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Policy Instruments and Governance

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INTRODUCTION

Much of the debate on governance is either concerned with the question of conceptualization in relation to different theoretical traditions (see the previous chapters of the *Handbook*) or with the characterization of modes of governance often centred on networks.

This chapter, by contrast, deals with the ways through which governance is operationalized, i.e to come back to classic questions associated with governance and government alike: not just who governs but how governments and various actors involved in governance processes operate. This is not a new idea. Foucault, in particular, made the point about the importance of governmental activities to understanding change of governmentality and the theme was central for N. Rose and P. Miller when they started their long-term research project on governmentatility.

However, to raise this issue is to underline that the governance research agenda is historically related to the 1970s research about public policy failures, which is well represented by the work of Pressman and Wildavsky (1973). The question was whether complex societies were becoming ungovernable or if, at the very least, governments were less and less able to govern society through the administration, taxes and laws.

Ever since, this debate has led to a dynamic governance research domain organized around the following questions:

- Can government govern, steer or row (Peters, 1997)
- Do governments always govern?
- What do they govern, and how?
- What is not governed?
- Can we identify dysfunctions of governments over time?
- Can groups or sectors escape from governments (Mayntz, 1993)?
- Who governs when governments do not govern (Favre, 2005)?
- Can governance replace government or will governance failure replace government failures (Jessop, 2003)?
- How does government and governance operate?
- What does it mean to govern complex societies (Peters and Pierre, 2005)?

As shown in this *Handbook*, governance can be defined in different ways but a distinctive line of research has made close links with public policy implementation. Government failures and public policy failures have been associated both with the limits of governmental actors in a context characterized by myriads of actors operating

at different levels, but also with the failures of classic tools mobilized by governments to govern, i.e. taxes and laws. In a seminal paper on governance and government failures, the German sociologist Renate Mayntz (1993) explicitly linked the governance question to the search for new policy instruments. In Canada and the USA, public policy scholars such as M. Howlett and L. Salamon have developed important research projects on policy instruments and new forms of governance.

This chapter argues that the question of the policy instrument is central to the conceptualization and the understanding of changing forms of governance. However, it aims to disconnect this research question from the naive identification of 'new policy instruments' and 'new governance', a reification that was particularly strong in the European context of the 'new Europe' of the 'new millennium' and in the search in the USA for 'new policy instruments'. The point is also to avoid the functionalism often associated with choice of policy instruments.

We therefore argue that the focus on the public policy dimension of governance and its operationalization, i.e. the choice of policy instruments, is a fruitful avenue to demonstrate and interpret changing forms of governance.

Following Hood (1986), Hall (1993) and Linder and Peters (1990), public policy instruments are defined sociologically as

> A device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries. It is a particular type of institution, a technical device with the generic purpose of carrying a concrete concept of the politics/society relationship and sustained by a concept of regulation (Lascoumes and Le Galès, 2007: 5).

Policy instruments embody particular policy frames and represent issues in particular ways. They are a form of power. Rarely neutral devices, they produce specific effects. The impact of an instrument is independent of the aims ascribed to it or the objective pursued.

Instruments structure public policy and modes of governance according to their own logic.

The chapter first reviews the policy instrument literature in relation to the question of governance and governmentality. I then argue that a political sociology of policy instruments is particularly useful to contribute to the conceptualization of governance and to identify changing modes of governance. The policy instrument approach provides some empirical substance to characterize different modes of governance. I then argue that in mobilizing, in particular in the British case, the choice of policy instruments reveals the development of two modes of governance in the making. To use Bourdieu's metaphor, one might contrast a left democratic version promoting negotiation, and more deliberative making of the general interest and a right mode of governance using indicators, standards and technical instruments to centralize and promote a more market-oriented society. In other words, the use of policy instruments to understand governance suggests both the development of depoliticized formulas in 'the new governance' and the strenghthening of powerful mechanisms for the control and direction of behaviours.

GOVERNANCE AND POLICY INSTRUMENTS: NEW POLICY INSTRUMENTS FOR NEW MODES OF GOVERNANCE ?

In different types of polity, at different levels, the proliferation of actors and coordination instruments in an ever-increasing number of sectors has brought out a new paradigm: 'the new governance', or 'new negotiated governance', in which public policies are less hierarchized, less organized within a sector demarcated or structured by powerful interest groups at the risk of denying the interplay of social interests and of masking power relations. The state itself is increasingly differentiated. It seems to be a series of enmeshed agencies, organizations, flexible

rules, and negotiations with an increasing number of actors. Public policy is characterized by ad hoc or contingency arrangements and enmeshed networks, randomly by a proliferation of actors, multiple aims, heterogeneity, cross-linking of issues and changes in the scales of reference territories. The capacity for direction of the state is subject to challenge; it seems to be losing its monopoly and is less the centre of political processes or of conflict regulation. At the same time, scholars identify logics of state expansion and recentralization (Gamble, 1993; Jacobs and King, 2009).

To understand the dynamics of governance in this historically precise context, Lascoumes and Le Galès (2007) have suggested focusing precisely on policy instruments and instrumentation in order to document change over time. In the past, policy instruments were not a central domain of interest for governance scholars and hardly more so for those working on regulations. Policy instruments were analysed in a rather functionalist way to understand some minor processes of policy changes. By contrast, over the last two decades the question of policy instruments has been very closely linked to the developments of modes of governance. To be more precise, the question of 'new policy instruments' has been associated with the making of 'new governance', if possible in order to innovate for the 'new millennium'. Empirical research in different policy domains has identified significant change in the choice of policy instruments, both in the USA and Europe, in different policy sectors. In other words, innovations in policy instruments has become significant up to the point where it was suggested that the rise of new policy instruments might be an indicator of a 'new governance' in the making. Indeed, what accounts for the transition from 'old' command and control to 'new' market-friendly policy instruments? How, if at all, do 'new' instruments differ from the 'old', and to what extent have they overcome the contradictions and unintended impacts of more traditional instruments?

Classically, the question of policy instruments has been studied in order to analyse public administration and policy change, as in the work of Dahl and Lindblom on economic policy (1953). It was also used in the critical management research of the 1980s and in the sociology of science. The work of Christopher Hood stands out as the reference in the field. In his classic book '*The Tools of Government*' (1986), rewritten as '*The Tools of Government in the Digital Age*' (with H. Margetts, 2007), which is seen as a contribution to the public policy implementation literature, Hood's analysis is mainly concerned with information-gathering and behaviour-modifying activities of governments. The analysis provided a generic classification to develop comparison over time and sectors. In the public policy literature, the use of policy instruments was also developed to understand the change in the provision of services, the rise of automatic instruments to avoid blame (Weaver, 1989), to improve policy implementation (Bertelmans-Videc, Rist and Vedung, 1998) or to identify public policy change. The creation of a public policy instrument may serve to reveal a more profound change in public policy – in its meaning, in its cognitive and normative framework, and in its results. Writers of the various neoinstitutionalist persuasions have all turned towards highlighting institutional reasons for obstacles to change and tendencies towards inertia. Peter Hall first revived the question of public policy change when he identified different dimensions of change in this area, differentiating between reform objectives, instruments, and their use or their parameters: this led him to hierarchize three orders of public policy change (Hall, 1993). Thus, he situated instruments at the heart of his analysis of public policy change. Although a good deal of the literature proved quite functionalist, Linder and Peters (1989, 1990) moved towards a more political analysis of the choice of instruments and their impacts.

This chapter does not aim to provide a sophisticated review of the policy instrument

literature (see Hood, 2007a) but rather to see how research questions associated with governance brought in the policy instruments dimension.

Four examples of research projects developed over at least a decade bear witness to this development.

First, in 1984, a political scientist, Fritz Scharpf and a sociologist, Renate Mayntz, established the Max Planck Institute for the Study of Societies in Cologne. For nearly two decades, that centre has analysed emerging forms of governance in Europe. In Kooiman's classic book on governance, Renate Mayntz (1993) stressed the failure of the German state to govern various groups. Influenced by Luhman, she analysed the capacity of groups and sectors to differentiate and to create their own rules in order to escape, to avoid the pressure of law and taxation. She therefore framed a 'governance' agenda, calling for the mobilization of new policy instruments, more based upon negotiation, which would give back some governance capacity to the state. She has therefore emphasized the need for policy instruments that can increase or re-establish the capacity of governments to govern, steer, guide or pilot (see also Mayntz, 2006). This discussion echoes classic themes in public policy research, not least the emphasis on implementation failure. A parallel project was also underway at the Erasmus University of Rotterdam, with Jan Kooiman and his group analysing the dynamics of networks in complex societies and the logics of governance (Kooiman, 1993, 2003). Policy instruments were less central here, except to control and orientate policy networks.

In addition to the question of who governs – as well as to questions of who guides, who directs society, who organizes the debate about collective aims – there is now the question of how to govern increasingly differentiated societies. States are parties to multinational regional logics of institutionalization, to diverse and contradictory globalization processes, to the escape of some social groups and to economic flows, and to the formation of transnational actors partly beyond the boundaries and injunctions of governments. Enterprises, social mobilizations and diverse actors all have differing capacities for access to public goods or political resources beyond the state – the capacities for organization and resistance that, in the 1970s, brought about the theme of the ungovernability of complex societies. This literature has reintroduced the issue of instruments, through questions about the management and governance of public sub-systems of societies and policy networks (Kickert et al., 1997; Rhodes, 1997).

On the other side of the Atlantic, L. Salamon (1981) pioneered a programme of research on the tools of governments, focusing on the role of third-sector organizations in government. Various scholars in Canada (*The choice of governing instrument group* 1982), M. Howlett (1991, 1995) and in the USA (in particular, Linder and Peters, 1989) contributed to the thinking about policy instruments and the design of new forms of governance. Howlett has in particular emphasized the logic of what he calls the 'first generation studies of policy instruments', which look at policy choice in a very limited way, in terms of efficiency in particular.

Secondly, policy instruments have been especially important in the literature on the transformation of the state in the late twentieth century as a consequence of processes of public sector reform, the technological revolution, and devolution, as well as globalization and Europeanization. They have become an important focus as traditional methods of command-and-control have given way to more flexible and inclusive modes of state–citizen interaction, also in relation to privatization processes (Salamon, 2002). Salamon and his colleagues have focused on governance mechanisms beyond the state and the rise of the state acting through others, in an indirect way. That has given rise to this link between new policy tools and a new governance paradigm stressing the capacity of non-state actors to participate in governance as a process. It promotes a

normative view of governance in which public policies are less hierarchized, and less organized within a sector demarcated or structured by powerful interest groups (e.g. urban policy, environmental policy, new social policies or the negotiation of major infrastructures) – at the risk of denying the interplay of social interests and of masking power relations. Over and above deconstructing this issue (as well as the limits of government and failures of reform), research into government and public policies has highlighted the renewal of public policy instruments either for the development of depoliticized formulas in 'the new governance' or through fostering powerful mechanisms for the control and direction of behaviours.

This normative view about the 'new governance' has sometimes been criticized as the 'enchanted land' of negotiated governance where questions of power and domination more or less evaporate. Salamon's massive edited volume in 2002, '*The Tools of Government: A Guide to the New Governance*', is a key achievement of that group, providing a rather large and encompassing definition of policy tools and making a brave claim about the rise of a 'new governance' paradigm.

Thirdly, scholars of the European Union (EU) have used instruments as an organizing concept, sometimes as equivalent to new modes of governance. The EU White paper on 'Governance' was marginalized in policy terms but raised an interesting intellectual debate (Commission of the European Communities, 2001). Always searching for an adequate characterization of the EU as a political beast, EU scholars have in particular noticed the rise of new policy instruments in a number of domains, seen as evidence of a 'new EU governance' in the making (Zito, Radaelli and Jordan, 2003). This is particularly the case in research on EU environmental policy, where scholars have been especially attentive to changing modes of governance (Knill and Lenschow, 2000; Jordan and Lenschow, 2008; Halpern, 2010).

This instrument-oriented research has been focused mainly on 'new' instruments and directed at the debate about 'new governance' or 'new' modes of governance. This literature developed in the early late 1990s and early 2000s in response to the series of EU initiatives launched with the declared intention of transforming EU governance and giving integration a new dynamic, despite the growing influence of the member states. As is usually the case, they did not produce the results that were anticipated, but they did attract considerable scholarly attention, with authors excited by innovation, new modes of governance and the functioning of a 'new' enlarged Europe in the 'new' millennium. Major EU-wide research project including 'NEWGOV' (website: http://www.eu-newgov.org/) attempted to characterize the EU governance.

In this world, soft law and new policy instruments appeared to flourish. Attempts to involve representatives of civil society in EU decision-making were seen as promising avenues to deal with the so-called 'democratic deficit' (Smisman, 2006; Steffek et al., 2007), and although the White Paper on Governance itself had a limited impact, new policy instruments carried the promise of making the EU more transparent and more participatory. Particular attention was directed towards networked instruments and networks, which were emblematic of the new approach (see, for example, Jordan and Schout, 2006). The research had the contradictory impact of different policy instruments and the rise of what is often called new modes of governance as a response to the coordination problems raised by the use of new policy instruments. 'New Modes of Governance' comprise ranges of policy instruments, which are combined. Most policy instruments advocated by the EU have to combine, somewhat uneasily with existing policy instruments at a different level, thus creating issues of sedimentation and contradictions, and opening new avenues for coordination mechanisms (Kassim and Le Galès, 2010).

Because the EU is a polity in the making, the choice of policy instruments is particularly central to define the characteristics of its public policymaking and to map out some mechanisms of institutionalization. In that context, some instruments of coordination and rationalization were supposed to characterize the 'new governance' paradigm, i.e. without power relations. In the case of the open method of coordination, an instrument to coordinate various policy domains in EU countries without constraints, Dehousse (2004) has decisively shown that the instrument is the policy: i.e. the choice of the instrument is explained by the need to be seen to do something concerning the governance of the EU without political agreements about the goals.

GOVERNANCE, GOVERNMENTALITY AND POLICY INSTRUMENTS

The question of policy instruments has to be disentangled from that of a new governance paradigm. The most positivist, sometimes naïve and normative tone of some of the literature has to be contested. To start with, the question is not so new and should be embedded within a broader literature.

Interest in policy instruments is not new. As Hood (2007: 128), reminds us:

> Debating alternative possible ways of keeping public order, enforcing laws, or collecting revenue is a classical concern of political thought. In the Enlightenment era, discussion of effective instruments of policy was a central concern of European 'police science' from the early policy science literature of the 1530s.

In fact, social scientists studying the state and government have long taken an interest in the issue of the technologies of government, including its instruments – Weber and Foucault, for instance. Max Weber pioneered this interest, in his analysis of forms taken by the exercise of power, when he made the creation of bureaucracies a major indicator of the degree of rationalization of societies.

Through this emphasis on the importance of devices that embody a formal legal rationality in the development of capitalist societies, he gave an autonomous role to the material technologies of government (Weber, 1978), whereas classic theories had centred mainly on the sovereignty and legitimacy of those who govern. In seeing public policy instruments as a technique for domination, he was also offering an early problematization of their role.

Michel Foucault took up this subject in his own way and pointed out the importance of what he called the 'technical procedures' of power – that is, the 'instrumentation' – as a central activity in 'the art of governing' (Senellart, 1995).

For Foucault, the central issue was not the democratic or authoritarian nature of the state; nor did it relate to the essence of the state or to its ideology, factors which legitimize or fail to legitimize it. He looked through the opposite end of the telescope, taking the view that the central issue was that of the statization of society – that is, the development of a set of concrete devices, practices through which power is exercised materially. He proposed a study of the forms of rationality that organize powers. Analysing practices, he stressed that the exercise of discipline was at least as important as constraint. Contrary to the traditional concept of an authoritarian power functioning through handing down injunction and sanction, he proposed a disciplinary concept that was based on concrete techniques for framing individuals, allowing their behaviours to be led from a distance.

In a 1984 text, he formulated his programme for the study of governmentality as follows. This approach:

> Does not revolve around the general principle of the law or the myth of power, but concerns itself with the complex and multiple practices of a 'governmentality' that presupposes, on the one hand, rational forms, technical procedures, instrumentations through which to operate, and, on the other, strategic games that subject the power relations they are supposed to guarantee to instability and reversal. (Foucault, 1984)

In other words, the question of policy instruments is central in Foucault's analysis of governmentality. He contributed to the renewal of thinking on the state and governmental practices by shunning the conventional debates of political philosophy about the nature and legitimacy of governments, devoting himself instead to their materiality, their policies and their modes of acting. In his reflections on the political, he put forward the question of the 'statization of society' – that is, the development of concrete devices, instruments, practices functioning more through discipline than constraint, and framing the actions and representations of all the social actors.

The legacy of this thought has been remobilized, in the contemporary period, to account for changes in modes of government/governance and the making of new forms of neoliberal governmentality (Miller and Rose, 2008). Focusing on policy instruments is a way to link sociological analysis of forms of rationalization of power to the public policy tradition that is looking at new linkages between public authorities and economic and social actors in an internationalized context, for means of regulation and governance.

The question of policy instruments is therefore central for the governmentality tradition of research revived in particular in the UK around Rose and Miller as much as for the governance research agenda. This raises the delicate question of conceptualizing and differentiating goverance and governmentality. This would require a more detailed discussion that is made perilous by the fact that the conceptualization of both governmentality and governance are not stabilized. Without too much of theoretical syncretism and at the risk of confusion, it makes sense to argue that some questions are part of a parallel research agenda, e.g. policy instruments. The main problem derives from the fact that Foucault never wrote a clear book on governmentality, that several conceptions have developed over time, and that the publication of some of his key texts (lectures in the Collège de France) is pretty recent and hence has caused confusion amongst governmentality scholars, in particular Anglo-Saxon and French scholars. As is also well known, scholars are innovative when using important thinkers in creative ways with or without being absolutely loyal to the original. Lascoumes (2008) has in particularly argued that three conceptions of governmentality have been developed by Foucault over time.

First, Foucault uses the term 'governmentality' in 1984 but already, in *Surveiller et Punir*, published in 1975 (translated as *Disciple and Punish*; Foucault, 1977), Foucault elaborates an original conception of politics, the art of governing, and the conduct of conducts. In this book, the long chapter about 'discipline' deals with the different places where 'discipline' is exercised beyond prison: for instance, in the army, hospitals, schools and convents. He studies the normalization of discipline practices within the army, both to train individuals and to organize collective action.

Secondly, in 1984 and for a few years, Foucault developed his thinking about governmentality in a series of conferences and lectures based upon his reworking of the writings of the cameral sciences (the science of police): i.e. the concrete organization of society that took shape in France and Prussia in the seventeenth and eighteenth centuries that combined a political vision based on the philosophy of *Aufklärung* (Enlightenment) with principles that claimed rationality in administering the affairs of the city (Senellart, 1995). This rationality was gradually displaced by populationist concern for the happiness of populations, combining dimensions of public order, well-being and culture. The individuals and populations as collective entities were to be rationally disciplined in order to promote the well-being of the population, its reproduction, pacified social relations and economic productivity. Economics became as important as military science for state power. In that sense, the cameral sciences were the melting-pot of contemporary public policies.

Thirdly, in the *History of Sexuality* and the work developed about biopolitics, Foucault seems to be willing to go beyond his image of critical thinker only dealing with social control and constraints placed upon individuals. By contrast, the concept of governmentality becomes more centred upon individuals and the production of individuality, even if the collective dimension does not disapear. He stresses the 'subjectivation' process: i.e. how subjects invest and act in various situations to make sense of their existence. He also progressively analyses how public authorities (with the health world in particular), encourage subjects to be responsible for themselves, to think reflectively and to modify their behaviour – to self-regulate. This new form of governmentality (biopolitics) is seen as a postmodernist form of government at distance, where self disciplined subjects change their conducts in relation to assimilated norms and legitimate behaviours promoted by state organizations.

Those three related but slighly different conceptualizations open a large research agenda which bears some resemblance, for some limited issues to the question raised in terms of governance. In particular, the focus on the activities of the state, the understanding of power as a relation and the conception of politics, including various actors beyond the state, is quite important. Although a more precise analysis remains to be done, it is worth remembering that the UK-original 'governmentality' line of research developed in particular by Rose was informed by numerous exchanges with public policy scholars and in particular Hood. This strand of research on governmentality focuses on the second and third elements in particular and has led to interesting insights about biopolitics and neoliberal governmentality in the UK. Inspired by Foucault, Miller and Rose in London began in the second half of the 1980s to undertake a series of research on the question of governmentality. Following Fourquet classic analysis of French public accounting (1980) and the programme of the Sociology of Sciences particularly developed by Callon and Latour (1981), their programme of research included in particular the analysis of what they call technologies to shape the conducts, social and economic activities in accounting or management. They used Callon and Latour's idea of 'government at a distance' to focus on the material side of governmentality, i.e. the instruments making interventions possible. In a recent introduction to their work, they make the following comment: 'We took the idea of instruments broadly, to include not only actual instruments – tools, scales, measuring devices and so forth – but also the ways of thinking, intellectual techniques, ways of analyzing oneself, and so forth, to which they were bound' (Miller and Rose, 2008: 11). Rationalities could only become operationable through the instruments to act upon conducts. This has progressively led these authors to consider the making of a neoliberal governmentality or ways of governing liberal advanced democracies based upon three ideas:

1 A new relation between expertise with knowledge accumulated in management tools and calculating techniques.
2 A new pluralization of 'social technologies' and the 'deassembling' of governmental activities.
3 A new spefication of the subject of government.

For the purposes of this chapter, it suffices to concentrate on one dimension informed by Foucault's discussion of governmentality but also by the developments of the conceptualization in terms of governance, i.e. policy instruments and instrumentation.

A POLITICAL SOCIOLOGY OF POLICY INSTRUMENTS[1]

The focus on policy instruments specifically directs attention to the mechanisms of rule and the relationship between government and the governed. At the macro level, research on instruments has afforded insights into the changing dynamics of state intervention.

In the twentieth century, for example, the growth of the state was accompanied by the development and diversification of public policy instruments and by the accumulation of programmes and policies across an ever-broadening range of activities. At the micro level, it problematizes policy choice and policy change. It has been a key concept in debates concerning changing modes of governance, ungovernable societies and regimes of govermentality. However, it is crucial to focus on the instrumentation process, i.e. the logic of the choice of instruments, and to stop taking for granted instruments as neutral devices.

Instrument-focused research has made an interesting contribution to a series of important debates and has illuminated understanding of key developments and processes with respect to the modern state. However, much of the literature is dominated by an approach that restricts the insights of an instruments perspective. This functional approach has four main deficiencies:

1   It assumes that instruments are natural. Instruments are treated as though they are readily available, at the disposal of government, needing only to be selected from a toolkit or chosen from a repertoire. The only question is which particular instrument is best for the job.
2   The key concern relating to instruments is their effectiveness. Research on policy implementation, for example, has focused principally on the effects of a particular instrument and a wider reflection on whether the correct instrument has been chosen for the purpose.
3   Insofar as the new governance is concerned, the search for instruments is pragmatic in aim. The task is either to find an alternative to the traditional instruments, whose limitations have been acknowledged by governments and reported by numerous works on implementation failures, or to design meta-instruments (usually a form of better coordination) that will make the traditional instruments more effective, whether through planning, organizational reconfiguration, framework agreements or networks.
4   Analyses often take as their point of departure either the importance of particular policy networks or the autonomy of certain subsectors

of society. However, the problem with this particular approach is that it tends to conflate the choice and combination of instruments (a question that properly belongs to instrument-centred research) with the management or regulation of networks, which is a distinct organizational question.

More recent scholarship has seen the emergence of an alternative to the functional approach. The political sociology conception of policy instruments developed by Lascoumes and le Galès (2004, 2007), following Linder and Peters (1990) or Salamon's conclusion (2002), retains the same focus on the mechanisms of rule and the relationship between government and the governed, but it broadens and deepens the scope of enquiry considerably. Crucially, however, and corresponding with the four elements of the functional approach outlined above, it insists on the importance of the power dimensions that underlie the choice of instruments; re-conceptualizes instruments as institutions that require composition or construction rather than readily available objects; suggests that effectiveness is not the only or even the main criterion that governs instrument selection; and holds that the extent to which an instrument is effective is only one among several potentially significant aspects of instrument use and often not the most important.

In other words, policy instruments are important to understand governance, but, from a sociological point of view, it is more interesting to focus on public policy instrumentation. This refers to the set of problems posed by the choice and use of instruments (techniques, methods of operation, devices) that allow government policy to be made material and operational. It encompasses the processes by which instruments are selected and operationalized. Policy instrumentation involves not only understanding the reasons that lead to the decision to opt for or to retain one instrument rather than another but also consideration of the effects produced by these choices. Public policy instrumentation is therefore a means of orienting relations

between political society (via the administration) and civil society (via its administered subjects), through intermediaries in the form of devices that combine technical (measuring, calculating, the rule of law, procedure) and social components (representation, symbol). In most political systems, this instrumentation is expressed in a more or less standardized form – a requirement for public policy – and combines obligations, financial relations (for example, tax deductions or economic assistance) and methods of learning about populations (for example, statistical observations).

This conceptualization contrasts sharply with the understanding that is explicit or implicit in the functional approach. In the traditional literature, the choice of tools and their modes of operation are treated superficially to the extent that their meaning is unexplored – governing *means* making regulations, taxing, entering into contracts, or communicating – or as if the questions it raises (the properties of instruments, justifications for choosing them, and their applicability) are secondary issues, merely part of an established process without any autonomous meaning. In the sociological approach, they are laden with meaning, carry implications for social and political interaction, and have effects independent of intended goals. Two further implications follow. The first implication is that policy instrumentation is a major issue in public policy, since it reveals a (fairly explicit) theorization of the relationship between the governing and the governed. Every instrument constitutes a condensed form of knowledge about social control and ways of exercising it. Secondly, for government élites, the debate on instruments may be a useful smokescreen to hide less respectable objectives to depoliticize fundamentally political issues, to create a minimum consensus on reform by relying on the apparent neutrality of instruments presented as modern, whose effects in practice are felt permanently.

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It is therefore possible to argue that the instrumentation of public policy is a major issue for governance as it reveals the implicit conceptualization of the relationship between government and the people. Public policy instruments are a form of power. Instruments are not neutral: they structure public policies and their outcomes; they have impacts on their own, independent from the policy goals; and they structure the modes of governance. Policy changes can partly be explained by their instruments as disconnected from their goals: public policy is a sedimentation of instruments. Choice and combination of policy instruments contribute to the understanding of the making of modes of governance.

With the exception of the seminal contribution of Hood (1986, 2007), many recent contributions on policy instruments (Linder and Peters, 1990; Salamon, 2002; Howlett, 2005; Lascoumes and Le Galès, 2007) take policy instruments as institutions, since they partly determine the way in which the actors are going to behave; they create uncertainties about the effects of the balance of power; they will eventually privilege certain actors and interests, and exclude others; they constrain the actors, while offering them possibilities; and they drive forward a certain representation of problems. The social and political actors therefore have capacities for action that differ widely according to the instruments chosen. Once in place, these instruments open new perspectives for use or interpretation by political entrepreneurs, which have not been provided for and are

Table 10.1   Typology of policy

Type of instrument	Type of political relations	Type of legitimacy
Legislative and regulatory	Social guardian state	Imposition of general interest by mandated elected representatives
Economic and fiscal	Redistributive state	Socioeconomic efficiency
Agreement- and incentive-based	Mobilizing state	Seel direct involvement
Information- and communication-based	Audience democracy	Explain decisions/accountability
De facto and de jure standards/Best practices	Competitive mechanisms	Mixed: scientific/technical and/or pressure of market mechanisms

difficult to control, thus fuelling a dynamic of institutionalization. The instruments partly determine what resources can be used and by whom. Like any institution, instruments allow forms of collective action to stabilize, and make the actor's behaviour more predictable and probably more visible. From this angle, instrumentation is really a political issue, since the choice of instrument – which, moreover, may form the object of political conflicts – will partly structure the process and its results. Taking an interest in instruments must not in any way justify the erasure of the political. On the contrary, the more public policy is defined through its instruments, the more the issues of instrumentation risk raising conflicts between different actors, interests and organizations. The most powerful actors will be induced to support the adoption of certain instruments rather than others.

Finally, working from Hood's classic work (1986), Lascoumes and Le Galès (2004) have suggested a typology of policy instruments (Table 10.1).

Classic instruments are *taxes and laws* and relate more clearly to the classic conception of representative democracy. By contrast, the three last categories of instrument in Table 10.1 represent what is commonly associated with the rise of 'new' policy instruments. They have in common the fact that they offer less interventionist forms of public regulation, taking into account the recurrent criticisms directed at instruments of the 'command and control' type. In this sense, they lend themselves to organizing a different kind of

political relations, based on communication and consultation, and they help to renew the foundations of legitimacy.

Agreement- and incentive-based instruments

This mode of intervention, often linked to charters, partnership or contracts has become generalized in a context strongly critical of bureaucracy – because of its cumbersome, yet abstract nature, and the way it reduces accountability. In societies with growing mobility, motivated by sectors and subsectors in search of permanent normative autonomy, only participatory instruments are supposed to be able to provide adequate modes of regulation. A framework of agreements, with the incentive forms linked to it, presupposes a state in retreat from its traditional functions, renouncing its power of constraint and becoming involved in modes of ostensibly contractual exchange, mobilizing and enrolling resources and actors. The central questions of autonomy of wills, of reciprocity of benefits, and of sanction for non-observance of undertakings are rarely taken into account.

Information- and communication-based instruments

These instruments form part of the development of what is generally called 'audience democracy' or 'democracy of opinion' – that is, a relatively autonomous public space in the political sphere traditionally based on representation. The growing use of information and communication instruments that correspond to situations in which information or

communication obligations have been instituted, is a particular concept of the political. It is conceptualized by Manin (1997) as audience democracy, what is called the second age of democracy.

De jure *and* de facto *standards instruments*

These instruments organize specific power relations within civil society between economic actors (competition–merger) and between economic actors and NGOs (consumers, environmentalists, etc.). They are based on a mixed legitimacy that combines a scientific and technical rationality, helping to neutralize their political significance, with a democratic rationality based on their negotiated development and the cooperative approaches that they foster. They may also allow the imposition of objectives and competition mechanisms and exercise strong coercion.

Most modes of governance combine several of these policy instruments. However, in different sectors, at different levels, the combination will be different and more or less stable over time and hence a particular characteristic of modes of governance more or less organized by command and control, standards, or negotiation and partnership.

POLICY INSTRUMENTS AND MODE OF GOVERNANCE: THE LEFT AND THE RIGHT HAND

This last section of the chapter deals with two set of issues:

1 Do new policy instruments matter?
2 What does the use of different policy instruments tell us about modes of governance in the making.

The answer to the first question requires some serious and systematic empirical work over time. Kassim and Le Galès project on the policy instruments of the EU (2010)

show that in the number of policy domains which are taken into consideration (agriculture, environment, gender, regional policy, security, assessment, open method of coordination), the focus on new policy instruments does not make sense. In most cases, 'old' classic policy instruments have of course not disappeared and they have a long-term important impact in every domain, including the much heralded case of environment. Using systematic database of policy instruments over three decades in three countries and the EU, Halpern (2010) decisively shows that linking new policy instruments to the making of a new governance of the environment sector does not hold (Jordan, 2005, an argument very similar to that of Salamon). By contrast she shows both the long-term influence of classic policy instruments and the extent to which the introduction of new policy instruments is combined to the old one and makes sense as such. Instead of focusing on this policy instrument mix (Howlett et al., 2005), one is likely to be victim of the fascination for the 'new' instrument and the 'new governance'.

The point being made, i.e. it does not make sense to focus only on the rise of new policy instruments, is the development of those instruments likely to tell us anything about the making of new modes of governance?

I would like to argue that the systematic introduction in different sectors, in different contexts, of mobilizing instruments on the one hand, and norms and indicators on the other, points to the making of two very different modes of governance – one could say, the left hand and the right hand of the state (mimicking a famous Bourdieu's phrase about *la main droite et la main gauche de l'Etat*). This also echoes some of the ideas that Peters (2008) has expressed on the future of governing: i.e. the simultaneous development of new public management and centralizing tendencies together with forms of negotiated governance.

First, one of the distinctive transformation of modes of governance is related to the rise and rise of those policy instruments requiring

the mobilization of various actors and groups for the construction of the collective good, and the implementation of public policies. Agreements, charters and contracts reveal a different conceptualization of the state aiming at mobilizing different actors and their resources. This mode of intervention has become generalized in a context strongly critical of bureaucracy – of its cumbersome yet abstract nature, and of the way it reduces accountability (Salamon, 2002). The interventionist state is therefore supposed to be giving way to a state that is a prime mover or coordinator, non-interventionist and principally mobilizing, integrating and bringing coherence. This echoes a view of a democracy of protest, of collective actors. In the USA and in the EU all organizations want to become political actors. But what is an actor? Who knows (Meyer, 2000)? This profound uncertainty both constrains and facilitates mobilization within groups and organizations to attain the status of actor and to gain recognition as such by others, thus marking a strong dependence on outside models of legitimation. More generally, the actors mobilize to gain recognition as actors. Internal mobilization towards this status meets outside injunctions and produces a dynamic system driven by all sorts of models and norms.

In many cities for instance, governance is not just organized by coalitions such as urban regimes (Stone, 1989). Protest can limit the implementation of projects decided by an urban growth coalitions (Logan and Molotch, 1987). Overcoming implementation failure often requires a long process of consultation, of enrolment of different groups, of local construction of the general interest, of deliberation, of contracts, of partnerships of charters to stabilize the relationship between various actors, including state actors among others, to define common goals and instruments to reach them, hence making more likely the desired outcomes of a mode of governance. Instruments have also a life of their own and, once in place, sometimes significantly contribute to the outcome (Bezes, 2007; Lascoumes, 2009; Jacquot, 2010).

In many countries, in different sectors, the systematic introduction of those mobilizing policy instruments is giving rise to modes of governance characterized by negotiation between various groups, the 'enchanted land of governance', leading to the normative view of a deliberative democracy, free of conflicts, markets inequalites and power relations.

A second development, which has attracted less interest except in the UK points to the rise of policy instruments based upon norms, standards, performance indicators, management instruments and the rise of a new bureaucracy in particular to 'govern at a distance', including networks and agencies. This leads to profound changes of behaviour and allows a remarkable come back of state élite to govern and to constrain various groups in society. The New Labour experiment in the UK is probably one of the most remarkable examples of this new governance in the making (and its failures) (Moran, 2003; Bevir, 2005; Hood, 2007b; Faucher-King and Le Galès, 2010).

For the Blair and Brown teams, the invention that is 'New Labour' served to demonstrate the distance they had put between themselves and previous Labour governments and the unions. They promised to regenerate the declining public sector and provide better services, challenge the excesses of competition, and offer protection for employees and workers. They committed themselves to principles of management and responsibility, democratization of public agencies, performance indicators, and a valorization of associations and the 'third sector'. Several authors have shown the debt the New Labour project owns to ideas about communitarianism, social inclusion and even to the rise of neo-institutionalism. Bevir, taking an interpretative standpoint, in particular argues that New Labour was a kind of social democratic approach to questions and issues brought to the fore by the New Right. New Labour developed discourse of partnership, joined-up governance, inspired by new institutionalism. Many policy instruments

developed in that framework make sense in that line of thinking by contrast to market rationality advocated by the Right and based upon micro economics.

However, this is only one part of the story. Another part of the New Labour project is the continuity of the market-making society promoted by Mrs Thatcher and the new Right and legitimized by the massive use of economics, rational choice and micro economics in particular, determining policy instrumentation, i.e. choice of instruments characterizing New Labour governance.

The Thatcher governments centralized and reformed the state, and destroyed traditional social structures (including at the heart of the British establishment, in the organization of the City, or in the legal and medical professions), social solidarities, and institutions. They encouraged actors to behave like egoistic, rational individuals. Establishing rewards and penalties makes it possible to pilot changes in individual and organizational behaviour. According to Max Weber, the 'bureaucratic revolution' changes individuals 'from without' by transforming the conditions to which they must adapt (Le Galès and Scott, 2008). Bureaucracy is a force for social change, for the destruction of traditional social systems and the creation of new systems, with all that that entails in terms of violence and resistance. Bureaucratic rationalization is wholly compatible with modernization of the economy. It makes behaviour more predictable and helps create social order organized on the basis of calculation and efficiency.

The bureaucratic revolution initiated by Margaret Thatcher was at the heart of New Labour's strategy for modernizing Britain. New Labour wanted to put consumers of public services at the centre of public services and, to the maximum possible extent, limit the influence of producers – in particular, the public sector unions, which were regarded as one of the most conservative forces in the country. Transformation of the mode of governing – that is, incessant, sometimes contradictory reform of the public sector – was the badge of the Blair governments.

It took the form of autonomy for the basic units of public management (schools, hospitals, social services), but flanked by a battery of statistical measures, indicators, and objectives for results or improvements in performance.

The New Labour team elected in 1997 was largely won over to the rather vague thesis of 'new public management' inspired by public choice economics. This resulted in the application of the principles of rational choice and classical microeconomics to public management, sometimes by transferring the recipes of private management to public management. Blair and Brown clearly understood that a redefinition of the rules of political action (in the direction of the regulatory state) went hand in hand with an increase in controls. While part of the traditional bureaucracy was dismantled and subjected to market mechanisms, the core executive gained in independence. The new government did not intend to reconsider the framework of public management left by the Conservatives. The inheritance was adopted, mobilized and consolidated by New Labour, whose action can be characterized as follows:

- indicators for good public management extending beyond performance were developed for the precise piloting of public action
- according to the social model of neoclassical economists, individuals respond to stimulation
- the delivery of public policy combined public and private partners in flexible ways
- priority was given to delivery and the definition of objectives
- Power was centralized in order to initiate reforms, monitor delivery, and make government action coherent
- the inspiration for reforms no longer derived from the senior civil service, but from think-tanks, experts, consultants, academics, and foreign experience (essentially the USA).

New Labour systematized a way of steering government on the basis of performance objectives, league tables, and strict financial control. These developments revealed their credence in the magical powers of synthetic

indicators to bring about rapid changes. Moreover, this was one of the characteristics of New Labour management: radical reforms were conducted through a proliferation of indicators and a rapid redefinition of targets and programmes. In their eyes, the social world was malleable, reactive and dynamic. Under pressure, it reacts forthwith to commands for mobilization from the masters of the moment. One cannot but be surprised by the extraordinary ambition of piloting society through such indicators and the discrepancy as regards service provision to the population. Thus, as early as 1998 the government announced the creation of 300 performance objectives for all departments. Each of them might make for newspaper headlines! These objectives were bound up with the resources allocated by the Treasury; each of its objectives was then divided up into dozens or hundreds of specific indicators by area. In view of the importance of the rhetoric of modernization, New Labour made it a point of pride to mobilize every 'modern' technique, not just the latest managerial fashions but also the systematic production of aggregate indictors thanks to increasingly sophisticated new technologies. They promoted the development of e-government with enthusiasm. Following the example of the managerial software used in large firms to know the activity of different units in real time, they generalized the activity of reporting from agency or unit heads to the lowest level.

In line with Polanyi's argument on fear and hunger, systems of rewards and sanctions were gradually put in place. In universities, schools, hospitals, and local governments, the development of ranking based upon aggregated indicators was associated to constraining system of rewards (such as 'earned autonomy' in terms of budget) and sanctions. The disciplining effect over time, over several years, was remarkable as individuals and organizations alike learned the rules of the game, anticipated the effects, learned to cheat with the rules (Hood, 2007b) and the rules became progressively naturalized. The routinization of league tables legitimated penalties – that is, closure of a school, a department or a hospital. The same approach prevailed in numerous areas of public action: primary and secondary education, higher education, the environment, social services, and so on. The logic of the audit and inspection progressively led to more standardization, with the 'managerial' dimension getting the upper hand over the more political dimension of administration; the pressure on workforces was increasingly strong. Strategic priorities, the needs of local populations and political choices were set aside, in favour of competition to obtain the maximum score, which counted as political and professional success.

Thus, the culture of the audit, which derived from firms, was gradually transferred to all areas of British public life and affected political parties, associations and charitable organizations alike (Power, 1997). While the government decentralized public service provision, and encouraged the participation of the voluntary sector in managing public services, it combined this decentralization with new quid pro quos. All sectors were henceforth subject to an assessment of their performance and procedures. The illusion of the total 'inspectability' of society betrayed the influence of the utilitarianism of the philosopher Jeremy Bentham. But the proliferation of audits eroded trust in the professional ethic and sense of public service. Social control of this kind contradicts the idea that everyone acts in good faith and destroys trust in the competence of social actors.

The audit has become natural in British society. Control is now present at all levels of social and political life. It transfers the management of uncertainty, especially economic uncertainty, from political authorities to individuals. The constant invocation of individual responsibility, which is the quid pro quo of the logic of multiplying the choices offered to the citizen-consumer, aids the internalization of controls and the adoption of individualistic strategies that rupture existing solidarities or loyalties. Summoned to take responsibility for the costs of their choices, individuals cannot be the counter-powers

formerly represented by groups. When the audit does not yield satisfactory results, it is rarely the audit itself that is called into question, but instead the skills of the auditors. The whole of society is affected: political parties, agencies, schools, and associations.

Indicators of performance are great policy instruments for government because they can change the indicators relatively easily. On the basis of the British case, even constant modification of instruments can be seen as significant, in that this obliges the actors to adapt all the time, 'running along behind' instruments that are constantly changing in the name of efficiency and rationality. This instrumentalization of the instrumentation considerably increases the degree of control by central élites and marginalizes the issue of aims and objectives even further – or at the very least, euphemizes them. From this angle, public policy instruments may be seen as revealing the behaviours of actors, with the actors becoming more visible and more predictable through the workings of instruments (an essential factor from the point of view of the state's élites).

Policy instruments are not neutral; they condense some form of political power and technique. They have effect of their own but, as for other types of institutions, creative use by various actors produce unintended effects. The instrumentation process reveals political logic and some characteristics of modes of governance. At times, it may be quite central to understand this dimension and one can argue that modes of governance can be transformed by technical instruments and their use. The focus on policy instruments and the activities within governance is not the whole story to understand modes of governance but it's a fruitful way to analyse some of it and the implicit power dimension, beyond the goals and the discourses.

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NOTE

1 This section develops arguments made by Lascoumes and Le Galès (2004, 2007) and Halpern and Le Galès, 2008).

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