008; Barnett 2011). This duty is referred to as the *humanitarian imperative*. Whereas such purpose suggests that humanitarian aid is void of power or politics, historical accounts of the sector show that the various interpretations of humanitarianism are closely related to historical, economic and political developments (Barnett 2011).

All humanitarian organizations claim to adhere to a set of *humanitarian principles* that guide their actions. The most basic ones are outlined in the International Committee of the Red Cross Code of Conduct and thus originate from the era of imperial humanitarianism (ICRC 1994):

- The *impartiality* principle refers to the allocation of aid based on need alone, irrespective of nationality, race, political affiliation, religion, etc.
- *Independence* relates to humanitarian organizations' ability to revise and implement activities without being influenced by governments.
- *Neutrality* refers to the refusal to take sides in a conflict.
- *Accountability* evokes the responsibility of providers of humanitarian aid to account for their actions towards their donors and their beneficiaries.
- *Efficiency and effectiveness* concern the sensible and transparent usage of available funds in relation to the outcomes of humanitarian responses.
- Borrowing the words of the Hippocratic Oath, Anderson (1999) formulated an overarching dictum of all relief efforts: *do no harm*.

How impartiality, neutrality and independence relate to one another and how these principles are best achieved in operational practice has been a recurring topic of debate (Kanter and Summers 1987; Slim 1997). While providing a common frame of reference for legitimation, the principles leave room for re-interpretation and experimentation (Schneiberg and Lounsbury 2008; Zietsma and McBright 2009).

MSF's mission statement or 'charter' offers a first insight in its position vis-á-vis the humanitarian principles. The mission specifies the goals and values of the organization through four principles (see Box 11.1): medical ethics, independence, impartiality and neutrality (MSF, n.d.c). These principles overlap with the core humanitarian principles of neutrality, impartiality, and independence and thus largely align with the moral code of the humanitarian sector. MSF also promises accountability and transparency and, critically, adheres to the principle of bearing witness:

> Neutrality is not synonymous with silence. Our proximity to people in distress implies a duty to raise awareness on their plight to ultimately help improve their situation. We may seek to bring attention to extreme need and suffering, when access to lifesaving medical care is hindered, when our teams witness extreme acts of violence, when crises are neglected, or when the provision of aid is abused. (MSF, n.d.c)

Witnessing refers to the act of speaking out about experiences and observations during aid operations in order to bring abuses and atrocities

to public attention, thus advocating on behalf of the aid recipients. Witnessing is a way of showing solidarity with groups in dire need. This conflicts with the humanitarian principle of neutrality that implies not taking sides in hostilities or to 'engage at any time in controversies of a political, racial, religious or ideological nature' (IFRC, n.d.).

> **Box 11.1 MSF's Charter**
> Médecins Sans Frontières provides assistance to populations in distress, to victims of natural or man-made disasters and to victims of armed conflict. They do so irrespective of race, religion, creed or political convictions.
>
> Médecins Sans Frontières observes *neutrality and impartiality* in the name of *universal medical ethics* and the right to humanitarian assistance and claims full and unhindered freedom in the exercise of its functions.
>
> Members undertake to respect their *professional code of ethics* and maintain *complete independence* from all political, economic or religious powers.
>
> As volunteers, members understand the risks and dangers of the missions they carry out and make no claim for themselves or their assigns for any form of compensation other than that which the association might be able to afford them.

We can further analyze MSF's distinctive identity and unique competence through distinguishing between a normative and an operational dimension. As summarized by Redfield (2005: 333): 'On the one hand, MSF embodies the moral insistence of a human right to health and the dignity of life that goes with it. On the other hand, MSF represents a technical apparatus designed to implement basic health care quickly over great distances and under extreme conditions'.

MSF's inception was by itself a rebellious act: several French doctors were frustrated with the established humanitarian system in general and the International Committee of the Red Cross, their employing organization, in particular. This frustration was caused by witnessing severe atrocities among civilians during the late 1960s Nigerian civil war and being forced to remain silent about these under the principle of 'neutrality'. Keen to 'speak out about the plight of victims, and seeking an independent, impartial way to provide care where they saw the greatest need' (MSF Association, n.d.), these doctors, together with a group of journalists, formed MSF France, in 1971 (Fox 2014).[3]

MSF thus emerged from a fundamental break with the most prominent and central humanitarian organization (Dijkzeul 2004: 219; Barnett 2011) and the principles it represented. Re-evaluating the old (neutrality) and devising new principles (witnessing), MSF from the very start developed and applied its own interpretation of humanitarianism and thereby introduced a new way of 'doing humanitarianism'. This 'revolution' constitutes the founding myth of the organization (Fox 2014) and is prominently featured in, for example, the 'About us' sections of the homepages of different national MSF sections.[4] James Orbinski, president of the MSF International Council in 1999, also emphasized this 'founding myth' in his lecture given upon reception of the Nobel peace prize in December 1999:

> We began formally in 1971 as a group of French doctors and journalists who decided to make themselves available to assist. This meant sometimes a rejection of the practices of states that directly assault the dignity of people. Silence has long been confused with neutrality, and has been presented as a necessary condition for humanitarian action. From its beginning, MSF was created in opposition to this assumption. We are not sure that words can always save lives, but we know that silence can certainly kill. (MSF 1999)

Some argue that speaking out about human rights abuses is a political act, since it can be interpreted as choosing sides, which contradicts the fundamental nature of humanitarian organizations as neutral aid providers (Derderian et al. 2009). Facing such criticism, MSF argued that it is the responsibility of humanitarian actors to advocate on behalf of their beneficiaries as an act of solidarity and to draw public attention to intolerable situations, even if consequences are harsh (Captier 2005). MSF (n.d.e) boldly states that 'silence [can] kill', thus making those that [watch] complicit in the atrocities. In this interpretation, adherence to the neutrality principle can increase suffering, whereas reporting about observed atrocities might reduce suffering.

In order to be able to uphold the witnessing principle, MSF argues that complete independence from other humanitarian actors is needed. MSF developed a particular interpretation of the independence principle. As a result, MSF refuses to participate in sector-wide efforts of coordination, standardization and fundraising. To the dismay of other

humanitarian organizations, MSF has not signed up to common opera-
tional standard agreements of the humanitarian sector such as the Sphere
Project's 'Humanitarian Charter and Minimum Standards in Disaster
Response' and has rejected the idea of ceding control to collective coordi-
nation efforts like the 'Inter Agency Standing Committee' or the 'Steering
Committee for Humanitarian Response' (Tong 2004; Stobbaerts 2007).
MSF also does not participate in the 'Consolidated Appeals Process', a
collective fundraising mechanism (OCHA 2011).

While willing to cooperate and share expertise, MSF will not submit to
the authority of other humanitarian agencies. In large-scale emergencies
involving various humanitarian actors, MSF 'will coordinate, but won't be
coordinated' as one presenter put it during MSF's introduction course,
because, as Stobbaerts (2007) argues, 'the best service for populations in
need will come as a result of independent action rather than participation
in an integrated effort'.

In line with the independence principle, MSF aims for a high degree
of financial independence, obtaining 95% of its income from 6.3 million
non-state funders, such as individual donors and private foundations,
thereby keeping government influence at arm's length. As a compar-
ison, Oxfam's 2018 income consisted of 42.6% of institutional funding
by governments and international organizations, whereas, International
Rescue Committee's 2018 income consisted of 73% of institutional
funding (Oxfam 2018; International Rescue Committee 2019).

Since its foundation MSF presents an alternative means to achieve the
humanitarian imperative that they argue to be more effective. Although
not widely shared among humanitarian organizations, it has come to be
accepted as one interpretation of humanitarianism, and as a prominent
and distinguishing feature of MSF (Hilhorst and Schmiemann 2002).

Unique Competence: Experts in Emergency Medicine

Operationally, MSF's expertise lies in providing short-term medical aid
within 48 hours after deciding to become operational (Redfield 2005).
This is possible because the organization has its own humanitarian supply
chain, with four logistical centres in Europe and East Africa. The supplies
range from medicines, vehicles and water processing facilities to standard-
ized kits to tackle specific diseases such as cholera (MSF, n.d.f). Especially
regarding (the development of) standardized response kits, MSF has
gained a solid reputation (Redfield 2013). Furthermore, in the field of

emergency surgery, the organization can quickly deliver and make ready inflatable tents with up to three operating rooms, postoperative wards and an intensive care unit (Chu et al. 2010).

MSF also is an important contributor to the development of expertise in the fields of humanitarian logistics, emergency medicine and psychosocial care (Redfield 2005). MSF staff contributes to these fields through developing and adjusting guidelines, writing publications and collaborating with academic institutes such as the London School of Hygiene and Tropical Medicine. Regarding emergency medicine, MSF founded Epicentre (Redfield 2005), an NGO that 'conducts field epidemiology activities, research projects and training […]' of which the results are published publicly online (Epicentre 2019). With regards to logistical matters, the organization works with academia to improve its supply chain, the results of which are made accessible to others (see, for example, Van der Laan et al. 2016; Vega 2018). MSF also has a track record in implementing psychosocial care interventions and innovations (see for example, Mooren et al. 2003; De Jong and Kleber 2007; Van Ommeren et al. 2011).

In recent years, the organization has taken up a new role as an advocate for particular issues. For example, MSF widely advocated for lowering the prices of HIV/AIDS drugs and for re-thinking investments in medicine development for diseases that disproportionally affect vulnerable groups through launching a campaign titled 'Access to Essential Medicines' (Redfield 2005; MSF Access Campaign, n.d.). This campaign—paid for with the Nobel Prize money—has led states and companies to comply with some of the campaign's demands (Wong 2012).

MSF's operational approach has been subjected to criticism, also by MSF staff (Chen 2014; Redfield 2013; Barnett 2011: 39). MSF has been accused of neocolonial tendencies, because through sending out expatriates to manage aid projects it reproduces images of Western domination over the non-Western world (cf. Redfield 2005). The choice for short-term emergency aid has been met with accusations of providing 'band aids' only. The inclination to criticize and refuse cooperation with others has also led to criticism. MSF's sharp condemnation of the international Ebola response drew rebuke, especially when MSF later had to admit its own mistakes (Reuters 2014).

Despite these criticisms, MSF has maintained a solid reputation with the general public. Few organizations enjoy the standing that MSF has within the field of humanitarian aid provision.[5] David Rieff (2002: 83), a

well-known humanitarian aid expert, describes MSF as 'the most important humanitarian [organization]' and, precisely due to their critical approach to normative standards, as the 'conscience of the humanitarian world'. Charity Navigator awarded MSF 95 points out of 100 and the maximum of four stars, and its partner GuideStar has awarded the organization with a so-called 'Gold Seal of Transparency' (Charity Navigator 2020). Public recognition was also evident when MSF was awarded the Nobel Peace Prize in 1999, 'in recognition of the organization's *pioneering* humanitarian work on several continents [italics added]' (Nobel Media, n.d.).

Institutional recognition is reflected in the Framework Partnership Agreement with the Humanitarian Department of the European Union, which presupposes that the partner organizations meet quality standards concerning their 'internal control mechanisms and risk management, financial strength and procurement rules' (ECHO 2008a: 1; 2008b). Finally, MSF's legitimacy is also reflected in its sound financial resource base (Dijkzeul 2004). As the 2018 State of the Humanitarian System report stated (ALNAP 2018: 103): 'MSF remains the largest humanitarian NGO in terms of operational expenditure and is now the largest humanitarian entity of any kind in terms of staff size, outstripping even the largest UN agencies in the number of staff dedicated to humanitarian response'.

MSF's Institutional Development

How did MSF evolve into the organization it currently is: thriving as an organization, highly respected externally, even if it is often criticized for its outsider position and controversial behaviour in the sector? MSF's organizational history shows that this did not happen overnight, or without internal tensions and conflicts. Below we present a concise institutional history of MSF related to the above questions.[6]

The 1970s and 1980s: Ideological Battles and Organizational Splits

MSF emerged from a cooperation between a group of French doctors, who criticized the ICRC's modus operandi in the Biafran war, and a group of journalists. The doctors, led by Bernard Kouchner—who later would become Sarkozy's minister of Foreign Affairs (2007–2010)—had

initiated *GIMCU* (Groupe d'Interventions Medical and Surgical d'Urgence) to send medical teams to victims of war and disaster (Fox 2014: 258). However, the teams lacked resources and had little impact (Redfield 2005). The journalists were affiliated with a medical journal called *Tontus*, which had a journalist who co-authored an article with Kouchner in *Le Monde* on the Biafran war. In this same journal, the founding of *Sécours Médical Francais* (SMF) was announced, an initiative of doctors and health professionals to provide aid. Kouchner also joined this initiative. Given the many similarities in approach and principles, and the shared need for both resources and publicity, the two initiatives decided to join forces in 1971 and *Médecins sans Frontières* was born (Barnett 2011: 144).

The witnessing principle was an important topic of debate when the two groups merged. Kouchner and his colleagues argued that this principle had to be upheld under all circumstances, whereas the *Tontus* colleagues pleaded for a more controlled use of the principle. In the end, it was agreed that the witnessing principle could only be exercised if explicitly approved by higher management (Barnett 2011: 144).

In 1974, Kouchner challenged this agreement and sent out a team to help Kurdish fighters in Iraq, against the wish of the *Tontus* colleagues (Barnett 2011: 146). In 1975, during the Cambodia and Vietnam conflicts, internal tensions further increased, especially about the question whether MSF should also provide longer term aid and whether the organization should professionalize. Kouchner argued for a continued focus on short-term medical relief, whereas others argued that the work in the refugee camps in the region required a longer term approach. Kouchner won this battle.

Some MSF staff members—led by a medical doctor named Malhuret, who had worked in the camps—criticized MSF's dominant focus on media attention and pointed out MSF's lack of professionalism. This criticism especially focused on Kouchner's proposal to arrange 'a boat for Vietnam', as the media campaign was called to help Vietnamese boat refugees (Fox 2014: 46). As Barnett summarizes the debate at that time (2011: 151): 'Would MSF be an organization that made noise and saved lives in the process, or an organization that saved lives and occasionally made noise'?

Kouchner argued that professionalization and bureaucratization would harm the organization's soul and its inclination to speak out, whereas Malhuret and colleagues claimed that the organization should move

away from its strong focus on media attention and the well-intended amateurism associated with it. Instead, it should train its volunteers and develop a 'machinery' to operate effectively (Barnett 2011: 152). In 1978, Malhuret was elected president of MSF and in 1979, the MSF Assembly defied Kouchner by adopting Malhuret's plans for professionalization. Moreover, the Assembly decided that 'witnessing' could not be a solely individual choice, as Kouchner always argued; it was an organizational responsibility. The outcome of the Assembly made Kouchner decide to leave MSF. He founded a new organization: *Médecins du Monde* (Fox 2014: 48).

Whereas MSF's founders mostly had a leftist political orientation, MSF's new leaders moved closer to a liberal interpretation of human rights. One of them—Rony Brauman—introduced a plan to bring together both leftist and rightist political groups to combat all forms of totalitarianism. He and his colleague Malhuret succeeded in doing this in early 1985, with support of the MSF Assembly, by initiating a new NGO: *Liberté sans Frontières* (Barnett 2011: 155; Fox 2014: 48). When *Liberté sans Frontières* was founded, MSF Belgium opposed this decision, claiming that this organization was politically motivated and violated MSF's Charter. Consequently, MSF refused to financially support the organization. In 1985, MSF France took MSF Belgium to court, arguing the latter could no longer use the name MSF because of this refusal. The court ruled that the aims of *Liberté sans Frontières* were indeed political and therefore in conflict with MSF's Charter. MSF Belgium could thus not be expelled from MSF (Fox 2014).[7]

One of MSF's leaders Brauman adopted a contrarian position when aid agencies lined up to relieve the suffering of millions of malnourished Ethiopians in the wake of Bob Geldof's 1985 *Live Aid* project. It soon became apparent—just as in the Cambodian case—that the Ethiopian government used humanitarian aid for its own political purposes. It withheld aid to separationist areas, so that its inhabitants had to move out of the region in order to survive. The government forced them to re-settle elsewhere and work in labour camps. Brauman decided to speak out about this in the media, stating that humanitarian organizations had become the helpers of an authoritarian regime (Barnett 2011: 147). He challenged the Ethiopian government to evict MSF from the country, which indeed happened (Fox 2014: 56). The other aid agencies decided to stay in the country.

By the end of the 1980s, MSF had expanded from one to six branches: France, Belgium, Spain, Luxembourg, Holland and Switzerland (MSF, n.d.c). The discussions about MSF's mission were as alive as 10 years ago. For example, in the Dutch section, debate arose about the time horizon of MSF projects, as had happened 10 years ago in MSF France. Some projects had become long-term public health interventions, such as HIV/AIDS projects in the Soviet Union. In 1990, it was decided to re-focus the projects of the Dutch section on short-term medical relief interventions. For the longer term public health interventions a strategy familiar to MSF was applied: a new NGO was founded, called *Health Net International* (Heyse 2006).

The 1990s: Increasing Recalcitrance

With the end of the Cold War, not only the nature of conflict changed, but also the nature of humanitarianism. It marked the start of the era of 'Liberal Humanitarianism' (Barnett 2011) in which assuring international security was key, in a world characterized by a multitude of internal conflicts, such as in Somalia, Rwanda, Bosnia and Kosovo. Unique to these years was that the UN—for the first time—acknowledged a universal obligation to intervene in internal conflicts to protect those suffering. The UN implemented this decision, starting with Somalia.

The UN intervention in Somalia put humanitarian NGOs—with their strong adherence to principles of neutrality and impartiality—in a difficult position. They needed armed protection to reach groups in need, but this made them lose their impartiality. Whereas MSF for the first time in its history had decided to pay for armed protection by local groups to get aid delivered in Somalia, the UN peace enforcement operation was one bridge too far: MSF decided to pull out because it did not want to be connected to a UN operation in which violence was used to provide aid (Barnett 2011: 174).

In 1995, MSF once again withdrew from a country in war, namely during the refugee crisis in the Great Lakes region. This time, the organization challenged the most fundamental of all humanitarian principles—the humanitarian imperative. Faced with the dilemma that aid was abused by perpetrators of the Rwandan genocide, who used the refugee camps as bases to reassemble and launch further attacks, MSF, together with 15 other humanitarian organizations formulated an appeal to the UN Security Council to separate known war criminals from actual

refugees. This appeal was ignored and the UN High Commissioner for Refugees continued treating criminals as refugees.

As a result, MSF made the controversial decision to terminate their activities in the region (Passant 2009). Claiming a 'right of abstention' from crises in which effective relief cannot be implemented, MSF de facto qualified the universality of the humanitarian imperative (Rieff 2002). Eventually, some other humanitarian organizations such as CARE Canada followed MSF's example, whereas others like Oxfam and the UNHCR contended that 'the rights of refugees to receive aid superseded the problems derived from supplying it' (Terry 2013: 201).

MSF was strongly criticized for having abandoned their humanitarian mandate in the Great Lakes region. MSF argued that any engagement in the camps would do more harm than good, since their humanitarian assistance helped the perpetrators of the genocide to recover and continue with the violence. Later that year, all MSF sections gathered in Chantilly, France, to discuss MSF's core principles. This led to the signing of the Chantilly agreement. All sections reconfirmed MSF's original principles, and especially the witnessing principle, and that 'the actions of MSF are first and foremost medical' (cited in Fox 2014: 102). However, based on recent experiences in the field, being present without speaking out was also accepted under certain circumstances (Fox 2014: 46).

In 1999, NATO launched a military operation in Kosovo. This time, MSF did stay on the ground but refused to coordinate its operations with NATO, contrary to other NGOs (Barnett 2011). In October 1999, during the aftermath of the Kosovo conflict and internal reflections on MSF's principles, MSF—now consisting of nineteen sections (Fox 2014: 150)[8]—was awarded the Nobel Prize. This illustrated that MSF had become an established and respected actor in the humanitarian sector. This not only sparked joy within MSF. First, the nomination led to heated internal discussions as to who was the legitimate MSF representative to accept the prize, laying bear a lack of consensus and communication between the nineteen sections (Fox 2014: 63). In the end, it was agreed that the president of the International Council would receive the prize. Second, especially the Belgian section wondered whether its rebellious character now was being 'Nobelized' and therefore 'normalized'. They organized a debate around these questions titled: 'Nobel or Rebel: A Nobel without a Cause'? (quoted in Fox 2014: 61).

As the Nobel Prize illustrated, MSF had become an established actor in the humanitarian sector. In the 30 years of its existence it had expanded

from one French section to 19 sections spread all over the world. It was developing into a full-fledged multi-national professional organization, meeting the objectives expressed by the MSF Assembly by the end of the 1970s.

The Early 2000s: Professionalization and Internal Criticism

The 9/11 attacks on the Twin Towers in New York in 2001 and the resulting military operations in Iraq and Afghanistan defined the nature of humanitarianism in the new Millennium. Humanitarian organizations could often only reach groups in need with help of Western military forces, often as part of military strategies to 'win the hearts and minds' of local groups. Simultaneously, the world was confronted with a devastating AIDS/HIV pandemic, especially in Africa.

In these years, MSF's professionalization process continued. A study into the development of formalized human resource management policies of the Dutch section of MSF illustrates how MSF developed into a professional employer (Korff 2012). The first steps towards formalizing the employee-employer relationship were already taken by the end of 1990s, as Fig. 11.1 shows.

However, from 2001 on, the production of HRM documents steeply increased: whereas in 1992 only a few HRM formal documents could be counted, in 2008 there were about 425 (see Fig. 11.2), focusing predominantly on outlining rules and procedures regarding rewards for services, but also on topics such as employee well-being, and leave and absence (Korff 2012: 53). In addition, the organization developed a full-fledged training program for its staff, ranging from an introduction and socialization training for new staff (Korff 2012) to management trainings, and specialist trainings in medicine and logistics (Visser 2015).

In the midst of this, internal criticism on the 'personality' and governance of MSF grew. The question arose whether MSF could be both a 'movement' and 'an organization' that was professionalizing and formalizing its operations (Fox 2014: 107). Could one 'bureaucratize a good Samaritan' (cf. Waters 2018) without losing the volunteer and humanitarian 'spirit' so key to MSF?

In November 2004, this led to the launch of the so-called La Mancha process which aimed to gain more consensus about MSF's governance model and mission in times of militarization of aid and AIDS/HIV. The process was titled La Mancha in reference to Don Quichote (a man with
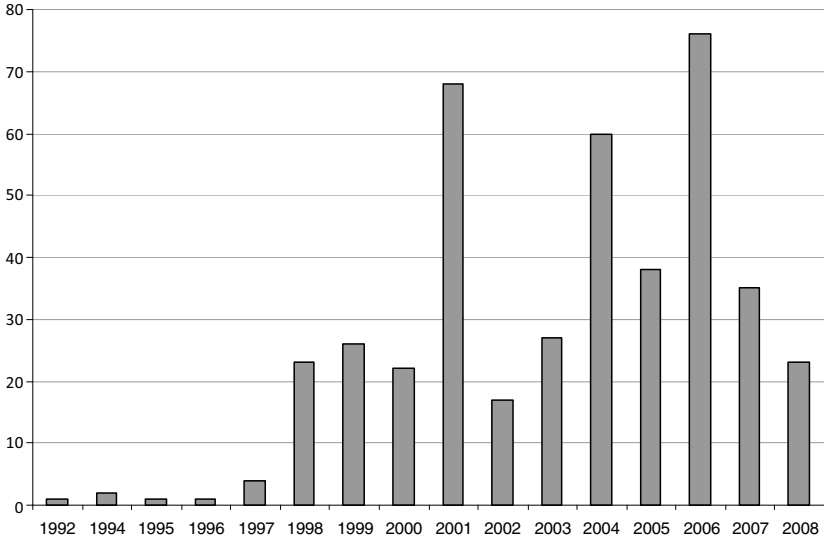
Fig. 11.1 Number of formal HRM documents created per year (*Source* Korff [2012: 57])
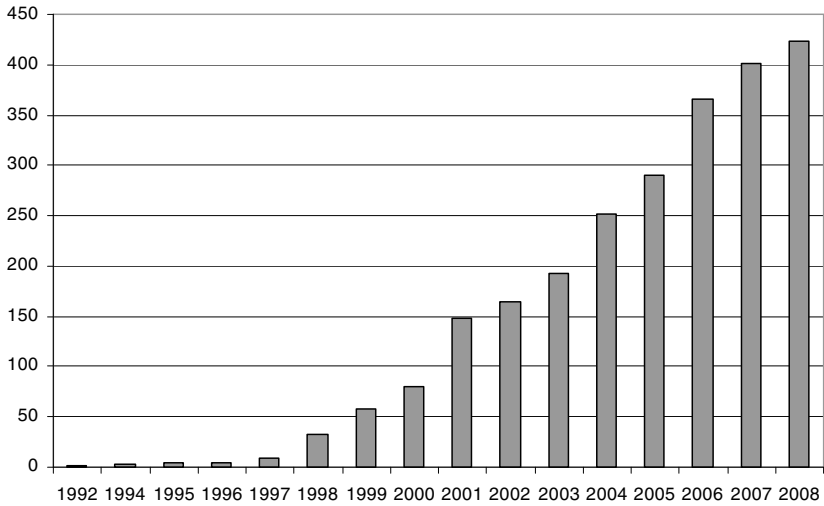
Fig. 11.2 Accumulation of formal HRM documents over time in MSF Holland (*Source* Korff [2012: 56])

'a sense of ideals, but mad') and Sancho Panza (a man with 'a sense of reality, but no ideals') (quoted in Fox 2014: 103). The organization started to collect staff views on MSF's principles, key characteristics and future, but also of external actors, as preparation for a General Assembly to be held in March 2006. The results were published in a four-hundred page book titled *My Sweet La Mancha* (Fox 2014: 103).

Not long after the start of the La Mancha process, a tsunami hit South-East Asia, after which MSF exhibited a particularly fierce interpretation of the independence principle. Within days, millions of Euros in funds were raised to support the emergency response in the affected areas. Numerous humanitarian organizations encouraged and accepted the contributions (Telford and Cosgrave 2007). MSF, in contrast, took a perplexing step: after receiving sufficient funds for the foreseen emergency response within days, a statement was issued on the international MSF homepage discouraging further donations earmarked for the tsunami affected regions. The humanitarian community and the media accused MSF of undercutting the flow of donations by giving the impression that further funds were superfluous (Bennhold 2005). Instead of conceding to such criticism, MSF contacted private donors to request their approval for making the allocated funds available for less prominent and underfunded crises, such as Darfur.

MSF's rejection of tsunami-earmarked funds was justified by efficiency and accountability concerns. Seeing their emergency response plans sufficiently funded, MSF argued that in order to honour donor intentions and to maintain an exclusively needs-driven approach, forestalling further donations was a necessary move. By doing this, MSF indirectly criticized other humanitarian organizations for being dependent on their donors and for not following a needs-driven approach. *The New York Times* and the *Sydney Morning Herald* critically discussed this decision as '[setting] off [a] storm' (Bennhold 2005) and described MSF as 'deluged with money' (Norrie and Pryor 2005), overall expressing concerns that MSF's stance would undercut the wave of giving to the region (cf. Deephouse 2000).

MSF's reputation seemed to have benefitted from the decision, with later accounts even going so far as to claim that '[al]though misunderstood at first, Doctors Without Borders' bold decision to stop accepting tsunami-relief donation could help revive public trust in nonprofits' (Barbagallo 2005). Also MSF's own post-tsunami financial overview (2005) showed that the rejection of earmarked funds did not decrease

the overall budget. Moreover, the evaluation of the tsunami response lent support to MSF's decision (Telford and Cosgrave 2007), revealing the arbitrary nature of emergency funding and the lack of needs assessment in the humanitarian response.

In March 2006, the anticipated General Assembly started in which more than 200 MSF representatives participated to decide on the outcomes of the La Mancha process. One important realization was how much MSF had changed from a predominantly Western expatriate organization to being dependent on national staff who had unequal employment and salary conditions compared to expats. All sections vowed to work towards a more associative international form of governance, acknowledging the need for decentralization, increased quality of interventions, equal employment conditions for all staff, and being transparent and accountable (Fox 2014).

A first step in this direction was taken in November 2006, when MSF South Africa was recognized as an MSF branch office, after extensive internal discussions, since MSF as a whole lacked procedures for dealing with the new MSF 'entities' that had been established in this decade, such as MSF Brazil, East Africa and Latin America (Fox 2014: 186–187, 250). MSF South Africa differed from the other branches, in that it had been established with the aim to address the HIV/AIDS crisis in the country, which implied long-term medical aid, not emergency medicine. The acknowledgement of MSF South Africa, an office that was non-Western European and focused on long-term medical interventions, marked MSF's intention to become more inclusive and international.

From 2010 Onwards: More Provocative Acts

MSF maintained and extended its rebellious, outsider position. It applied the strategy of withdrawing from countries where MSF's work or security was compromised such as in Somalia (2013) and areas occupied by Islamic State (2012) (MSF, n.d.c). In 2014, MSF provided input for the preparation of the World Humanitarian Summit with a research paper titled 'Where is everyone? Responding to emergencies in difficult places'. In this report MSF heavily criticized UN agencies and INGOs, as stated in the foreword of the document:

> …problems remain with the scale up of the UN and INGO response, which is characterized by bureaucracy and risk aversion….

> …We also put the choices made by INGOs, our peers, in the spotlight: to profile themselves as emergency responders, but without building the technical and human capacity to respond quickly and effectively; to work as implementers for the UN agencies, and become trapped in their bureaucracies; to avoid risk to the extent that they won't work where people most need them; and to become dependent on the geopolitical interests in play in various conflicts and crises. (MSF 2014: 4)

Once again, MSF criticized others for losing their independence and not meeting the humanitarian imperative. The report received much attention and was criticized for its flawed methodology, bias and lacking accuracy. Bob Kitchen, director of the emergency preparedness and response unit at the International Rescue Committee (IRC), argued for example in a blog titled 'Where is everyone? We are right beside you' that IRC did not hesitate to work in difficult settings, such as in Somalia 'a country so violent that MSF itself has withdrawn, while many other aid groups continue to stand and deliver in the face of chaos and mounting humanitarian needs' (Siegfried 2014). MSF also received support for its claims. As Abby Stoddard—a well-known humanitarian expert—stated in *The Guardian*:

> Médecins sans Frontières (MSF) created some welcome upheaval in the international humanitarian discourse recently, with their compelling Where is Everyone? report, lamenting the scarcity of humanitarian agencies operating in difficult environments. As an organization forged from righteous anger, MSF has never reserved criticism for governments and warring parties alone. Often its barbs are directed horizontally at humanitarian counterparts, and this one clearly stung. (Stoddard 2014)

During the World Summit in 2016, MSF applied its well-known strategy by pulling out, calling the summit a 'fig leaf of good intentions' and claiming that 'the summit neglects to reinforce the obligations of states to uphold and implement the humanitarian and refugee laws which they have signed up to' (Jones 2016).

Meanwhile, Europe was confronted with an increased refugee influx. Especially Syrians were finding their way to EU countries, via Turkey and the Greek isles, but also the number of migrants who crossed the Mediterranean Sea from North Africa increased. MSF was already providing aid to the latter group on the island of Lampedusa since 2002. In 2015, MSF decided to launch a search and rescue operation in the Mediterranean Sea, after the Italian government decided to terminate Operation Mare

Nostrum, which aimed at rescuing boat refugees from Northern Africa. Although MSF had never engaged in such activities before, they chose to do so on the basis of the humanitarian imperative and the witnessing principle:

> As a humanitarian organization, we believe our presence is needed to save lives, as well as to witness and speak out about the human costs of the policies and politics at play in the Mediterranean Sea. (MSF, n.d.g)

Again, MSF was confronted with criticism, this time from European governments that argued that such rescue operations encouraged refugees to cross the sea and, through this, NGOs would stimulate (paid) human trafficking. MSF responded by deciding to no longer accept any EU funding for its operations anymore (MSF, n.d.c). When, in 2017, the Italian government asked NGOs with search and rescue operations in their waters to sign a code of conduct that would restrict NGOs' freedom to approach refugees, MSF refused where others signed (Smith 2018). When other NGOs took the initiative to formulate and sign a voluntary code of conduct somewhat later in 2017, MSF again did not join (Smith 2018).[9]

In this decade, MSF seems to add a dimension to its role as critic of the humanitarian sector. In the report for the Humanitarian Summit, MSF did not spare itself and also discussed its own actions critically (MSF 2014: 20). Later, in 2015, MSF admitted to having made mistakes in the Ebola response, which was painful since it had first criticized other international agencies for their failed response (Hussain 2015).

How to Remain a Well-Respected Provocateur?

This chapter has tried to answer the question how MSF could evolve into a public guardian of humanitarian values and thrive as an organization, while at the same time acting as a provocateur. We explored how the organization was successful in maintaining its reputation, capitalizing on a nonconformist attitude, while internally navigating through growing pains and conflicts.

Nonconformity as an Institutional Characteristic

We posit that MSF's controversial acts have in fact become integral part of its reputation. Selznick (1957) coined the term 'organizational character' to refer to the institutionalized expectations stakeholders hold regarding an organization based on the organization's evolution over time and the commitments it made to its constituents. Unconventionality is deeply engrained in the organization's character. Their founding history remains a crucial reference point for MSF, as stated by Vickie Hawkins, current director of MSF UK in an interview with *The Independent* (Laurence 2014):

> Our roots are in radicalism. Our founders were activists who wanted to shake up the humanitarian aid system. They wanted a form of action that was more challenging to governments. It is still very much part of our ethos.

MSF's radicalism, expressed through the fundamentally different interpretation of the witnessing and independence principles, was the result of fundamental choices in the establishment of the organization and had lasting effects: they constitute 'irreversible commitments', decisions that are so central to the identity of an organization that any reversal would substantially alter the nature of the organization and could potentially lead to crisis (King 2015). Building on this core commitment, subsequent decisions to act controversially have contributed to a perception of MSF as an organization that will 'go where others don't', that MSF is different from other international aid organizations, and that MSF is willing to transgress and even affront if it so deems sensible.[10] Engrained in MSF's character, these notions have become institutionalized as expectations among its fellows and stakeholders within the humanitarian field. Thus, when MSF rejects or challenges common practices of the humanitarian field, it does not defy, but, in fact, meets stakeholders' expectations.

Looking back, MSF's viability as an organization might seem surprising, given the many internal struggles it went through (and still is going through). MSF's inclination to be the critic of the humanitarian world is also part and parcel of its internal dynamics. Much of the internal debates revolved around the question whether MSF could be both an organization and a movement. The organization was (and still is) navigating pressures for professionalization as an organization and calls to uphold the 'volunteer and humanitarian spirit' of MSF as

a movement. Furthermore, the time horizon of MSF's work has been a recurrent topic of discussion: how short-term should emergency relief be, if refugee camps exist for decades and diseases are only treated once they are diagnosed, whereas prevention would be more effective?

Our concise—and obviously incomplete—history of the organization revealed some patterns in MSF's strategies to accommodate these tensions. In the early years, MSF 'resolved' internal disagreements by means of organizational splits and establishing new organizations. Attempts to expel the Belgian section in 1985 were not very successful. Instead, the organization expanded into the multi-national organization it is nowadays. This increasingly required MSF to find ways to include and take serious the variety in opinions, positions and ideals of its members. Quite successful attempts seemed to have been the Chantilly and La Mancha agreements of 1995 and 2006. More generally, the elaboration of MSF's international and associative nature and structure seem to have at least partly accommodated the organization's 'culture of debate' and inclination for critical self-reflection (Fox 2014).

At the same time, MSF has embarked on a path of professionalization and formalization. Although recognizing the risk of bureaucratization and rationalization of humanitarianism, MSF also seems aware that its credibility as provocateur is at stake if the organization does not perform well itself (or at least: is perceived not to perform well). Development of technical expertise in the fields of supply chain management, emergency medicine, psycho social care and AIDS/HIV has been crucial in this respect.

In addition, some limits of MSF's independence strategy to share its expertise while refraining from coordination with other humanitarian agencies have emerged. This became especially clear in the Ebola crisis when MSF had to admit mistakes, after it had first harshly criticized other international agencies. By publicly acknowledging its own fallibility through explicit exercises of 'self-criticism'—while continuing to criticize others—MSF seems to aim for a balance of being controversial but also credible, both as an organization and a movement.

The Viability of Nonconformity

MSF's challenge has always been to remain different in order to maintain its reputation as an unconventional organization. For an organization to

sustain a positive reputation while chancing its legitimacy through defiance of conventional norms is difficult, if not impossible in the long-term (Rao 1994). We argue that MSF could achieve this due to two interrelated reasons: the strong value orientation of the humanitarian sector, and the possibility of framing controversial acts since values are paramount, yet ambiguous. Framing refers to the conscious and strategic effort of fashioning shared understandings (McAdam et al. 1996), with the purpose to garner acceptance and support from stakeholders. MSF's justification of their controversial acts exhibits such efforts to reframe interpretations and modify observers' perceptions. MSF's controversial acts are not excused, played down or even defended as inevitable, as has been often observed (e.g. Sutton and Callahan 1987; Coombs 1998, 2007; Martins 2005; Rhee and Valdez 2009). Instead they are presented as deliberate and justified decisions, based on the same set of values—the humanitarian principles—that they are said to violate.

MSF's framing of controversial behaviour is grounded in the inherent ambiguity of the value system of the humanitarian field, which allows simultaneously challenging and embracing core values of the humanitarian field without ever forsaking the common frame of reference. In challenging standard interpretations of humanitarian principles and motivating this nonconformity by reference to other principles, MSF is able to defy norms and practices of the humanitarian sector—i.e. act unconventionally and controversially—while signalling commitment to the core values of the field, thus remaining a legitimate and respected guardian of humanitarian value.

This strategy seems only viable if MSF is able to uphold its reputation as a well-performing and professional organization and to accept a willingness to acknowledge its own fallibility through institutionalized self-criticism. In the past decade, MSF has worked hard to 'speak truth to power' through a delicate balancing act of speaking out, being independent, criticizing others, facilitating internal debate and being effective as an organization. Such balancing act inhibits risks: too much internal criticism may lead to new splits or organizational paralysis, and potentially to declining donor support; too much criticism of others may spiral back if MSF would fail to be effective itself; and frequently pulling out from crises and coordination efforts may isolate MSF to the extent that it can no longer do its work. With its current size and challenges, internally and externally, only the future can tell whether MSF will be able to continue to walk this tightrope.

Questions for Discussion

1. One way for a whole field of organizations to institutionalize might be through widespread copying of the strategies of leading organizations in that field. What would happen if other humanitarian organizations would decide to copy MSF's strategy of an 'ethics of refusal'? Will this enhance their legitimacy or not, and why so?
2. The chapter states that 'MSF's framing of controversial behaviour is grounded in the inherent ambiguity of the value system of its field, which allows simultaneously challenging and embracing core values of the humanitarian field without ever forsaking the common frame of reference'. Explain how this ambiguity helps MSF to legitimize its controversial behaviour and to stay respected as a humanitarian organization.
3. To what extent is this ambiguity in value system a trait of any given policy sector or organizational field, or are there sectors or organizational fields where there is less ambiguity? If the latter, name an example and think through what would this imply for the viability of an 'ethics of refusal' in such a setting.
4. How might an organization that prides itself on its value set and moral exemplarship function and be perceived by others as a peer and as a partner in networks and collaborations? How, in other words, can MSF avoid getting caught in a trap of institutional arrogance and aloofness?
5. MSF's founding leaders played a decisive role in the early phases of institutionalization. They also became controversial. Does this mean that the different phases of institutionalization might require different types of leaders and leadership?

Notes

1. NGO Advisor (n.d.). No. 1 in this ranking is BRAC, an NGO from Bangladesh.
2. This paragraph is based on MSF (n.d.a).
3. These doctors were not the only ones to speak out; Oxfam, for example, publicly supported the rebels (Barnett 2011: 135).
4. See for example MSF (n.d.d).
5. Organizational reputation refers to the collective perception and comparative assessment of an organization's quality and prominence within its field (Walker 2010; Fombrun 2012; Rindova et al. 2005). Actual performance

in the sense of the quality of outcomes is, of course, hard to measure, particularly in the civic sector where, despite ongoing efforts to institutionalize performance evaluation, no standardized metrics exists (Powell et al. 2014; Hall 2014).

6. For more extensive histories and analyses of the organization, see among others, Barnett (2011), Redfield (2013), and Fox (2014) that were also input of this chapter, but also accounts of MSF as an organization as well as its staff, such as the many works of one of its former leaders Rony Brauman.

7. During its short life, *Liberté sans Frontières* gained a reputation of being anti-Soviet, pro-American and pro-Israel, which went against the political beliefs of many MSF staff. In 1989, when the Cold War ended, the organization ceased to exist (Barnett 2011).

8. These sections were in Australia, Austria, Belgium, Canada, Denmark, France, Germany, Greece, Holland, Hong Kong, Italy, Japan, Luxembourg, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States (Korff 2012).

9. The search and rescue operation was terminated between December 2018 and July 2019 based on the accusation that MSF and its partner SOS Mediterranee were dumping toxic waste illegally at ports, something the two NGOs denied. As of July 1019, MSF managed to get back into action together with SOS Mediterranee.

10. This core characteristic of the organization has even become institutionalized in the form of a blog and debating website called MSF-CRASH (http://www.msf-crash.org/en/) that has criticism and debate at its core mission.

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The Intergovernmental Panel on Climate Change: Guardian of Climate Science

Eric Paglia and Charles Parker

A GLOBAL AUTHORITY ON CLIMATE CHANGE

The Intergovernmental Panel on Climate Change (IPCC), founded in 1988, is the international body that reviews and assesses the latest science on climate change. Its authoritative reports inform international policy and negotiations on climate change.[1] This is no easy task, as it requires a consensus between its member governments and thousands of scientists and experts to produce these comprehensive assessment reports.

Thanks to the IPCC, we now know that there is an overwhelming scientific consensus holding that human-induced climate change is real. Scientists believe that, unless global emissions of greenhouse gases (GHGs) are drastically reined in, a climate catastrophe threatens human civilization and planetary habitability (Shackley 1997; IPCC 2007; Hulme and Mahony 2010; Berg and Lidskog 2018). The degree of confidence

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in these scientific claims has steadily increased from one assessment report to another, which can be seen as an indicator of the increasing institutional confidence of the IPCC itself. Over the course of its five assessment reports so far, and now well into the sixth such cycle, the IPCC has provided the scientific basis and justification for the global climate change regime that is centreed on the United Nations Framework Convention on Climate Change (UNFCCC); what counts as dangerous human interference in the climate system; and what policy measures and goals the international community needs to implement if the world is to avoid the worst outcomes of climate change (IPCC 1988, 1990, 2007, 2018).

The IPCC is widely recognized as the global authority on climate science. Its assessment reports have provided the scientific foundation for the creation and evolution of the international climate regime. The Panel's First Assessment Report in 1990 played a pivotal role in the creation of the UNFCCC, the centrepiece of the global climate change policy regime. Many countries draw upon the IPCC's work in their national climate assessments, and the organization's authoritative reports have been very important in the UN climate negotiations. For example, the Fifth Assessment Report (2014) strongly influenced the goals of the 2015 Paris Agreement in terms of the temperature targets and other fundamental aspects of the accord. The IPCC has developed into a unique global intergovernmental expert body, with the hybrid quality of being both scientific and political (Ruffini 2018).

In addition to providing the scientific input for the work of the UNFCCC, and influencing the decisions of the climate negotiations and the evolution of the global climate regime, the Panel's work has become deeply valued by political leaders at all levels of government, the business community, civil society, advocacy organizations and other stakeholders. This recognition extends beyond diplomatic corridors and academic hallways. In 2007, the IPCC and Al Gore were co-recipients of the Nobel Peace Prize. Greta Thunberg, the Swedish teenage climate activist, regularly invokes IPCC reports and science in her speeches urging political leaders to take urgent action to tackle the threat posed by dangerous climate change.

Scientific integrity is the basis of the Panel's legitimacy and epistemic authority as well as the source of its policy impact. The Panel seeks to minimize scientific uncertainty by producing consensus knowledge. The search for consensus, however, invites the critique from different parts

of the political spectrum that the organization is either too conservative in its assessments of the state of climate change, or that IPCC is an 'information monopoly' or a hegemonic authority that eclipses other perspectives. Moreover, the IPCC has been criticized on epistemological grounds for its strong orientation towards the natural sciences and the relative under-representation of social science and the humanities in its assessment reports. Over-representation of knowledge produced in industrialized countries, and the lower level of participation in IPCC bodies by developing country experts, also has been a source of controversy. Not surprisingly, the IPCC is a favourite target of climate sceptics. The IPCC's reputation was severely damaged when, in 2010, it failed to respond effectively to mistakes found in its Fourth Assessment Report.

This chapter analyzes how the IPCC became the primary scientific authority to policymakers and the public on the existence, severity, consequences of, and, increasingly, possible solutions to human-induced climate change. It describes the origins and mandate of the IPCC, how it carries out its work and achieves consensus, its strategies for establishing its scientific authority, how its practices have evolved over time, and assesses its impact and influence on policymakers and global climate governance. We also examine the various tensions, critiques and contradictions that the organization and its leaders have had to grapple with across its 32-year history. The chapter concludes with reflections on the consequences of the IPCC's work, lessons for institution builders that can be drawn from IPCC's efforts to institutionalize epistemic authority, and the challenges the Panel faces as it adapts its mission to meet new realities and demands from stakeholders on how best to avoid a climate apocalypse.

A Brief History of the IPCC

The pre-history of the IPCC is primarily one of scientific organization and social networking. Well before global warming became a top-tier issue of international politics, an elite cadre of climate scientists—mostly from Western democracies but also the Soviet Union—published data and research results in specialist publications such as the Meteorological Institute at Stockholm University's (MISU) journal *Tellus*; convened in low-profile conferences and workshops around the world; and launched scientific initiatives such as the Global Atmospheric Research Program, the World Climate Research Program and the Scientific Committee on

Problems of the Environment in collaboration with international organizations such as the International Council of Scientific Unions (ICSU).

The common denominator in much of this organizing and coordination of scientific activity was Bert Bolin, an accomplished climate scientist and long-time director of MISU. Bolin's scientific and entrepreneurial leadership played a decisive role in the creation of the IPCC (Kjellén 2009; Rodhe 2013; Parker and Karlsson 2014). Bolin would eventually become the founding chairman of the IPCC, where he was able to institutionalize the epistemic community he had helped build into the world's foremost authority on the state of knowledge concerning climate change science (Haas 1992; Grundmann 2006).

Historian of science and technology Paul Edwards (2010) evokes the image of a vast machine to describe the decades and indeed centuries of data accumulation, scientific research, and computer model construction upon which our modern understanding of climate change rests. The establishment of the IPCC in 1988 is closely connected to this long-term process. Yet the emergence of the Nobel Peace Prize-winning Panel, a highly decentralized organization managed by a secretariat of barely a dozen paid employees, is arguably even more directly related to the steady development of a geographically diffuse international network—initially more exclusive than extensive—of concerned climate scientists over the past sixty-odd years.

The institutional origins of the IPCC can be traced back to two significant events in the 1970s: the 1972 UN Conference on the Human Environment in Stockholm, the seminal moment in global environmental governance from which the United Nations Environment Program (UNEP) was established; and the 1979 World Climate Conference in Geneva, arranged by the World Meteorological Organization (WMO). The latter led to a series of scientific meetings in Villach, Austria, during the 1980s. The scientific elite gathering in the Alpine retreat became increasingly concerned with the threat posed by climate change, and convinced of the need for an international political response. A turning point was the 1985 Villach conference during which the arrangers—UNEP, WMO, and ICSU—recommended forming a blue-ribbon Advisory Group on Greenhouse Gases (AGGG) to provide scientific and policy-related advice on climate change to the three organizations, and to consider the possibilities for a global climate convention (Jäger 1992; Agrawala 1998). The AGGG, first convened in 1986, is often regarded as the forerunner of the IPCC, which was established two

years later by UNEP and WMO, with AGGG member Bolin selected to lead the new organization (Agrawala 1998; Weart 2012).

The UN General Assembly (UNGA) in its 1988 resolution on the 'Protection of the global climate for present and future generations of mankind' endorsed the creation of the IPCC and gave it a mandate to carry out a comprehensive review and make recommendations with respect to the state of knowledge of the science of climate change, the social and economic impact of climate change, and possible response strategies and elements for inclusion in a possible future international convention on climate (UNGA 1988). The IPCC's First Assessment Report was the result of this request and proved to be the impetus for the negotiations that led to the UNFCCC.

Consequences of Institutional Design

Factors that facilitated the founding of a globally-representative scientific institution like the IPCC in the late-1980s included new conceptualizations of the climate as a global system, advances in climate modelling, the winding down of the Cold War and an upswing in interest in environmental politics (Miller 2004; Hulme and Mahony 2010).

But a fundamental aspect of the origin, influence, and institutional design of the IPCC was the participation of national governments in climate science. At a time when climate change began attracting greater political attention, some elements in the U.S. government, particularly officials within the Department of Energy, were reluctant to cede epistemic authority on the issue to a purely international organization such as WMO, composed primarily of scientists. They were also suspicious of environmentalist sentiments in the AGGG and the ambitions of UNEP chairman Mustafa Tolba, who wanted to bring about a far-reaching climate treaty by replicating the successful process that had led to the creation of the 1985 Vienna Convention on ozone depletion and the 1987 Montreal Protocol (Agrawala 1998; Weart 2012; Albrecht and Parker 2019). Hence the U.S. also seeking to balance environmental and fossil fuel interests, insisted that WMO and UNEP establish an 'intergovernmental mechanism' that would effectively supersede the AGGG and embed political representation in the production of scientific pronouncements on climate change (Weart 2012; Agrawala 1998; Bolin 2007; Hulme and Mahony 2010).

The relative advantage or disadvantage of government involvement in IPCC science has been an enduring subject of disagreement and scholarly debate. Some have claimed that the IPCC was initially circumscribed by its consensus requirements, which include political approval of scientific outputs. Some have argued that the close connection between science and government is to blame for the Panel's inability to help bring forth an effective policy response against climate change. Haas and Stevens (2011: 147) argue that 'the IPCC is designed to keep science on a tight leash'. Industrialized countries, Haas and Stevens (2011) claim, perceived their interests under threat from increasing public concern over global warming and the scientific activism represented by the Villach meetings. It is no surprise, then, that these countries 'wished to reign in any independent political pressure that would be generated from an organized scientific involvement in collective discussions on climate change' (Haas and Stevens 2011).

Lidskog and Sundqvist (2015) point to the IPCCs failure to generate and frame knowledge in ways that resonate with society and thus mobilize public activism that would, in turn, spur policymakers into action. In the face of a highly politicized, high stakes issue that challenges science's ability to influence policy, Lidskog and Sundqvist (2015) consider the IPCC a partial success, in that it has become the privileged speaker on climate change, successfully disseminated knowledge to government institutions, and rendered it a pressing political issue calling for multilateral solutions.

Other observers and active participants in the IPCC formative process, such as Bert Bolin (2007), perceived the establishment of the intergovernmental mechanism as having provided a significant advantage in enhancing the organization's legitimacy, which helped to increase the political salience of climate change through linking knowledge production with national governments and the UN system (Beck 2015). Jean Ripert, chairman of the Intergovernmental Negotiating Committee (INC) through which the UN Framework Convention on Climate Change was negotiated, credits the IPCC with making the 1992 signing of the Convention possible by educating government officials on climate change (Agrawala 1998). Political scientist Tora Skodvin (2000a) sees the 'adversarial scrutiny' of actors representing conflicting interests as strengthening policymakers' confidence in the Panel's scientific outputs. While sharing the outlook that the IPCC was initially circumscribed by its consensus requirements that included political approval of scientific

outputs, climate change historian Spencer Weart (2012: 41) contends that by the Third Assessment Report in 2001, 'the panel had turned its procedural restraints into a virtue: Whatever it did manage to say would have unimpeachable authority'.

Compared to CERN—the other Geneva-based international scientific institution examined in this volume—the IPCC has an almost nonexistent administrative and infrastructural footprint, despite the enormous public, political, and scholarly interest the organization and its core issue of climate change has attracted in recent years. The vastness of IPCC machinery, to borrow Edwards' metaphor, is thus by no means manifested in its organizational charts or operational budget, but in the network of experts and the accumulated knowledge mobilized in periodic IPCC assessment reports published every 5–8 years, as well as in various special reports on specific climate-related issues. The institution is held together through an evolving framework of principles and procedures that organize the Panel's work within and across assessment cycles.

The IPCC's Impact

The IPCC has successfully capitalized on its urgent social mission to provide policy-relevant science to inform governments why they need to address climate change. The IPCC's scientific assessments have directly contributed to the creation and evolution of the international climate regime. After the IPCC published its First Assessment Report in 1990, the UN General Assembly took note of the report's findings and made the decision to initiate negotiations for a framework convention on climate change. Prior to this decision, the IPCC had served as the principal forum for the embryonic political negotiations for a treaty, and the IPCC's work on legal instruments contributed greatly to the content of what became the UNFCCC (Beck and Mahony 2018b). In the years since, the IPCC and UNFCCC have developed in parallel, and are today closely coupled in their efforts to provide knowledge and policy responses on climate change (Thoni and Livingston 2019). In fact, each of the IPCC's subsequent assessment reports has contributed to the international climate regime's institutional development and had a powerful agenda setting effect in the climate negotiations.

The Second Assessment Report (IPCC 1996) provided the scientific backbone for the 1997 Kyoto Protocol. The Third Assessment Report (IPCC 2001) focused attention on the impacts of climate change and

the need for adaptation (Krug 2019). The Fourth Assessment Report (IPCC 2007) found that 'the warming of the climate system is unequivocal' and was a key input in the 2 °C limit being recognized for the first time by climate negotiators in the Copenhagen Accord (Parker and Karlsson 2017: 451).

More recently, the IPCC's Fifth Assessment Report (2014), which stated that human impact on the climate system is 'clear', profoundly influenced the goals of the 2015 Paris Agreement, which explicitly stated the intention to limit the global temperature increase to 'well below' 2 °C and to pursue efforts to limit it to 1.5 °C (Parker et al. 2017). Including these goals was significant because the 1992 UNFCC simply called for the prevention of 'dangerous anthropogenic interference with the climate system' without specifying what counted as dangerous interference or what exactly needed to be done to avoid it. Although the 2 °C and 1.5 °C targets are political goals and not scientific ones, based on an ambiguous and somewhat contentious 'pre-industrial' baseline (Paglia and Isberg 2020), they were inspired by the IPCC's work and the IPCC's participation in Structured Expert Dialogues organized by the UNFCCC to review the 2 °C goal (Carraro et al. 2015). The targets also provide benchmarks to assess the ambition of countries' Nationally Determined Contributions, which Paris requires to become more ambitious over time to close the gap between what has been pledged and what is required to meet the agreement's goals (Parker and Karlsson 2018a).

The sensation that greeted the release of the *Special Report on the impacts of global warming of 1.5°C* (IPCC 2018), in advance of the 2018 climate summit in Katowice, where the negotiations over the Paris 'rulebook' would take place, dramatically illustrated the IPCC's role as a formidable agenda-setter. At the negotiations, the evidence concerning the negative impacts of climate change presented in the report was successfully used by the EU and a group of countries collectively known as the High Ambition Coalition to push through a rulebook that puts in place a system of transparency, a system of reporting, rules to measure emissions using IPCC methodology, a system to judge the impacts of policies compared to what science recommends and an implementation and compliance committee with some teeth (Parker and Karlsson 2018b).

THE CREATION OF SCIENTIFIC CREDIBILITY AND EPISTEMIC AUTHORITY: PRACTICES AND PROCESSES

Naomi Oreskes' (2004) influential article in *Science* depicted the IPCC as the institutional embodiment of the scientific consensus on anthropogenic climate change. In a quantitative analysis of consensus, Anderegg et al. (2010) used the 'primary tenets' of the Fourth Assessment Report as the baseline for concluding that 97% of climate scientists agree with IPCC conclusions that anthropogenic greenhouse gas emissions are the primary cause of unequivocal global warming. These and other studies demonstrate the epistemic and discursive authority the IPCC enjoys as the standard-bearer for consensus knowledge on climate change.

The IPCC's role in establishing that there is a global scientific consensus on the existence of climate change, and that human influences on the climate system are real and impactful, have proved indispensable for the creation of the climate regime and for providing the evidence that the ambition of climate action needs to rapidly increase. In absence of an incontrovertible scientific consensus, users of a common pool resource will often resist regulation and offer competing interpretations of uncertain knowledge (Stern 2011). Just as it was in the debate over ozone protection prior to the Montreal Protocol (Albrecht and Parker 2019), this has been the case in the debate over climate change: claims of scientific uncertainty have made an agreement over international controls extremely difficult.

The Panel's epistemic and discursive authority is based on the rigorous and extensive process by which the IPCC's teams of expert authors and peer reviewers carry out their work (Ghaleigh 2016). IPCC assessment reports follow strict procedures, including a two-stage review 'more comprehensive, by many orders of magnitude, than that in an average journal' (Agrawala 1998: 623–624), to provide an objective, unbiased, transparent and comprehensive assessment of current climate change knowledge based on the latest peer-reviewed scientific literature. The role the IPCC plays with its assessment reports, and the function the Panel serves, is much like an expert blue-ribbon panel or a commission of inquiry. In principle, expert commissions allow policymakers access to knowledge and expertise that, ideally, provide an impartial appraisal of existing evidence and recommendations for solving problems.

Seen from this perspective, the work of the IPCC, much like a commission of inquiry, entails two important activities. First, it contributes to

the collection of information about the causes of a phenomenon or problem, a process that we may refer to as *fact-finding*. Second, it engages in *lesson-drawing*. Whereas, fact-finding is about establishing empirical reality and the causes of problems (cause-effect explanations), lesson-drawing is about suggesting possible ways to solve identified problems (means-ends explanations) (Parker and Dekker 2008; Boin et al. 2008). These evidence-based 'lessons' are then presented as 'recommendations' or possible options for taking action. Moreover, the manner in which the IPCC's assessment reports are fed into international decision-making, primarily through the UNFCCC process, is much like the treatment of findings from the final report of a commission of inquiry or, as Ghaleigh (2016: 67) points out, 'expert evidence by international courts and tribunals'.

The IPPC has developed a unique competence to reduce uncertainty while building academic consensus. IPCC assessment reports, of which five have been published to date with a sixth scheduled for release in June 2022, are structured around three working groups (WG) that review the state of climate knowledge on: the physical science basis (WG I); impacts, adaptation and vulnerability (WG II); and mitigation of climate change (WG III). During an assessment cycle, each working group, assisted by a Technical Support Unit (TSU), publishes an extensive, in-depth report that reviews published scientific work (the vast majority of it peer-reviewed literature) on climate change, as well as a summary for policy makers. A synthesis report encompassing the results of all three of the working groups concludes the assessment cycle.

If the three working groups, together with the Task Force on National Greenhouse Gas Inventories, can be considered the epistemic and organizational pillars of the IPCC (see Fig. 12.1), the hundreds of authors (including contributing, lead, and coordinating lead authors) and review editors selected for each assessment cycle represent a rotating foundation that the Panel and its scientific outputs rests upon.[2] The IPCC Bureau—consisting primarily of chairs, co-chairs, and vice-chairs from the working groups and the IPCC central organization—is the body responsible for the selection of these experts from among those nominated by the National Focal Points of IPCC member state governments. It, thus, represents the key link between IPCC and the scientific community, and also provides scientific and technical support, and advice on management and strategy (Livingston 2018).
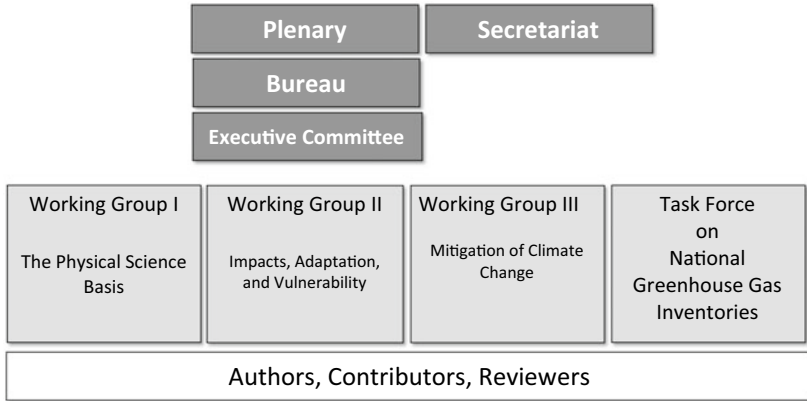
Fig. 12.1 Structure of the IPCC (*Source* IPCC [2019])

The Executive Committee largely overlaps with the Bureau in terms of its composition. It focuses on internal matters such as enhancing coordination between working groups and managing urgent issues (e.g., errors in reports, such as those in the Fourth Assessment Report that led to Climategate and the Committee's creation in 2010, see below), as well as external outreach and communications (IPCC 2019; Livingston 2018). Plenary Sessions take place at least once, sometimes twice, per year, bringing together a wide array of experts and government officials from the 195 IPCC member states to reach consensus on issues ranging from organizational rules and budgets to the scope and outline of upcoming assessment reports, including the structure and mandate of the working groups (Livingston 2018; IPCC 2019). It is also during Plenary Sessions that the scientific work of the IPCC is reviewed by government representatives, making them the primary arena for the Panel's characteristic science diplomacy (Ruffini 2018). Organizing the Plenary Sessions and other IPCC gatherings, as well as providing coordination and communication support, is the Secretariat, consisting of a small administrative staff based at World Meteorological Organization headquarters in Geneva (IPCC 2019).

The public perception that the Panel's pronouncements are built upon widespread expert agreement represents a crucial source of strength when faced with 'merchants of doubt' that have sought to sow uncertainty,

undermine scientific authority and foster indecision among policymakers (Grundmann 2006: 89; Oreskes and Conway 2010; Paglia 2018). The thirty-year trajectory of assessment report production has steadily and significantly reduced the level of uncertainty surrounding the existence and extent of anthropogenic climate change (Anderegg et al. 2010). According to some, however, consensus has come at a price. From this view, the IPCC's consensus mandate is seen as problematic due to the resulting tendency to under-dramatize the threat of climate change (Hansen 2007; Brysse et al. 2013; Spratt and Dunlop 2018).

Nonetheless, although consensus requirements have infused the IPCC with a degree of institutional conservatism, this approach has served the Panel well. The 'Summary for Policymakers' of each assessment report serves as a case in point. The process of approving this report, in which each word of the document must be agreed and approved, line-by-line, by all the governments and the scientific authors, is arduous. But, in the process of reaching a consensus on language that is consistent with the underlying scientific findings, member state stakeholders are engaged, and potential critics are co-opted. Moreover, once the 195 governments of the IPCC adopt the 'Summary for Policymakers' of an entire assessment report, it no longer belongs just to the scientists. The agreed document and its findings now belong to the governments (Smith 2019).

Challenges to the IPCC's Legitimacy and Authority: Critique and Crisis

Throughout its history, the IPCC has faced intense scrutiny, criticism and some major controversies that could have led to its demise. While some of these controversies have been handled more effectively than others, the IPCC has managed to respond to the challenges it has faced and incrementally reform and evolve in a manner that has allowed it to maintain its credibility as the preeminent authoritative voice on the science of climate change.

The organization's influence at the interface of science and diplomacy is complicated by national interests and the inherent difficulties of effectively communicating scientific information to non-specialists (Ruffini 2018). The boundary between science and politics within the IPCC is under constant negotiation (Beck and Mahony 2018a; Ruffini 2018). Safeguarding the independence of science in a 'boundary organization' (Guston 1999) such as the IPCC has been an ongoing challenge that

has evolved under shifting societal circumstances and increasing interest in climate change.

A key challenge has been the precarious balance between scientific integrity and political demands. From the moment of its founding, the issue of geographic representation constituted a fundamental political challenge to the IPCC and the leadership of Bert Bolin. In addition to the obligations inherent in being a UN intergovernmental body, the founding chairman considered the participation of developing country scientists and policymakers to be essential in establishing widespread trust and credibility for an organization that aspired to speak to stakeholders on a global level (Schneider 1991). Bolin, however, also put great priority in the scientific integrity of the IPCC, and was concerned that the regional representation issue could complicate bringing on board the leading climate scientists, regardless of their country of origin.

Over the first few years of the Panel's existence, considerable pressure was exerted by Mostafa Tolba and G.O.P. Obasi—the heads of UNEP and WMO, respectively—and certain UN member states to increase developing country representation in the IPCC, which was initially dominated by experts from industrialized countries. This North-South divide has characterized global environmental governance since the lead-up to the 1972 Stockholm Conference on the Human Environment (Paglia and Sörlin 2020) and has proved to be a challenge for the IPCC and its legitimacy. In response, several committees, sub-groups, and task forces were established to address the highly politicized issue that could have jeopardized the organization's existence.

The process resulted in increased financial support for developing country representatives to attend IPCC gatherings. The Fifth Plenary Session (1991) adopted a set of *Principles Governing IPCC Work*, which called for greater geographic balance in the Bureau and Working Groups. The latter imperatives were carried out through a restructuring of the IPCC following the Eighth Plenary Session in November 1992 and resulted in significantly increased developing country participation in subsequent years (Kutney 2014; Skodvin 2000b; Agrawala 1998). For example, just 97 authors contributed to the First Assessment Report, but by the Fourth Assessment Report, which involved over 3500 experts from more than 130 countries (including some 450 lead authors, 800 contributing authors, and 2500 expert reviewers), participation had expanded considerably (IPCC 2010: 9).

The restructuring process that addressed regional representation largely coincided with efforts to formalize the peer review practices that underpinned the Panel's scientific credibility. Following the intense media attention and political scrutiny the IPCC generated after its First Assessment Report in 1990, and the founding of the UNFCC at the 1992 Rio Earth Summit, the Bolin-chaired Task Force on IPCC Structure presented its recommendations for institutional reforms related to scientific procedures (as well as geographic balance) at the Eighth Plenary Session. The IPCC pursued these reforms in anticipation of 'discredit the messenger' attacks from fossil fuel lobbyists and to maximize its credibility with national governments and climate negotiators (Agrawala 1998: 625). This resulted in the IPCC adopting at the Ninth Plenary in June 1993 a formal set of rules for peer review that encompassed both scientific experts and government officials in a two-tier process.

The practice of line-by-line approval of summaries for policymakers during IPCC Working Group plenary sessions—attended by both experts and government officials—also became formalized (Agrawala 1998). There is an important distinction between the summaries for policymaker and underlying scientific reports: while the former are subject to line-by-line approval, scientific reports, which do undergo extensive expert and government review, are not subject to line-by-line approval (Agrawala 1998: 624). The IPCC has introduced review editors to the report writing process, instituting rules for synthesis reports, and clarifying the conditions for the use of non-peer-reviewed material (Beck and Mahony 2018a).

Climategate: An Existential Crisis

Pachauri's tenure as IPCC chairman, lasting from 2002 to 2015, began with a controversy that illustrated some of these long-standing tensions at the nexus of science and politics. With a background in economics and industrial engineering, Pachauri became the first non-climate scientist to lead the Panel after the chairmanships of Bolin (1988–1997) and the British-American atmospheric chemist Sir Robert Watson (1997–2002). The latter lost his re-election bid in April 2002 to the Indian national Pachauri, who was backed by the United States, India, and an array of other developing countries.

During the run-up to the deeply politicized 2002 IPCC election, concern was raised that if the highly accomplished Watson did not remain

chairman, the continuity and scientific credibility the Panel had accrued over the past 15 years would be greatly diminished, complicating the recruitment of top scientists for IPCC work (Lawler 2002). Further, allegations were raised that the George W. Bush administration's opposition to Watson—an outspoken critic of fossil fuel interests—came under pressure from American energy industry lobbyists, rather than the stated U.S. position of supporting Pachauri in order to allow a developing country representative to lead the IPCC (Lawler 2002).

In November 2009, two years after the IPCC and Al Gore were awarded the Nobel Peace Prize, the 'Climategate' controversy became the most significant challenge to IPCC authority and legitimacy to date. It revolved around the publication of hacked emails between IPCC-associated scientists from a server at the Climatic Research Unit (CRU) at the University of East Anglia (UAE)—a pioneering institute on climate change research. The hacked emails, which some claimed exposed deceptive practices and data manipulation among leading climate scientists attempting to contrive a clear signal of warming global temperatures, were followed several months later by reports of errors in the IPCC's 2007 Fourth Assessment Report. These included inflated projections on the rate of melting in Himalayan glaciers and the amount of Dutch territory located below sea level (55% rather than the actual 26%) (PBL 2010).

Climategate posed an existential threat to the scientific credibility and institutional authority of the IPCC and the science-policy interface underpinning the international efforts to manage climate change developed over the previous two decades (Hajer 2012). The crisis unleashed a flood of criticism against climate science and its institutions such as the CRU and especially the IPCC (Pearce 2009; Hulme and Ravetz 2009), not only from politically motivated climate sceptics, but also from scholars, scientists, and other observers who, as analyzed by Silke Beck (2012), soon took to traditional and online media platforms to provide their perspectives on the Panel's various failures and flaws.

The Climategate controversy led the UN to enlist in spring 2010 the InterAcademy Council (IAC), an international and independent body based in Amsterdam, to review IPCC policies and procedures (Beck 2012; IAC 2010). The IAC report, published in August 2010, called the IPCC a 'significant social innovation', lauding it for its scientific achievements and fostering of a public conversation between scientists and policymakers that sustained public focus on climate change. However, it also noted that while the globally decentralized expert network was a prime

source of organizational strength, the Panel's management and governance structures had not enabled it to keep pace with public expectations of accountability and the demands that the increasingly critical problem of climate change placed upon the IPCC.

The main criticisms put forward in the review, which also drew on other investigations into aspects of Climategate, e.g., a Dutch government report (PBL 2010), included shortcomings in terms of transparency surrounding the selection of authors, reviewers, and scientific and technical information for assessment reports; a general reluctance to make data publicly available; and the absence of a comprehensive communication strategy. This general lack of transparency, exacerbated by the failure to effectively communicate results (including the complicated issue of characterizing scientific uncertainty), had led to a decline in public trust in the IPCC (IAC 2010; Beck 2012).

In response to the IAC review's recommendations, the IPCC at its May 2011 plenary session adopted a communication strategy, grounded in the core IPCC principle of being policy relevant but not policy prescriptive, in order to provide clear information on IPCC scientific findings and the Panel's internal procedures for producing knowledge products such as assessment reports (IPCC 2011; Beck 2012). IPCC communications, including basic functions such as press releases, had previously been handled by its sponsoring organizations UNEP and WMO. The lack of professional in-house communication capacities impaired the Panel's ability to respond effectively to the Climategate crisis (Lynn 2018). The May 2011 plenary session also addressed the IAC critique on internal governance issues by creating an Executive Committee to oversee daily operations and address urgent issues (such as errors in reports) between plenary sessions, enhance coordination between Working Groups and promote communication and public outreach (IPCC 2011; Scheirmeier 2011; Livingston 2018).

Throughout the Climategate crisis, a compounding factor was the complacent and inadequate response of IPCC leadership. Chairman Rajendra Pachauri, rather than concede factual errors, reverted to a 'gatekeeper approach' against external attacks, lashing out at the Panel's critics (Beck 2012). Pachauri's leadership of the IPCC came to an abrupt end in 2015, when he resigned amidst sexual harassment allegations. Despite the turbulence of his chairmanship, under his watch, the IPCC published two major assessment reports and was awarded the Nobel Peace Prize along with Al Gore.[3]

In 2015 another non-climate scientist, the South Korean energy economist Hoesung Lee, was selected as the new IPCC chair. In the spirit of what has been termed 'dynamic conservatism', changing to maintain an organization's distinctive competence (Ansell et al. 2015; Selznick 1957), Lee pledged to continue the reform work that was carried out after the Panel adopted the IAC's recommendations. These reforms were designed to restore and preserve the IPCC's reputation for producing unimpeachable scientific assessments. Lee is pursuing a strategy of proactive adaptation by attempting to enhance the IPCC's policy relevance further by being more solution oriented. As he put it: 'I think the IPCC has done a very effective job of identifying problems. And perhaps we may have reached a point where we have done enough of identifying problems and we may have time now to see the solutions of these climate change issues, the opportunities they offer for the global community' (Pidcock 2015).

Lee's commitment to proactive adaptation, the co-optation of critics, and the engagement of stakeholders can be further seen in his efforts to make the IPCC's process more open and transparent, focus more attention on regional needs, make the IPCC's work of greater use to governments of developing countries, and add additional topics, such as the effect of climate change on the oceans, the cryosphere and the land, for the IPCC to examine. The prominence of these priorities can already be seen in the IPCC's recent special reports and the topics being investigated in the Sixth Assessment Report (AR6).

In the decision to adopt the Paris Agreement in 2015, the UNFCCC member states gave the IPCC a new mission that nicely captures the challenges and dilemmas it confronts in how to maintain its scientific credibility and relevance while helping to provide solutions to the threats posed by climate change. Specifically, the parties invited the IPCC to provide a special report in 2018 on the impacts of global warming of 1.5 °C above pre-industrial levels and related global greenhouse gas emission pathways. This request is exactly what some observers have called for the IPCC to do more of in the future to remain relevant, namely, provide more clear policy options to inform choices for mitigating GHG emissions and responding to climate impacts (Carraro et al. 2015). Others, however, have taken a different view and have warned the IPCC that it should tread cautiously in the face of such requests due to the risk of being naively used for political purposes (Hulme 2016).

The IPCC has successfully changed in order to 'remain the same'—responding to attacks, mistakes and scandals by undertaking procedural reforms and adapting new guidelines (e.g., on cross-checking data, correcting errors, on how to treat uncertainty, etc.) designed to maintain public and political confidence by ensuring its assessments will be seen as scientifically robust and credible. It has also striven to enhance its legitimacy by taking measures to provide greater access and inclusion to developing countries, despite the enduring 'deep asymmetries in science production' and 'North-South knowledge divide' that continue to be a challenge for the Panel (Yamineva 2017).

CONCLUSIONS

The IPCC celebrated its 30th anniversary in 2018. In its three decades, the IPCC has accomplished its goal of becoming the principal institution where expert assessments of the climate are produced. These assessments are accepted by the world's governments. The IPCC has established, in Selzick's (1957) terms, a distinct identity and a unique competence as a provider of 'policy relevant but not-prescriptive' scientific assessments. The IPCC gained a strong reputation and earned public legitimacy by taking on the role of the impartial arbiter and deliberately pursuing a strategy of providing politically neutral reports based on scientific consensus (Bolin 1994; Beck and Mahony 2018b).

The IPCC's impact can increasingly be seen in civil society. The climate activist, Greta Thunberg, who has inspired a massive global youth movement of school strikes for the climate, in her 17 September 2019 appearance before the U.S. House of Representatives, rather than deliver a statement of her own, submitted the IPCC's 1.5 °C report to U.S. lawmakers. She told them, 'I don't want you to listen to me, I want you to listen to the scientists' (Milman and Smith 2019). This convergence of high-profile climate activism with the scientific authority of the IPCC demonstrates the interdependency of political activism and scientific authority in climate change agenda setting (Paglia 2016, 2018). It is reminiscent of the decisive intervention of Al Gore, whose 2006 climate documentary *An Inconvenient Truth* was followed a year later by the fourth IPCC assessment report, leading to Gore and the IPCC being awarded the Nobel Peace Prize for significantly raising climate change awareness among policymakers and the general public.

There are a number of important lessons institution builders can learn from the case of the IPCC. These lessons are especially germane for leaders working with global assessment organizations, such as the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services and the Millennium Ecosystem Assessment. One lesson is the need to create an image of distinct expertise and competence (Ansell et al. 2015). To thrive, institutions must put in place practices that engender trust from their stakeholders that they are uniquely able to fulfil their mission. The IPCC institutionalized its epistemic authority through implementing meticulous procedures and processes that thousands of leading experts and scientists follow when drafting, commenting, and reviewing the comprehensive assessments that IPCC regularly produces on the state of climate change knowledge.

A second lesson is the substantive and symbolic potency of institutionalizing epistemic authority, which is relatively inexpensive, yet impactful. The IPCC's epistemic authority has established beyond reasonable doubt the existence of human-induced climate change and spurred governments to create and develop a global climate regime. Civil society and the media are also increasingly using IPCC reports to advocate for climate action.

Institution builders should also consider the exploitability and trade-offs between mission and interests that can arise from institutional caution and a commitment to consensus. The IPCC, because of its intergovernmental character and the suspicion of some of its member states, had to tread carefully. It did so successfully and, by speaking with one voice, acquired a reputation as a credible and impartial authority on climate change. Its consensus practices expanded the zone of agreement with its member state stakeholders, increased its political relevance, and co-opted potential critics by getting them to share responsibility by adopting shared summaries for policymakers (Selznick 1949; Boin and Christensen 2008). However, the downside was that these choices made the IPCC vulnerable to external criticism. Its cautious approach has been critiqued as insufficiently urgent, and, in some quarters, the assessment summaries are seen as politically negotiated compromises that shut out diverse or dissenting voices (Agrawala 1998: 611).

Finally, institution builders should expect and prepare for institutional crises. Crises, if mismanaged and not successfully resolved, can derail an institution (Ansell et al. 2016). However, crises also create opportunities for adaptation and needed reform (Boin and Christensen 2008: 289; Parker and Dekker 2008). When facing a crisis, leadership must seize the

narrative, reach out and communicate with stakeholders and the public, and provide a convincing plan for what is being done to address the situation (Boin et al. 2017: 80). The IPCC initially botched its response to the false allegations of 'climategate' as well as to the justifiable critique it received over errors uncovered in the Fourth Assessment Report. The IPCC recovered from this threat to its credibility and legitimacy by subjecting itself to an external review and accepting essential reforms to its processes and procedures to identify and correct errors. Ultimately, the reforms burnished the IPCC's reputation for scientific integrity, and its subsequent reports have been well received.

To conclude, the IPCC richly deserves its reputation as the world's foremost global epistemic authority and guardian of climate science. The Panel has had a powerful impact to date on creating public awareness around the problem of climate change, putting the issue of climate change on the political agenda, and contributing to the creation of global agreements to address climate change.

The jury is out on whether the IPCC can help forge real solutions to the climate crisis. To maintain its status and relevance in the future, the IPCC will have to adapt its mission to this new challenge and it remains to be seen if the IPCC, by increasing its focus on policy-relevant research, will truly be able to exercise 'a "world-making" power by providing new, politically powerful visions of actionable futures' (Beck and Mahony 2018b: 1). Moreover, although the diplomatic process is moving forward and the global climate regime has been enhanced by the Paris Agreement, efforts to date have not delivered climate action of sufficient speed, scale, and scope commensurate with what science demands to adequately confront the threat of dangerous climate change.

If the IPCC is to effectively help deliver the climate action that is needed, it will have to successfully navigate the nexus of science and policy in the face of increased demands for viable policy options while not squandering its hard-earned legitimacy and credibility. Time is running out for the IPCC and the governments of the world to demonstrate that they are truly up to the existential challenge of avoiding climate catastrophe.

Questions for Discussion

1. The IPCC started as a small group of academics and evolved into a global institution. Can you think of similar examples?

2. Two leaders are discussed at some length in this chapter. One leader helped to build the institution, the other leader played a role in the erosion of the institution. How can one institution be a home of two such different leaders? What is the lesson that can be drawn from this analysis?
3. The IPCC experienced an existential crisis. How did the institution survive this crisis?
4. Did the IPCC emerge stronger from this crisis? Which vulnerabilities remain?
5. How would you describe the authorizing environment of this institution?

Notes

1. The 'Principles Governing IPCC Work' is the guiding document that defines the Panel's *raison d'être* and expresses the values that it espouses and attempts to project in the conduct of its work. It states: 'The role of the IPCC is to assess on a comprehensive, objective, open and transparent basis the scientific, technical and socio-economic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts and options for adaptation and mitigation' (IPCC 1998).
2. The Task Force was established in 1998 to calculate GHG emissions (parties to the Paris Agreement are required to follow its methodology for reporting their emissions).
3. Gore was a strong Robert Watson supporter and initially critical of Pachauri, calling him in a 2002 *New York Times* op-ed 'the "let's drag our feet" candidate' to lead the IPCC (Gore 2002).

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The ACCC: Guardian of Viable Markets and Consumer Rights

Amanda Smullen and Catherine Clutton

Introduction

In 2016, following a successful investigation by the Australian Competition and Consumer Commission (ACCC), Nippon Yusen Kabushiki Kaisha pled guilty to operating a criminal cartel fixing the freight price of vehicles imported to Australia. In 2017, the Federal Court of Australia imposed a penalty of AUD25 million (the second highest penalty ever imposed since the inception of the ACCC). This prosecution followed earlier litigation successes against Reckitt Benckiser Australia Pty Ltd. for misleading or deceptive conduct.

These and other recent successes have generated domestic and international acclaim for the ACCC. Australia's Royal Commission into Banking

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in 2018 criticized most regulatory agencies in the sector but lauded the ACCC. Indeed, the ACCC's mandate was subsequently expanded to take over responsibilities for supervising financial services from the Securities and Investments Commission. The ACCC received international praise for its vanguard inquiry into market dominance of social media giants Google and Facebook. In 2019, the ACCC was named Global Competition Agency of the Year (Danckert 2019; Mason 2019). In short, the ACCC has rapidly established a formidable reputation with firm institutional embedding in its environment.

The ACCC's founding legislation tasks the agency to enforce both competition and consumer law for the 'public interest'. The protection of competition and consumers is integral to the cohesive functioning of the economic and social system. While competition can be a good thing, it should not push companies to cut corners on the safety of their services and products. The ACCC thus has a dual, seemingly contradictory, mission: to ensure that markets function in ways that both encourage competition and protect consumer welfare (Beaton-Wells and Haines 2010; Parker and Scrinis 2014).

Standing up for the interests of consumers and the optimal functioning of markets may be a lofty mission, but in and of itself it does not ensure stakeholder support. Quite the opposite: some of the ACCC's interventions have met with considerable opposition and garnered political controversy, inviting critical scrutiny from all sides. Moreover, the ACCC must contend with powerful corporations and vested interests. Its mandate inevitably embroils the ACCC in conflicts over the power of big (international) corporations and (global) economic structures in Australian public life (Edwards 2020).

Australia was relatively late to introduce (in 1974) 'enforceable' competition and consumer law (in comparison with other OECD countries). Today, the ACCC's functions, regulatory instruments and legal sway are as, if not more, extensive than those of its international counterparts. Its steadily expanding remit and powers have come to include education of both consumers and businesses, investigation, authorization of certain (otherwise) anti-competitive conduct that is in the public interest, price regulation of monopolies and regulation and enforcement of competition and consumer law across multiple sectors of the Australian economy.

The ACCC also performs a wide array of expert advisory functions. Examples include its convening of the government's inquiry into the dairy

sector and the role of supermarkets' purchasing powers (2016–2018), membership of a Treasury-led working group overseeing the residential mortgage market (2019), and of a wide-ranging inquiry into the gas market (2017). Simultaneously, the ACCC maintains a firm footing in the domestic lives of Australian consumers, for example by providing widely accessed 'Scamwatch' updates, publishing local petrol pricing comparators, and making itself accessible through Commissioner appearances on prime-time lifestyle programs advising consumers on issues as varied as how to survive the Christmas sales and how to navigate electricity markets.

This chapter interrogates the institutional history, formation, and ongoing institutionalization of the ACCC. Drawing on Philip Selznick's classic studies of institutions and processes of institutionalization (outlined in the introduction to this volume), this chapter analyzes how the ACCC has become a taken for granted and publicly valued part of the economic governance landscape in Australia in the face of both corporate and, at times, political resistance.

While a relatively 'young' agency (created in 1995) compared to other examples in this book, the ACCC has its roots in a much longer historical process to establish a robust national legal and administrative framework for promoting competition, fair trading and efficiency. ACCC formed from a merger of pre-existing organizations: the former Trade Practices Commission (TPC 1977–1995) and the Prices Surveillance Authority (PSA 1983–1994). Our contention is that this lineage presented significant endogenous institutional resources. The ACCC was bequeathed routine patterns of action, including models of ethical leadership, which later leadership could recombine, amplify and adapt; a process which has thus far secured institutional embedding of the agency (cf. Berk 2009; Farjoun et al. 2015). We argue that the ACCC built upon the internal and external routines of its predecessors to create a virtuous cycle of institutionalization (explained in the introduction to this volume).

We first describe the collision of legal, organizational and political trajectories that preceded and informed ACCC's creation and formal design. We then characterize its process of institutionalization by using Selznick's (1957) criteria of (1) a distinct identity and unique competence; (2) strong reputation and public legitimacy; and (3) enduring viability through adaptation. Finally, we consider the forces of erosion that challenge the ACCC but, to date, have not disrupted its professional

commitment to substantive enforcement nor public reputation as a highly regarded national institution.

Rooted in History: The ACCC's Precursors

The ACCC began operations on 6 November 1995. Formally, the agency's birth occurred through parliamentary amendments to the then *Trade Practices Act 1974* (Clth) (TPA 1974), later to be replaced by the *Competition and Consumer Act 2010* (Clth) (CCA). The creation of the ACCC was a significant juncture in Australia's competition policy. For the first time, a national agency would become responsible for regulating and enforcing competition law across Australia's federation. Also, for the first time, the legislative 'authorization' functions of the competition regulator (alongside prosecution and education functions) expanded to include overseeing price regulation and access to essential utilities such as electricity and telecommunication networks. Internationally, ACCC's design was unique for its focus upon both competition and consumer law in just one agency and its multi-sector (from electricity to telecommunications public utility) focus (Ottow 2014; Jenny 2016). For the agency, it was just the beginning of an expanding mandate, broadening enforcement instruments and increasing administrative size.

The creation and subsequent institutionalization of the ACCC occurred in the context of various legal, organizational and political developments (Bannerman 1985) that furnished the raw materials for forming a distinctive institution. We focus here upon the legal, organizational and political paths that collided with ACCC's formation. An important development was the privatization of public services and their exposure to competition and price regulation. In Australia, most significant privatization reforms began in the early 1990s with sales of public assets, such as public companies/enterprises and statutory authorities at both state and national levels. They included the sale of banks, state insurance offices, airports and railway corporations, electricity generators and electricity and gas distributors (Walker and Con Walker 2000).

By far the largest privatization (in sale value) was Telstra. Australia's telecommunications provider (initially a monopoly) was first opened up to competition and then sold in two tranches. Informed by then prevailing neoliberal orthodoxy as to the advantages of market competition, privatization both drew from, and gave momentum to existing competition law and the rise of regulation (and public regulators) across western

economies (Moran 2002). Australia was no 'bit player', being only second to the United Kingdom in dollar terms of its privatization programs (Walker and Con Walker 2000: 17).

Australian efforts to provide legal foundations for federal competition policy began much earlier, prior to neoliberal orthodoxy, and followed an 'Austerican' course. That is, a coevolution between British and American anti-trust laws to fit changing Australian social, political and economic structures and perceptions (Brenchley 2003: 30–32). Hardly an unusual pattern in Australian political/policy institutions (Patapan 1997) the legal origins for this Austerican competition law date back to 1906 with the passing of the Australian Industries Preservation Act (AIP). The AIP followed a solid anti-trust pedigree from the US Sherman Act at a relatively early stage in Australia's fledgling federation but foundered on constitutional limits to the federal government's jurisdiction.

Australia's path to entrenching 'enforceable' federal competition legislation would take almost another 70 years through the passing of the TPA (1974). As Bannerman (1985), a former Trade Practices Commission Chairman, later commented business at this time was something of an exclusive club and only insiders knew what the rules were. Those rules included price fixing and control of delivery mechanisms, all of which went largely unremarked. One example directly relevant to consumers of the day was the practice of petrol price fixing. Petrol stations were tied to specific suppliers and owners were obliged to charge the prices set by those suppliers.

The TPA brought distinctively Australian (and New Zealand) features to its competition approach, such as the groundwork for inclusion of consumer law within competition legislation. As consumer law was initially solely a state responsibility, this also paved the way for experience of cross-jurisdictional collaboration for Australia's first competition regulator—the Trade Practices Commission (TPC 1977–1994). Later amendments to the Act, particularly in 1995 and 2010, would extend the legislative mandate to all business activity (including state public utilities or enterprises) across the nation and enable a national Australian consumer law with the renaming of the TPA as the *Competition and Consumer Act 2010* (Emerson 2010: 2718).

At the time of the TPA's inception, competition law was unprecedented and untested in Australia. There were not yet any clear precedents for pursuing legal action. The then Commissioner, Ron Bannerman (1965–1974), took careful carriage of slow *case by case* challenges to the

legality of companies' registered agreements, thus testing argument for the contestation (or authorization) of their breach of the 'public interest'. Authorities needed to discover what it would enable them to do in terms of breaking up concentrations of corporate power, all too clubby and comfortable business networks, the misleading and manipulation of consumers, and other abuses of the public's trust. Through using the powers of the law, authorities had to test the waters to find out where its boundaries lay, and what norms and practices would sustain its effective application (Bannerman 1985; Grabosky and Braithwaite 1986).

The legal framework and parentage of the Trade Practices Commissioner within the Attorney-General's Department lent a premium to legal 'evidence, logic and argument' (Bannerman 1985: 88). Organizationally, the Commissioner had to develop capabilities and routines that would support this orientation in the emerging application of the TPA. For example, in collecting and preparing case hearings at the Tribunal, the Commissioner needed to demonstrate that processes were fair and that by pursuing legal actions the Commissioner was educating businesses and the community at large about the meaning of the law. These emerging practices set a precedent of independent, evidence-based administrative and legal decision-making, purposefully removed from party politics. They created organizational capacity and examples of how to operate effectively and with integrity. Furthermore, the consultative work of the Commissioner contributed to changing perceptions among businesses, unions and the public of the desirability of competition law (Merrett et al. 2007) which, in turn, led to increased support from these groups.

The TPA (1974) brought considerable expansion of legal and administrative capacity. Bannerman became the Chair (1974–1984) of a new agency devoted to administering and enforcing competition law: the Trade Practices Commission (TPC). This required extending existing routines of investigation, legal testing and developing expertise to the whole spectrum of competition law—from the initial focus on price agreements and deceptive conduct towards the more challenging terrain of assessing mergers and acquisitions.

The fledgling TPC was not helped by the return to power of a more pro-business Liberal/Country Party government (1975–1983), which at times tried to curb its mandate and tweak its capabilities (see Venturini 1980 for colorful accounts). The subsequent Labour government's success in beating economic stagnation and inflation created a

buoyant, anything-goes economic climate in which regulatory 'nitpicking' was not always welcomed either. And irrespective of which party controlled government, a small and new agency-like TPC had to fight constant funding battles just to survive (Venturini 1980; Bannerman 1985; Brenchley 2003). Over time, however, it benefitted from increasing legal, economic and regulatory scholarly interest in its work, which laid the foundation for its further professionalization (Corones et al. 2009).

Specifically, TPC's third Chairman Professor Bob Baxt (1988–1991), a trade practice academic and legal practitioner, worked hard to grow the agency's capacity for undertaking litigious action and more sophisticated enforcement strategies. During his time as Chairman, key commissioners including ANU scholar John Braithwaite and consumer law advocate Allan Asher developed an 'enforcement pyramid'. This innovative approach to regulatory supervision meant that the ACCC initially responded to illegal behaviour through educating and informing businesses about the law at the 'base', only to move up the 'pyramid' of more serious sanctions ending with court action at the point (Corones et al. 2009). Use of education and public information, including publicizing corporate misdemeanours, was intended to influence corporate behaviour in more comprehensive and intrinsic ways, rather than simply relying only on legislative prosecution. By issuing 'first priorities and directions statements,' Baxt also ensured that the TPC was transparent about its policies and intentions. Finally, he set out to persuade corporations and business sectors to develop productive competition law compliance cultures, for instance, by investing in consultative processes with business and consumers.

In 1983, the Prices Surveillance Authority (PSA)—the ACCC's other 'parent organization'—was established. PSA was created within the Department of Treasury in 1983 (Head 1986; Brenchley 2003). PSA's location in Treasury brought organizational experience of working close to political power, as opposed to the purposeful aloofness of the TPC in the Attorney-General's Department. Set up to assist in curbing inflationary pressures in an economy quickly coming out of a deep recession, the PSA was not given powers to adjudicate or prosecute, only to investigate and publicize.

In marked contrast with the legal orientation that prevailed within the TPC, Professor Allan Fels, the inaugural Chairman of PSA in 1989 and eventual founding Chairman of the ACCC (1995–2003) made do with what he got and set the new agency on a course of relentless high-profile,

media-sustained public shaming of business pricing malpractices. Lacking legislative or constitutional powers, Fels opted to investigate and then to publicize issues of commonplace consumer spending notably petrol pricing and the cost of books, CDs and even funerals. Time and again, he sought to demonstrate how Australian consumers were being forced to pay more than was reasonable, or were excluded by business cartels and monopolies from products available elsewhere (Brenchley 2003).

By the early 1990s, there was broad political support for restructuring the Australian economy and extending the TPA to industries still under state/territory jurisdiction.

This period saw a suite of measures designed to boost productivity, including removal of trade barriers, labour market deregulation and collision of existing competition law and institutional achievements with new competition policy (including programs to privatize public monopolies). In October 1992, the Australian Labour Government established an independent investigation of national competition policy: the Hilmer Inquiry. It reported in August 1993, recognizing that—although Australia is a federation of states and territories—it could benefit strongly from creating a single market. The inquiry recommended adoption of a national competition policy. This was to be supported by the establishment of a National Competition Council to arrive at integrated policies and draft specific federal-state competition agreements. The Council was intended to be complemented by the establishment of an Australian Competition Commission responsible for administering and enforcing the new national competition policy.

In February 1994, the Council of Australian Governments (the platform where all Australian states and territories negotiate and coordinate policies with the federal government) accepted the thrust of the Hilmer recommendations. It agreed to the establishment of an Australian Competition Commission (Council of Australian Governments 1994) which was ultimately enacted as the ACCC. The ACCC was recognized in amendments to the TPC (1974) and took effect through a merger of the TPC and PSA.

BUILDING THE ACCC

After its establishment, the ACCC's role became to enforce the successor to the Trade Practices Act, the *Competition and Consumer Act 2010*. It was set up in 1995 with bipartisan support in the Australian parliament.

Its mission to 'make markets work for consumers, now and in the future' (Australian Competition and Consumer Commission, n.d.).

Our argument is that the TPC and PSA experience (discussed above) informed internal and external patterns of action ('routines') that ACCC leadership used to institutionalize the agency. The TPC and PSA bequeathed potent models of organizational leaders with integrity and fight to the new agency (Merrett et al. 2007; Corones et al. 2009). From the TPC, ACCC inherited established capacity for legal evidence and expert independence, precedents for experimenting and pushing the boundaries of the law in the context of social change, a wide repertoire of regulatory instruments, initial principles for transparency and longevity of tenure among expert staff. From the PSA, ACCC inherited routines for engaging media publicity and grabbing the interests of consumers and politicians.

ACCC's founding legislation set out provisions for the appointment of a Chairperson and Commissioners. Australia's Governor-General appoints the Chair and Commissioners on recommendation from the responsible national government Minister. Appointees must have demonstrated expertise in industry, small business, commerce, economics, law, public administration or consumer protection. All state and territory governments are consulted before appointments are finalized, and a majority must support those appointments. These requirements provide a check on purely political appointments by the national government. Commissioners can be reappointed, and many have been several times. Once appointed, Commissioners have statutory office status, which gives them a legal mandate to make rulings within their sphere of competence and enshrines their independence from the government of the day.

The first Chairperson of the ACCC, serving from 1995–2003, was Professor Allan Fels; an academic and economist who had chaired both the TPC and the PSA (the predecessor regulatory agencies that merged to form the 'new' ACCC). Along with the inaugural group of Commissioners, Fels brought broad experience, far-reaching ambition, and a fighting spirit to the ACCC. He did not shy from opportunities presented by the momentum of the national competition policy and ACCC's enhanced formal mandate compared to predecessor agencies.

Crafting a Combative Regulatory Machine

Fels ratcheted up the pursuit of enforcement through litigation, which directed staff attention and legal expertise towards identifying appropriate cases. Fels and his Deputy Chairman Allan Asher had already begun an ardent litigation strategy while they were at the helm of the TPC (1991–1995). This resulted in successful prosecutions that occurred just as the ACCC began its operations. Oft-cited cases include the TNT/Mayne Nickless freight express cartel, which saw the ACCC garner the court's imposition of penalties and costs totaling AUD14 million in 1995, and the Aboriginal insurance case (more below). The Aboriginal insurance case opened the way for the ACCC to use 'enforceable undertakings' as a regulatory instrument. Enforceable undertakings are the capacity to negotiate an informal settlement which is court enforceable should offenders default (Australian Competition and Consumer Commission 2004, 2014). The TPC/ACCC also pursued moral retribution in informal settlements and by holding as many parties—individual or corporate—legally liable for contributing to the conduct.

With TNT/Mayne Nickless, the ACCC used its investigative work to reveal in court how executives of three different freight companies reached agreements to allocate customers and market share. This case made ordinary Australians conscious of corporate misconduct. It was also significant for subjecting executives to personal fines, sending shockwaves through the business world. Similarly, the Aboriginal insurance case involved a series of cases revealing various well-known insurance companies (from Colonial Mutual to AMP) engaging in predatory selling practices through misrepresentation and unconscionable conduct in remote Aboriginal communities. ACCC special investigators from Queensland and the Northern Territory Regional Offices cooperated closely with local community members to put the case together.

The agency continued to develop its approach in pursuit of best practice, although some scholars queried whether its litigation strategy did much to ensure business compliance (Parker 2006; Parker and Lehman Nielsen 2011). Coined the 'engine room' of the ACCC, the Enforcement Committee was initially chaired by Deputy Chairman Asher; a former consumer law advocate (Brenchley 2003). While at the TPC, Asher had internalized academic insights into how to create an effective agency and regulatory compliance strategy. Braithwaite, an internationally renowned regulatory scholar from the Australian National University, had worked

with Asher as part-time Commissioner in the TPC to develop and apply an enforcement framework for effective compliance on 'a limited budget' (Corones et al. 2009: 150). This inspired the development of a proactive enforcement culture through strategically selecting targeted cases, relentlessly appealing failed cases (when financially viable), and soft-power repertoires (such as naming and shaming in the media, among others) to secure corporate compliance.

The agency invested in the professionalization, technical expertise and value alignment of its staff. Supply of talented and committed employees was boosted by the broad momentum that competition policy continued to enjoy within Australian society. This created opportunities for trade lawyers, professionals in merchant banking, share analysts, criminal investigators and economists to pursue careers in regulation and enforcement. Also, the ACCC had inherited from the TPC a cadre of dedicated professionals with a deep appreciation for the organization's public value proposition.

Insiders attest to a culture of frank internal discussion in the ACCC, with Commissioners deliberating vigorously in a Cabinet-style process (Schaper 2019). Annual, externally focused Chairman statements of priorities listing the issues, topics or industries that would be the focus for the next year (instigated as an internal routine by Baxt in the TPC), and Statements of Intent responding to the Minister's Statement of Expectations became transparency routines. Strategies regarding selection of legal cases or tackling requests for government inquiries, though, are carefully guarded and prepared internally. Unlike its regulatory peers, for example in Australia's financial sector, ACCC remains untouched by accusations of collusion.

The ACCC is a self-consciously proud agency. It celebrates its past and organizes reflection upon its experiences. TPA jubilees are celebrated, and the organization hosts various annual lectures named after competition administrators or consumer law heroes, such as the Bannerman Competition Lecture and the Ruby Hutchinson Memorial Lecture.

Securing Public Legitimacy

In ACCC's formative years, under Chairman Fels, media profiling was a part of a strategic effort to bolster agency reputation and secure support from (or at least disarm) the authorizing environment, notably government and business. Biographical studies refer to Fels' PSA days and how it

taught, and brought, experience of using the media to obtain widespread social support for organizational mission (Brenchley 2003; Fels 2010). For example, highlighting actions, that garnered popular support, or explaining the benefits to the consumer of technical legal issues, such as what constitutes 'misuse of market power'. A self-confessed 'media tart', Fels courted publicity and had a knack for picking fights with 'big end of town' corporations that exposed less salutary aspects of their operations. ACCC also used other strategies for securing wide legitimacy for the operations and mission, for example, incorporating affected consumers in investigating and developing legal prosecution, and, through drawing from knowledge accrued by state offices.

Fels used the media in ACCC's early years to trumpet the enforcement successes and consumer protection mission of the organization. Besides building a broad constituency and familiarity for ACCC's work, this reverberated internally as staff saw that their daily work, mission, and ultimately intrinsic motivation were publicly celebrated. Moreover, using the media to secure moral deterrence of corporate misdemeanours was consistent with the pyramid of enforcement noted earlier (Parker 2006). ACCC developed internal routines for identifying and responding to the conduct they wished to affect through less to more intrusive enforcement, e.g. from education about internal compliance systems for specific sectors or persuasion on moral standards, to sanctions, obtaining reparation and legal action (J. Braithwaite 2002; V. Braithwaite 2007).

Fels' media presence also put government and (big) business on notice about the support ACCC was gathering from consumers, small business and farmers. Ultimately, this did not preclude big business from lobbying publicly against the hard enforcement line of the ACCC (and its celebrity Chairman in particular). The public shaming of corporate misdemeanours brought ferocious counteraction from business precisely because such public moral disrepute was far more damaging to them than financial penalties (Parker 2006). Settlements often followed when businesses considered their position in this light.

Notwithstanding the tough and very public battles ACCC action prompted, the ACCC's enforcement strategies bore fruit. Leading from the front, Fels managed to instil a zealous appetite among staff for turning the ACCC into a no-nonsense, widely known regulator 'with teeth', whose actions were designed to make Australia a more productive and just society. At the same time, Fels maintained a productive relationship with government. Fels was conscious of the longer history of the TPC and the

challenges his predecessors Bannerman and Baxt had faced in securing ongoing government attention, support and financing. Both Baxt and Fels used their active advocacy to shape government competition policy.

Fels' actions, at least initially, impressed the government (contrast Corones et al. 2009: 164–170; with Brenchley 2003: 90–95). Indeed, the ACCC came to be seen as a source of legitimacy for government decisions. For example, on the back of the ACCC's growing enforcement reputation, the new Liberal/Conservative government chose the ACCC to oversee the implementation of their politically important and contentious Goods and Services Tax. This brought more publicity (and government financing) to the ACCC. Fels and the organization played a visible role in advertising and education campaigns about the new tax.

ACCC also invested in its interactions with business and in a range of network engagements. These became increasingly sophisticated and varied over time, such as through Baxt's compliance workshops, cooperation with international competition regulators, and through the consultative committees of the ACCC. These committees traverse the different functional responsibilities of the ACCC and incorporate representatives from affected external actors ranging from businesses, farmers and consumers to a range of legal and financial professionals. ACCC maintains regional offices that keep a local 'ear to the ground.' These structures and mechanisms of engagement with diverse and geographically dispersed actors bring outsider knowledge and perspectives into the organization. It also builds stakeholder understanding of the ACCC's outlook and methods.

Over time, a larger trade practices community both within and outside Australia has developed in support of the ACCC's mission. This community consists of social commentators, legal practitioners, economists, political journalists, consumer law advocates, international organizations (such as the OECD) and former Commissioners and staff. ACCC Chairmen also present public lectures, such as the annual ACCC Chairman's presentation to the Committee for Economic Development of Australia (CEDA), an influential independent think tank.

Adapting to Challenges and Changes

As a competition regulator, the ACCC must contend with at least three potentially undermining factors: the political environment and related

authorization for active enforcement; failure to maintain ongoing refinement of effective enforcement methods supported by legal developments; and inadequate financing to maintain capacity (Fels 2010). The ACCC's institutional armoury, including its integrated approach and established routines for enforcing competition and consumer law, its multi-sector focus, and broad constituency have, to some extent, shielded the organization from budget squeezes or constriction of its licence to operate. Later Chairmen, following Fels, also kept up a determined effort to continue to further evolve Australia's competition law in response to the anti-competitive effects of corporate power.

Nevertheless, Fels' and Asher's aggressive forays into penalizing and publicizing anti-competitive behaviour saw a significant backlash from the business community towards the end of Fels' first term as ACCC Chairman (Brenchley 2003). Big business remains fiercely opposed to any measures that strengthen subjection to competition law which dilutes corporate power and profits. It is no secret in Australia that business associations actively lobby politicians and governments (behind closed doors), have deep pockets for lawyers, and rebuke or delay administrative decision-making (Edwards 2020). Fels in particular was subjected to much vitriol, including from powerful organized interests such as the Business Council of Australia (BCA). This probably contributed to the government offering Fels only a shortened second term, while a number of Commissioners stood down or were 'moved on'.

Fels was succeeded by Graeme Samuel, a merchant banker and former head of the National Competition Council, where he was responsible for negotiating federal-state competition issues in the early years of the national competition policy. Some commentators described Samuel as a selection to appease big business, in particular the strong and powerful lobby, BCA (BCA is long associated with the Liberal party, then in government). A majority of states initially refused to endorse Samuel's appointment, although an eventual compromise succeeded through appointment of a consumer advocate as Deputy Chairperson. In his inaugural speech Samuel made it clear that he would not be a public official that would engage in public lecturing or advocating policy to government. Also, he explicitly committed not to 'trample on' civil and legal rights of business (Samuel 2003). During his period (2003–2011) as Chairman, the ACCC engaged in noticeably fewer and a narrower range of litigation cases (Ergas 2011; Edwards 2020).

However, Samuel made the criminalization of cartel conduct, an initiative first pursued under Fels, a key focus of his term (Samuel 2004). In 2009, the new cartel criminalization regime was introduced by an amendment to the TPA (Beaton-Wells and Haines 2010). This shifted focus in the Enforcement Committee to identifying and pursuing cartel cases. While bringing the prospect of accruing political capital through high-profile successes such as imposing criminal penalties on wealthy executives, focus on cartel cases took resources and distracted from weaknesses in other areas of Australian competition law, in particular mergers and misuse of market power (Beaton-Wells and Haines 2010).

While the ACCC may have reduced the breadth of its litigation activities under Samuel, a quieter pursuit of enforceable undertakings continued and grew in different years of his Chairmanship, with positioning on market power dominance still simmering (Nehme 2008). In both instances, existing routines in the organization and among its external constituency kept the ACCC's enforcement identity and capacities alive, albeit with a different intensity and focus.

In recent years, the ACCC kept growing. Its staff has more than tripled since inception. Its statutory roles and enforcement repertoires have significantly expanded, largely through being proactive in strengthening competition law and developing responses to emerging phenomena (e.g. the rise of social media giants). The ACCC's proactive adaptation also included fostering and attending to new public advocacy groups (e.g. consumer data right initiatives) as a presence in the authorizing environment. Moreover, the ACCC's stature as a competent and stalwart enforcement regulator appears hardly tainted—even thriving—in spite of recognition of the more restrained Samuel's term and ongoing weaknesses in Australian legislation.

A consistent pattern in the ACCC's maintenance of its institutional status has been the ability (inherited from early TPC years) to continue to experiment and push boundaries of the law in different realms of competition policy and in response to new phenomena or different constituencies. It has done this in interaction with the agency's variegated environment. For example, when the ACCC's experts propose new definitions and norms of how and where to apply the law in internally selected strategic cases—and these cases succeed publicly—this then reinforces the ACCC's enforcement status. In that way, a virtuous cycle has been created.

This key self-reinforcing formula of virtuosity seems to have remained consistent over ACCC's lifetime. Though varying with different leaders,

there have remained established traditions of publicly demonstrating the significance of ACCC's functions, not just to corporations but also to vulnerable groups and, more generally, the everyday experiences of citizens.

The ACCC has proactively pursued developments in the law. Examples include acquiring enforceable undertaking powers, increasing financial penalties, criminalization of cartel behaviour, the introduction of 'effects' test, and functions pertaining to social media and data rights. The internal capacity to pursue these adaptations has been bolstered by diverse regulatory instruments, ongoing influx of new and more diverse expertise through graduate programs, and the gradual expansion of the range of actors represented in ACCC's management structure and committee system. Examples of the latter include the creation of a Consumer Data Rights Consultative Committee and incorporating small business experts among commissioners. All these refinements to ACCC internal and external capacities are facilitated by the quality, integrity and continuity among leadership. In particular the strong and facilitative commitment both Fels and Sims lent to building and connecting ACCC's internal mission culture with their external success, celebration and focus.

THE ACCC's 'MISSION MYSTIQUE': LESSONS FOR REGULATORY INSTITUTION-BUILDING

The preceding sections describe the origins and institutionalization of the ACCC, drawing from Selznickian concepts presented in the Editor's introduction. These concepts, such as building a distinctive identity (here as a combative regulatory enforcement machine) and external legitimacy, are further broken down and transposed by Goodsell (2011) in his categorization of features of 'mission mystique' (the qualities which set institutions apart from mere organizations). In Table 13.1 we summarize our findings about the ACCC according to Goodsell's mission mystique.

Twenty-five years after its creation, the ACCC has attained a strong foothold in Australia's public sector. It is widely respected and recognized as an enduring institution. As the ACCC enters new terrain for competition law such as social media and platforms, it continues to grow and command respect from government and consumers alike. A most powerful demonstration of the recognition of ACCC's ongoing success within its environment has been the recent lauding of the ACCC's enforcement efforts against large corporations by Australia's

Table 13.1 The mission mystique of the ACCC

	Prime qualities	*Essential elaborations*	*Temporal aspects*
A purposive aura	Enforcing competition and consumer law to promote competition, productivity and fair trading (1995), to enforcing competition and consumer law to make markets work for consumers	Regulating competition and consumer welfare for the continued growth of Australia's economy and prosperity	An active enforcement agency and expert advisor
Internal commitment	There is a longevity among staff and at the same time the organization attracts motivated young graduates	A strong 'cadre' of experts and professionals including lawyers, economists, consumer advocates. A commitment to moral integrity and anti-collusive behavior	Maintains internal and external rituals of Chairman reports, public lectures and jubilee recordings/other documentation of organizational history. The history is known and accessible staff and even parts of the Australian public
Sustaining features	There is robust internal deliberation of strategic decisions. External legal strategies must survive critique of the courts and elite debates among the 'Trades Practices Mafia', e.g. journalists, lawyers, expert policy makers, former staff	The formal legal basis of the agency's statute, reference to court judgement and other features of design present some insulation from political interference. The agency's expertise and ability to perform has to date assured financial capacity	Ongoing stretching and experimentation with boundaries of law. Agency leadership and its embedding in international community gives capacity to foresee and develop new responses to changing economy and society. The agency is propulsive in some determinations

Source Based on Goodsell (2011)

Banking Royal Commission, and the 'third term' appointment of current Chairman Rod Sims.

This chapter has sought to indicate why the ACCC is an institution and identify some of the processes that have reinforced, and continue to reinforce, its institutional status. A key argument in the present account is that the ACCC inherited robust routines from its predecessors, which provided ACCC leadership with variety in experience to both build a distinctive internal capacity to respond to and use the configuration of the environment cultivated by leadership, to sustain ongoing institutional status through adapting routines for action.

Early ACCC leadership (with experience from the TPC and competition law) could further consolidate and adapt these routines to contemporary environments. Such traditions and routines are today, to some extent, supported by ACCC's formal institutional rules and processes, and informal culture and commitment to legal enforcement and experimentation. Examples include the authority granted by the CCA or inclusion of variety in agency formal design, state input into Chairperson appointments, and informal culture and enforcement strategies. Furthermore, traditions and routines are supported by the knowledge gained through relationships that the ACCC is embedded within, for example its committee system, international networks of regulators, and media presence. Even though it is not immune to political influence or industry counter-reaction, evidence of collusion is limited, and an organizational buffer is created through ACCC's broad constituency and commitment to its mission. The organization has had failures and periods or cases where its effectiveness has seemed in jeopardy. Yet, to date, the ACCC's 'mission mystique' (Goodsell 2011) has proved stronger than these incidental strains and setbacks.

REFLECTIONS

After decades of anti-competition policy and legislation, and especially after 40 years of the ACCC, there are highlights that may provide useful points of reflection for other public regulatory agencies hoping to gain institutional status. Chief among these are for leadership to have an awareness of the historical inheritance of the organization and the available resources these present both for enhancing internal capacity for regulatory mission and securing external legitimacy.

In the case of the ACCC, inheritance attributes that brought and protected ongoing institutional reinforcement include: formal insulation of expert and strategic decision-making from partisan influence, variegated internal regulatory instruments and external constituencies that can be mobilized to adapt to new environments and, leaders able to connect the value and focus of internal agency mission to external constituencies. ACCC has a strong record of leadership integrity and expertise actively celebrated and acknowledged for pushing the necessary legal and organizational boundaries to maintain ongoing social relevance of the agency's function. This in itself has attracted a stable, impassioned and continuous cadre of organizational experts. We offer a brief reflection on these key findings.

First, the experience and principle of insulation from partisan politics or direct political control is hardly a unique observation in regulatory scholarship or the ACCC (Kovacic and Winerman 2015), but it is insightful to appreciate the historical origins in this case. ACCC formed in a powerful central government department, the Treasury, yet its precedents (TPC) in the Attorney-General's Department provided it time to accumulate internal capacities for data and evidence collection, and legal prosecution, in (legal) practices establishing a norm of protecting the public interest independent of government. Both the skills and values of enforcing competition law in the 'public interest' were institutionalized as values in themselves distinct from the whims of the shorter terms of specific governments.

While the establishment of these earlier routines were, of course, never totally insulated from outside forces or interests, an internal precedent and mission was set for holding firm on law enforcement. Later insulating this mission would also be formalized in the ACCC's design which includes a statutory basis for the ACCC's function, ongoing adjudication by courts (not government), and in state input into Chair and Commissioners appointments. One weakness noted in this case is that the ACCC's legislation allows the government to shorten Chairman/Commissioners length of tenure.

Second, the variegated nature of both ACCC's regulatory instruments and tasks—from the CCA itself, to advice functions and the use of the regulatory pyramid—and its broad, diverse constituencies provide agency leadership ample fodder for responding to environmental demands. While it maintains a cohesive mission 'to enforce competition law', the ACCC undertakes this across numerous sectors and has a sophisticated array of

instruments to respond to and anticipate offences. From tough sanctions, to education, bringing public attention to corporate misdemeanours or requiring normative not just financial retribution, the ACCC is able to tailor a raft of measures to obtain acquiescence or normative agreement on compliance. The range of sectors for which it has responsibility also acts against establishing 'special relationships' with particular industries that could lead to accusations of collusion. Relatedly, the early inclusion of consumer law into Australian competition legislation has from the outset ensured a more 'grassroots' constituency for the ACCC. This creates momentum within the organization to ensure that understandings of the 'public interest' are kept relevant and grounded to the domestic life and values of the citizenry, rather than simply that of corporations or economists.

Together, all this variety brought together for the mission of 'enforcing competition law' is a resource for the ACCC to conserve its institutional status. As was seen in the chapter, the external consultative and public appearances of ACCC representatives and its committee system provides a means for the organization to maintain a diverse network. Again, variety in both tasks and constituencies can insulate against political interference, or provide different outlets for maintaining institutional success despite challenges in some parts of the environment. Lessons for other regulators might include how to foster diversity in their environment in a way that can temper the influence of powerful interests or threats to institutional status.

Third, the case of the ACCC provided important examples of leaders connecting and demonstrating the value of the internal operations of the agency with external focus and achievement. Professor Fels in particular facilitated a virtuous cycle of law enforcement through internally ramping up the strategic focus of enforcement strategies, while at the same time reinforcing this through external shaming and threats to corporate offenders. Simultaneously, he also publicly celebrated enforcement successes, where both public proclamations sought to accrue legitimacy to a broad external public and motivate his staff. In combination with ongoing experimentation with the law and extending the boundaries available to the ACCC for obtaining corporate compliance, this leadership strategy seeks to discipline and channel ACCC's wider institutional nexus to the agency's capacities and mission.

Questions for Discussion

1. How can variety in an institution's historical experience provide resources for agency leadership to ensure it adapts to new environments?
2. What are the pros and cons of an agency having a broad constituency—in case of the ACCC both consumers and external experts—from the point of view of building and maintaining institutional legitimacy?
3. How does the presentation of an institution's success impact the commitment of its members, and, under what conditions might certain forms of external celebration and branding undermine internal commitment to mission?
4. What would the ACCC need to consider in order to effectively balance the very different expectations of community, business and governments and still maintain its institutional status?
5. What might happen to the ACCC institutional aura if a new Chairperson were to step into the ACCC proposing a radical overhaul of its suite of enforcement strategies?

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