

BEYOND ACCOUNTABILITY: POLITICAL LEGITIMACY AND DELEGATED WATER GOVERNANCE IN AUSTRALIA

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Studies of delegated agencies commonly emphasize the importance of accountability for these unelected bodies to secure authority to govern. This article argues that beyond formal accountability measures, developing legitimacy through interaction with external stakeholders is critical to agency authority. In doing so, the article makes a distinctive contribution by applying a new conceptual model based on organizational sociology and identifying multiple dimensions along which legitimacy is lost and won, and hence authority secured. The article presents original findings from a case study of how the Murray–Darling Basin Authority, an Australian water agency established in 2007, attempted to achieve ‘political legitimacy’. Findings show that the Agency achieved legitimacy via appeals to common normative/ethical values and developing commonly used information and news outlets, despite facing opposition from stakeholders on the socioeconomic impact of its policies. The conclusion argues that the framework can usefully be applied to other agencies in ‘wicked problem’ policy areas.

INTRODUCTION

Delegated agencies perform crucial tasks in society, like regulating food standards, managing flood defences, and assessing the safety of drugs. They are also, however, often viewed with suspicion in the public eye as undemocratic ‘quangos’, and hence face challenges about how to secure consent for their policies from wider society. This article presents original evidence of how they attempt to address these challenges, focusing on the achievement of *political legitimacy*. Existing research tends to use the concept of ‘accountability’ to investigate agency legitimacy issues (Bovens 2007), and focuses on formal institutional mechanisms rather than external political support. ‘Political legitimacy’, by contrast, refers to the acceptance of an institution’s decisions as authoritative and justified by external actors (Bernstein and Cashore 2007).

This article suggests that deploying Suchman’s (1995) framework of types of ‘political legitimacy’ developed by Cashore (2002) (‘cognitive’, ‘moral’, and ‘pragmatic’) can enable a detailed analysis of how agencies secure governing authority by appealing to certain values and interests in an interactive relationship with actors in governance networks and the wider public. The key argument is that by constructing (shaping, developing, and mending) their levels of political legitimacy among stakeholders, agencies can improve public support for their work across different dimensions. This can create a sustained and stable dialogue that supplements what Schillemans (2011) calls agencies’ broader ‘horizontal’ or ‘public’ accountability and enhances their capacity for effectively achieving ‘credible commitments’.

This article reports results from an intensive case study aimed at developing an analytical framework for use in an international study of delegated agencies’ legitimacy. The agency chosen was the Murray–Darling Basin Authority (MDBA), established in 2007 in

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south-east Australia. The MDBA recommends and implements water management policies in one of the world's most complex, yet economically and socially vital, ecological systems: the Murray–Darling Basin. As a new agency positioned in this 'wicked' – complex, volatile, and politically contentious – policy area, where cooperation from external stakeholders is crucial, the MDBA offers a useful case study of how political legitimacy is developed and challenged.

The research was exploratory (Stebbins 2001), involving extensive original data collection and analysis of how (if at all) the MDBA's strategies could be mapped onto the analytical framework. It proceeded first through extensively collecting secondary data sourced through the MDBA website (www.mdba.gov.au): 186 MDBA publications, including scientific research reports, brochures, fact sheets, and posters; 181 media releases; 25 MDBA e-newsletters; 23 Basin Community Committee Meeting Summaries; seven MDBA Chair and Chief Executive speeches; six Annual MDBA Reports; and five MDB Ministerial Council Communiques. This built a detailed picture of external engagement strategies, before mapping them onto the framework.

Second, the acceptance or rejection of MDBA legitimacy was determined through analysis of public usage of the MDBA's processes (website traffic data), qualitative assessment of positive/negative slanting in MDBA-related media reports and parliamentary debates (2007–13), and a 2011 Parliamentary inquiry. A database of nearly 12,000 responses to a 2011 stakeholder consultation and statistical data on these responses (MDBA 2011f) were also analysed. To mitigate bias, a critical approach to data analysis was adopted, accounting for legitimization *and* delegitimation (see table 2). Relationships were triangulated with data collected at two MDBA events in October and December 2013 for stakeholders, policy-makers, and academics. Hour-long semi-structured interviews were also conducted with two senior MDBA stakeholder managers. These strongly confirmed relationships in secondary evidence, and are used here purely illustratively.

This article provides three contributions. It makes a methodological contribution by providing a systematic operationalization of political legitimacy in the case of a delegated agency, setting a path for refinement in future comparative and quantitative analysis. Analytically, it contributes novel insights into how legitimacy is developed by an agency across multiple dimensions. The MDBA sought to gain consent to its authority in multiple overlapping ways, including through becoming well known among stakeholders, appealing to socioeconomic interests, and emphasizing common normative/ethical values. Lastly, it provides an empirical contribution by showing how an agency attempts to repair damaged legitimacy relationships, namely through stakeholder engagement and appeals to common values (moral legitimacy) with relevance to agencies in other 'wicked problem' areas.

The article is divided into four sections. First, it briefly reviews the literature on accountability as central to emergent work on the problem of agency legitimacy, before specifying the contested concept of legitimacy as it is used in this study. It highlights how legitimacy is a social construction, and introduces Suchman's (1995) framework as a conceptually systematic and empirically operationalizable approach to analysing multiple forms of legitimacy. Second, it details the MDBA case, showing why it was chosen as salient for examining political legitimacy. The third section presents the case study evidence, focusing in turn on the cognitive, moral, and pragmatic dimensions. The emphasis is on analysing the strategies pursued for achieving legitimacy, and stakeholder reactions to those strategies. This section identifies legitimization along the 'cognitive' dimension of legitimacy, although the agency faced delegitimation along the 'pragmatic' dimension. Moral legitimacy strategies were used to mend damaged legitimacy relationships.

The final section addresses issues concerning the application of Suchman's framework to agencies, including how the conceptualization and measurement of 'pragmatic' legitimacy strategies can be improved in further studies.

BEYOND ACCOUNTABILITY: DELEGATED AGENCIES AND POLITICAL LEGITIMACY

There is now a voluminous literature on the plethora of 'delegated agencies' (semi-autonomous 'quangos') at multiple levels of governance around the world (henceforth referred to as 'agencies'; see Greve *et al.* 1999). Given that these bodies are unelected, they are often accused of being undemocratic and often subject to threats of abolition or 'quangocide'. A range of literature has hence sought to understand how agencies can be institutionalized better, via the concept of *accountability* (Bovens 2007; Schillemans 2011). 'Accountability studies' is a wide-ranging sub-discipline, incorporating studies of the conditions under which public bodies are held to account, and the determinants of more or less stringent accountability arrangements (Bovens 2007). Throughout these studies, there is a (usually implicit) assumption that accountability ensures what Bovens (2010, p. 954) terms 'the exercise of public authority ... Accountability as a virtue is important, because it provides *legitimacy* to public officials and public organizations' (italics in original). This section argues, however, that accounting for how agencies become legitimate, and hence authoritative, bodies requires not merely an analysis of the mechanisms of 'accountability', but also their constant and sustained interaction with the wider political environment, which generates and sustains acceptance of their actions.

Beyond accountability

Among the various conceptualizations of accountability (Bovens 2010), Schillemans (2008) usefully distinguishes between 'vertical' and 'horizontal' accountability. 'Vertical' accountability refers to 'traditional mechanisms of accountability' where 'a subordinate usually reports to a superior' (Schillemans 2008, pp. 175–76) through a range of 'mandatory' internal reporting and accounting mechanisms, formal committee meetings, and similar arrangements between principal and agent (Koop 2014). Beyond this 'vertical' dimension, in its 'horizontal' dimension 'accountability arrangements address peers, equals, stakeholders or concerns outside of the hierarchal relationship between central government and executive agency' (Schillemans 2008, p. 176). Horizontal accountability is more 'informal' or 'voluntary' in nature, with the 'accountor' and 'accountee' being, legally speaking, on a level playing field (Koop 2014, p. 565). The argument here is that scholars of accountability should also pay attention to the *continuous* interactions of agencies with their external environments, because in contemporary 'mediatized' societies this can allow agencies to gain and sustain their authority more effectively.

The 'vertical' and 'horizontal' conceptions of accountability both advance our understanding of how agencies are embedded as authoritative governing bodies in the wider political environment. What is particularly interesting about the evolution of this literature, however, is the movement from analysing legal to non-legal accountability. Traditionally, as Bovens (2010, p. 948) notes, 'the locus of accountability studies is not the behaviour of public agents, but the way in which ... institutional arrangements operate'. The study of 'informal', 'voluntary', or 'horizontal' accountability offers a distinctive break from this mode of analysis. Scholars studying 'informal' forms of accountability

recognize that the emergence of complex networks of service delivery means that ‘inter-organizational and interpersonal behaviors’ are ‘likely to be at least as important ... as formal accountability mechanisms, and perhaps even more so’ (Romzek *et al.* 2012, p. 442). This article pushes this argument further by suggesting that *continuous* communication and interaction with stakeholders are critical agency activities worthy of more thorough and extensive empirical analysis. It follows Hajer in arguing that:

Authority is ... not a feature or by-product of a particular function or institutional role. In our mediatized world ... critique is easily presented, and authority is more easily lost than gained. (Hajer 2012, p. 455)

Authority here can be defined as the capacity of an agency to effectively govern (steer) the actions of external stakeholders such that those stakeholders act to achieve goals and objectives set by the agency. Authority is ‘claimed’, ‘achieved’, and then ‘exercised’ as a ‘collaborative endeavour’ (Hajer 2009, p. 19). In order that authority may be achieved, stakeholders need to accept the existence of the agency and its rules (its authority) as appropriate and justified, that is, *legitimate* (see below). The concept of ‘vertical’ accountability – where procedures and processes are created for holding agency officials responsible to governmental/legislative bodies – carries with it an assumption that stakeholders will accept the existence of the agency and its policies because the formal procedures will (in theory) ‘assure (them) that ... public organisations are on the right track’ (Bovens 2010, p. 954). However, the concept of ‘horizontal’ accountability suggests these internal procedures and processes are not enough to assure stakeholders that the agency will act appropriately. Rather, it suggests that agencies increasingly engage in more direct, voluntary forms of reporting and monitoring directly linked to external stakeholders, because those stakeholders increasingly demand more rigorous assurance before they are willing to accept the agency as an authority.

The argument here, following Hajer (2009, 2012), goes further to argue that a variety of communicative strategies on an almost daily basis are increasingly important – *beyond accountability measures* – for agencies to achieve authority. In a ‘mediatized’ age, the way in which *all* externally facing agency actions are interpreted by the wider public is important for understanding how successful they are in fulfilling their stated aims and functions. As Majone (2001, p. 77) argued: ‘In the final analysis ... the *democratic legitimacy* of (agencies) depends on *their* capacity to engender and maintain the belief that *they* are the most appropriate ones for the functions assigned to them’ (italics added). On these grounds this article proposes to supplement the accountability literature with a focus on the continuous interactions of agencies with their political environments, via the concept of *political legitimacy*.

Political legitimacy

Legitimacy is a highly controversial concept in political science. As Beetham (1991) argues, it is ‘multidimensional’, encompassing philosophical/normative understandings of ‘input’ and ‘output’ legitimacy, as well as empiricist meanings (the ‘belief in legitimacy’) originating in Max Weber’s work. The latter concept has attracted considerable controversy for ignoring normative connotations of the term, and O’Kane (1993) even suggests abandoning ‘legitimacy’ as an empirical concept, arguing that it is ‘essentially circular’. Notwithstanding Bernard Crick’s (1993 [1962], p. 150) argument that legitimacy is ‘the master question of politics’ (so ‘abandoning’ it would appear a bizarre strategy for a profession to which it is so central), the purpose of this article is not to resolve these myriad debates. Rather, it proceeds from an empirical interest in how particular

political *institutions* – delegated agencies – interact with external stakeholders to improve their public standing and support to become authoritative and achieve their purpose (regulatory, policy-making, or otherwise) beyond the adoption of formal accountability measures.

A range of literature inspired by DiMaggio and Powell's (1991) 'sociological institutionalism' utilizes 'legitimacy' as a concept to analyse how public institutions secure consent for their policies from the wider socio-political environment. These studies show how institutions adopt engagement strategies leading to their 'normalization' by stakeholders, which improves their 'soft steering' capacity (Risse 2004). In relation to delegated agencies, Carpenter (2010) shows how the American Food and Drug Administration secures its authoritative position in the drug regulation policy network by crafting its reputation through practices of interaction with stakeholders. Similarly, Rubinstein Reiss (2009) demonstrates the importance of stakeholder engagement to securing agency authority in the case of electricity and communications agencies. Borrás *et al.* (2007) and Klintman and Kronsell (2010) also emphasize 'stakeholder engagement' as critical for agencies in potentially improving their legitimacy (and becoming authoritative).

This article supplements these studies by explicitly adopting a systematic framework of *political legitimacy* originally developed by Suchman (1995) for studying stakeholder engagement by businesses, and applying it to delegated agencies. Suchman's framework systematized a sociological approach to legitimacy as a *social process* through which institutions develop external consent to their authority (Johnson *et al.* 2006). In this approach, organizations such as businesses achieve legitimacy through interaction with their external stakeholders. The critical point for Suchman (1995, p. 574) is that legitimacy 'is socially constructed in that it reflects a congruence between the behaviors of the legitimated entity and the shared ... beliefs of some social group'. Legitimacy is a *relation* between an institution and the network or field it purports to exercise authority over, and, as Black (2008, p. 144) argues, 'is rooted in the acceptance of (an) organization by others, and more particularly in the reasons for that acceptance'. Suchman (1995) systematized this approach through an extensive literature review, generating a widely cited typology of multiple ways in which businesses secure legitimacy from stakeholders – *pragmatic*, *moral*, and *cognitive* (see below). As Black (2008, p. 138) notes, this approach is 'in principle applicable to ... any organizations ... which themselves seek to enhance their legitimacy and accountability'. To date, however, it has not been transferred to the study of delegated agencies.

In order to do so this article draws on Cashore (2002) and Bernstein and Cashore (2007), who modify Suchman's framework for the study of regulatory governance regimes using the concept of *political legitimacy*. Political legitimacy is defined conceptually as 'the acceptance of shared rule by a community' – a governing institution – 'as appropriate and justified' (Bernstein and Cashore 2007, p. 348). Cashore (2002, p. 515) posits Suchman's three empirical forms of political legitimacy as follows:

- *Pragmatic*: Individual or collective perceptions of 'narrow self-interest'.
- *Moral*: Normatively based 'guiding values about the "right thing" to do'.
- *Cognitive*: 'Evaluation that something is "understandable" or "to do otherwise is unthinkable".'

Measuring political legitimacy

Measuring the three forms of political legitimacy proceeds in two steps. First, at a broad level, evaluating the success of strategies for achieving political legitimacy should be understood as examining the extent to which stakeholders 'accept' or 'reject' the agency's authority, not merely through obedience or defiance in regard to legal rulings, but through examining *gradations* of acceptance or rejection of an agency's authority. In practice this can be measured through examining the extent of criticism aimed at the agency in the public sphere, and positive and negative assessments of its performance. As Meyer and Scott (1983, p. 201) state, 'a completely legitimate organization would be one about which no question could be raised'. Following this general assessment, the threefold framework is used to dissect particular forms that legitimation strategies take, and the particular ways in which they are 'accepted' or 'rejected' (see table 1).

First, the *cognitive* form of political legitimacy 'is based neither on interests nor on moral motivations, but rather on "comprehensibility" or "taken-for-grantedness"' (Cashore 2002, p. 520). This is observable through processes of 'popularization (promoting comprehensibility) and standardization (promoting taken-for-grantedness) ... or pursuing "professionalization", linking activities to external definitions of authority and competence' (Cashore 2002, p. 520). Assessing strategies for cognitive legitimacy involves analysis of how an agency sets up channels of communication and information sources aimed at external audiences such as newsletters, websites, blogs, social media, and other communicative tools (popularization/standardization); and second, how it includes scientific or technical experts in its internal processes and procedures (professionalization). Assessment of success and failure is based on the extent to which external stakeholders use an agency's communication and information sources (its website, for example, or newsletters), and the extent to which they express approval (or do not express dissent) against the expert authorities.

Second, in its *moral* form, legitimacy is 'developed ... through different ideas about what is morally acceptable or unacceptable' (Cashore 2002, p. 519), and is observable in appeals to common normative/ethical standards or values. Assessing the presence of moral legitimacy strategies involves examining how externally facing agency documents (like press releases or reports) make normative/ethical statements in order to justify their policies. Examining whether this is successful or not involves analysing the extent to which stakeholders express similar normative/ethical values in assessments of their approval/disapproval of the agency.

Lastly, in its *pragmatic* form, 'legitimacy-granting rests on some type of exchange between the grantor and the grantee that affects the audience's "well-being", giving it a direct benefit' (Cashore 2002, p. 517), and is observed when agencies appeal to certain rules being 'in the interests' of stakeholders. Assessments of strategies for achieving pragmatic legitimacy will involve examining the extent to which agencies make appeals to socioeconomic benefits in order to justify their policies. Again, analysis of success/failure here is based upon whether stakeholders agree or disagree that the agency's policies are in their socioeconomic interest when agreeing or disagreeing with them.

In sum, political legitimacy is similar to the concept of 'horizontal accountability' in that it involves 'a communicative interaction between an accountor ... and an accountee ... in which the former's behaviour ... is evaluated and judged by the latter' (Schillemans 2011, p. 389). Crucially though, political legitimacy encompasses but is not limited to instances where the relationship is one of accountor and accountee – explicit moments where the agency is 'judged'. It also encompasses interaction that is more subtle, like the 'cognitive'

TABLE 1 *Defining political legitimacy strategies and their success/failure*

Form of legitimacy	Definition	Evidence of strategy (agency)	Evidence of success (stakeholders)	Evidence of failure (stakeholders)
Cognitive	Acceptance of authority based upon popularization, standardization, and professionalization	<ul style="list-style-type: none"> • Runs externally facing information streams • Runs externally facing news sources • Employs commonly accepted scientific or expert authorities and procedures 	<ul style="list-style-type: none"> • Frequent usage of information streams and news sources • Scientific basis of decisions supported/not questioned 	<ul style="list-style-type: none"> • Infrequent or non-usage of information streams and news sources • Scientific basis of decisions questioned
Moral	Acceptance of authority based upon normative/ethical values	<ul style="list-style-type: none"> • Justifies policies based on common ethical/normative values in externally facing statements 	<ul style="list-style-type: none"> • Expression of similar normative or ethical values as agency 	<ul style="list-style-type: none"> • Expression of divergent normative or ethical values from agency
Pragmatic	Acceptance of authority based upon socioeconomic interests	<ul style="list-style-type: none"> • Justifies policies based on socioeconomic interests in externally facing statements 	<ul style="list-style-type: none"> • Non-dispute or expression of contentment with socioeconomic distributive outcomes 	<ul style="list-style-type: none"> • Expression of dissatisfaction with socioeconomic distributive outcomes

development and usage of information streams and news sources, which also lend (or take away) external support from the agency in an implicit but nonetheless important manner affecting its overall authority.

THE MURRAY–DARLING BASIN AUTHORITY AND THE ‘WICKED PROBLEM’ OF WATER GOVERNANCE

The case study chosen here is an in-depth case of water governance in south-east Australia since 2007. This case is chosen, first, as an ‘ideal-typical’ case for studying political legitimacy. Political legitimacy is crucial here because water governance in south-east Australia is a paradigm example of a ‘wicked problem’ requiring consent and cooperation among numerous governmental and non-governmental actors at multiple levels (Allan 2008). South-east Australia is home to the Murray–Darling Basin (henceforth ‘the Basin’), one of the most significant water catchment areas in the world, containing Australia’s three longest rivers, and covering five Australian states/territories. The Basin is vital economically, producing one-third of Australia’s food supply, including 40 per cent of its agriculture production. It is also ecologically fragile, containing thousands of endangered wetlands. Managing water resources in the Basin is hence an immensely complex job, but critical for Australia’s long-term economic and ecological sustainability (Connell 2007).

This task is made ‘wicked’, however, since the Basin is situated in a dry part of Australia, and hence ‘has not only the lowest but the most variable and unpredictable rainfall of any of the world’s major river systems’, and ‘demand for water’ across the Basin is ‘variable and state-contingent’ (Quiggin 2011, pp. 62–63). Such a resource-constrained context clearly requires cooperation to manage water, and in such a geographically broad and diverse system, coordination across and between levels is critical. However, political conflicts have grown over the past century, providing a number of challenges. Communities further up the catchment area, in Queensland for example, have been accused of hoarding water at the expense of those nearer the edge, such as South Australia (Connell 2007). Achieving cooperation in working towards an overarching set of goals or targets for water management is thus crucial, and demonstrates the importance, but critically not the inevitability, of achieving ‘political legitimacy’ in this case, hence showing its pertinence as a case study.

The Murray–Darling Basin Authority

This case is also important due to the recent creation of a new agency, the MDBA, to implement water reforms. Over the past century Australian governments have tried to increase cross-state coordination of water management. The 1915 River Murray Waters Agreement between New South Wales, South Australia, and Victoria and the Federal creation of the River Murray Commission in 1917 marked a first attempt at ‘trans-boundary water management’, replaced in the mid-1980s with federal bodies – the Murray–Darling Basin Ministerial Council (MDBMC) and Community Advisory Committee, alongside the Murray–Darling Basin Commission (MDBC) – designed to ‘develop a whole-of-government position on the various issues’ (Connell and Grafton 2011, p. 2). In the past two decades this concern for coordination has heightened, particularly in light of the ‘Millennium drought’ of 2001–09, the driest period in Australia since 1900. Such ecological stress resulted in ‘competition for water ... becoming intense’ (Connell 2007, p. 55) and therefore, as Daniell (2011, p. 413) notes, ‘the management of water is an increasingly political process’. The number of governmental and non-governmental stakeholders in the Basin has increased to hundreds (Wallis and Ison 2011, p. 4088).

In 2007, the Australian federal government responded by creating the MDBA, an agency that replaced the MDBC and is responsible for advising on and implementing federal policy on the Basin. The MDBA describes itself as ‘an expertise-based agency’, with its role ‘to provide the MDBMC, Basin Officials Committee and the community with timely information to inform decision making on the Basin’s water resources’ (MDBA 2012c, p. 76). Amongst a number of advisory and executive functions, the MDBA was tasked with ‘developing, implementing and monitoring a Basin plan’ (henceforth, ‘the Plan’). In essence, this Plan sought to provide even stronger national-level coordination of state policies, intended to ‘protect the Basin’s water and other natural resources ... in an integrated, mutually supportive way across state boundaries’ (MDBA 2012c, p. 21). Developed over five years and passed by Federal Government in 2012, the Basin Plan includes five core aims, the most important of which is setting legally enforceable limits on extraction of water from Basin rivers by communities and industry, termed ‘sustainable diversion limits’ (SDLs) (Connell and Grafton 2011, p. 6).

The MDBA was tasked with advising ministers on the specific level SDLs should be set at, proposing targets and monitoring implementation. In order to do this, the MDBA ‘worked to commission and collate large numbers of studies from consultants and academics, gather data, reports and models from state governments and to go about the synthesis work ... and choice options for the plan’ (Daniell 2011, p. 416). Given this highly developed scientific evidence base, the creation of the MDBA was seen as a shift towards a ‘centralized technocratic approach’ to Basin management (Daniell 2011, p. 416).

It could be argued that the legally enforceable nature of these reforms, and their basis in highly scientific decision making and advisory processes, makes the achievement of ‘voluntary’ legitimation from stakeholders less important because of the increased emphasis on coercive ‘centralized authority’ (Daniell 2011, p. 415). The formal accountability of the MDBA, organized through appointment of MDBA Board officials by the Australian Minister for the Environment, regular external auditing, reporting to parliamentary committees and the Department for the Environment, and freedom of information availability (MDBA 2013) could also in principle give it extra protection from stakeholder dissent, given the apparently high levels of transparency. This, however, ignores how the ‘complex, uncertain and conflict ridden’ nature of Basin management makes ‘command and control management ... insufficient’, as ‘power and resources for managing water systems are increasingly distributed’ (Daniell 2011, pp. 413–14). As a newly established agency, with a significantly enhanced role compared to the MDBC, the MDBA also had a significant need to establish credibility and efficacy with actors in the governance field with already substantial influence, such as scientists and agricultural unions, rather than simply falling back on formal accountability arrangements as assurances of legitimacy.

As such, the creation of the MDBA and its development of the Basin Plan should not merely be seen as a ‘top-down’ imposition of a ‘centralized technocratic’ approach to water governance (Daniell 2011). Rather, of critical importance is the capacity of the MDBA to gain support from a variety of stakeholders for designing and implementing the Plan, hence the particular centrality of achieving *political legitimacy* in this instance, and the reason for this case study selection.

POLITICAL LEGITIMACY AND THE MURRAY–DARLING BASIN AUTHORITY

The empirical results of the case study analysis are presented in table 2, and are expanded in detail in the following three sub-sections. The argument is that while legitimization is observable along the cognitive and moral dimensions, delegitimation is observed along the pragmatic dimension. In particular, moral legitimization strategies were used to repair the negative effects of delegitimation along the pragmatic dimension.

Cognitive legitimacy

First, along the cognitive dimension, defined in terms of successful publicization, standardization, and professionalization of the agency and its policies (row 2, column 2, table 2), legitimization was largely achieved. Through holding public events, producing factual brochures, commissioning scientific reports, and providing the latest news on Basin events, the MDBA attempted to both ‘normalize’ its procedures and ‘standardize’ its recommendations for SDLs among stakeholders. These methods were successful to the extent that stakeholders accepted the MDBA as the ‘normal’ outlet for information on the Basin. Where problems have persisted in generating widespread standardization of SDLs, this was due to different dimensions of political legitimacy.

First, the MDBA embarked on a significant publicization programme (row 2, column 3, table 2), emphasizing its role as the ‘single agency responsible for planning for the integrated management of water resources across the whole Basin’ (MDBA 2009e). This campaign involved holding public events on a variety of cross-Basin issues, such as ‘Native Fish Awareness Week’ (MDBA 2009d), which was ‘an opportunity for communities to learn about rehabilitation efforts for native fish within the Basin’, involving ‘community members and staff from natural resource agencies across the Basin ... working with schools and local communities to share information about native fish’ (MDBA 2010e). Native Fish Awareness Week was an already established part of the Native Fish Strategy adopted by the MDBC in 2003 and, by having responsibility for its organization, the MDBA became situated as the key contact and centre of information for an established Basin initiative.

The MDBA also produces factual publications such as brochures (MDBA 2010a), fact-sheets (MDBA 2010b, 2011a), and posters (MDBA 2012a, 2012b) about the Basin’s wildlife, geography, and culture, together with information on existing programmes, such as the *Living Murray* project (MDBA 2011b). One prominent example of this is an ‘overview brochure’ produced to introduce the Basin, its culture, and environment (MDBA 2010a). The document includes factual summaries about the rivers and wetlands, plants and animals, landscapes and climates, people and agriculture of the Basin, and a map of the Basin with pictures of endangered animal species (pp. 2–3). This is preceded by a page outlining key information about the MDBA, including its central responsibilities, its stakeholder engagement strategy, and details of the Basin Plan (p. 1). By producing basic documents such as the overview brochure, the MDBA positions itself as the authoritative first point of call for Basin information and publicizes and demarcates its key roles and responsibilities.

Second, regarding ‘professionalization’ (row 2, column 3, table 2), the MDBA established a ‘scientific basis for preparing the Basin Plan includ[ing] the CSIRO (Commonwealth Scientific and Industrial Research Organization) Sustainable Yields project and the Sustainable Rivers Audit, which provide extensive and detailed information on every river valley in the Basin’ (MDBA 2009e). The MDBA’s advice on SDLs would thus ‘draw on a breadth of expertise and experience in water, the environment, natural resource management and agriculture’ (MDBA 2009e). In practice, this has involved commissioning

TABLE 2 *The Murray–Darling Basin Authority and forms of political legitimacy*

Form of political legitimacy	Variable(s)	Key methods/strategies	Evidence of success/failure	Legitimation or delegitimation
Cognitive	Publicization Standardization Professionalization	<ul style="list-style-type: none"> • Holding public events • Production of factual brochures • Commissioning scientific reports • Providing latest information on rivers 	<ul style="list-style-type: none"> • Increasing usage of MDBA information sources (website) • MDBA seen as key source for public information on Basin • Partial acceptance of sustainable diversion limits 	Legitimation
Moral	Acceptance/rejection of authority based on normative/ethical values	<ul style="list-style-type: none"> • Communitarian and sustainability narratives consistently employed in speeches and key policy documents • Re-emphasis on moral arguments following backlash against Basin Plan 	<ul style="list-style-type: none"> • Positive identification with communitarian and sustainability narratives • Complaints about ‘rhetoric–reality gap’ 	Legitimation
Pragmatic	Acceptance/rejection of authority based on socioeconomic interests	<ul style="list-style-type: none"> • Short information/consultation process during development of the Basin Plan 	<ul style="list-style-type: none"> • Backlash against Basin Plan based on perceived inadequate consultation • Stakeholders argued social/economic impact of the Plan was not considered 	Delegitimation

reports from third sector bodies using scientific methodologies to generate policy recommendations, such as estimations of environmentally sustainable SDLs provided by CSIRO (Young *et al.* 2011).

Lastly, the MDBA also produces reports and media releases that create a 'hub' of information for professionals involved in Basin river management (row 2, column 3, table 2). For example, the MDBA produced regular updates on drought conditions (flow levels and expected drought longevity) during 2009 (MDBA 2009f). The MDBA also issues alerts for algal blooms (MDBA 2010d) and updates on the maintenance of infrastructure, including, for example, ongoing repairs to locks (MDBA 2009c), as well as maintaining a blog and social media feed.

These roles are, of course, core to the functioning of the MDBA itself, and it would be peculiar for it not to inform local communities and relevant actors about activities that concern them. Intentional or not, however, these functions do position the MDBA as a central actor in Basin governance, a source of up-to-date information, and communication hub. Hence, they can be seen as important, not only as functional aspects of the MDBA, but central to the authority invested in it by actors within the governance network via the 'standardization' of those functions and their use and engagement by actors.

How effective has the MDBA been in achieving cognitive legitimacy – that is, effectively 'popularizing', 'normalizing', and 'professionalizing' itself and its policies (Cashore 2002)? First, the MDBA has largely been successful in popularizing itself with stakeholders (row 2, column 4, table 2). This is, at least in part, because it evolved from, and effectively replaced, the previous MDBC, and hence had a 'head start' in terms of familiarity. Effective popularization can be seen in findings from internal interviews conducted by the MDBA 'that Basin stakeholders regard the MDBA as a principal online source of information about the Murray–Darling Basin and the proposed plan' (MDBA 2012c, p. 29). This observation is supplemented by statistics showing that 'during 2011–12, the MDBA website received around 33,600 visits per month (adjusted figures), almost 35 per cent more than in 2010–11. Collectively, these visitors viewed about 144,900 pages per month ... almost twice the figure of the previous year' (MDBA 2012c, p. 86). Moreover, in the realm of social media, during 2011–12 the MDBA's Twitter followers more than doubled (from 591 to about 1,300) and the MDBA's 'Free Flow' blog received 10,569 views during the Plan's consultation phase alone (MDBA 2012c, p. 87). The MDBA thus appears to be a key source of information and is increasingly used as a central outlet for stakeholder interaction regarding Basin water policy.

Second, 'standardization' (row 2, column 4, table 2) has also been effective to the extent that, 'most people have now accepted the Plan' (interview, MDBA stakeholder manager, November 2013). In particular, SDLs are being incorporated into Basin States' water resource strategies, due to come into force in 2019. This is, of course, a requirement of law; however, the acceptance of SDLs as 'taken for granted' on the basis of scientific expertise has only been partial. In responses to consultation, for example, state governments expressed 'serious concerns regarding the scientific basis of the SDLs' (MDBMC 2012a, p. 1), and that 'these water reductions should be examined ... to determine if the volumes proposed are scientifically justified or alternatively determine that the SDLs need revision' (MDBMC 2012b, p. 4).

Concerns were also expressed at a more local level; for instance, in the Federal House of Representatives, MP Michael McCormack noted that 'The irrigators in my electorate ... are understandably outraged ... We will not cop this amount of water being taken out of our system and put down the river for no environment gain' (McCormack 2012). Such

concerns are, arguably, rooted in deeper considerations of the socioeconomic implications of the Plan for Basin communities, arising from diverse, and often conflicting, contextual factors. As such, it can be suggested that difficulties in gaining widespread standardization of SDLs may be related to other dimensions of legitimacy, specifically those related to contextual considerations of stakeholders' individual circumstances and related interests. For now, however, the key point is that cognitive legitimacy was largely achieved by the MDBA, a point which is reinforced through a focus on moral legitimacy.

Moral legitimacy

The MDBA has attempted to achieve 'moral legitimacy', defined as consent to authority based on normative/ethical values, by appealing to two sets of higher-order normative goals (row 3, table 2). These can be characterized as 'sustainability' and 'communitarianism'. The argument is that the MDBA achieved legitimation along this dimension, especially in re-engaging stakeholders in the wake of discontent around the publication of the Basin Plan in 2010. However, difficulties in terms of a perceived 'rhetoric-reality gap' among stakeholders with regard to the professed communitarian values of the MDBA raise further questions about the importance of contextual factors, and the presence of delegitimizing pressures.

The first MDBA Annual Report emphasized four strategic goals:

- tackling climate change
- supporting healthy rivers
- using water wisely
- securing our water supplies (MDBA 2009a, p. xi).

These goals contain appeals to two sets of values: 'communitarianism' and 'sustainability'. Communitarianism is appealed to by the first and fourth points, referring essentially to the need for the value of collective community action and solidarity, implicit in the demand for 'tackling' shared problems and 'securing' common resources. Communitarian appeals can be found in various statements of MDBA principles. For example, in a draft of the Basin Plan, the need for a 'healthy working Basin' is expanded as follows:

Strong and vibrant communities with sufficient water of suitable quality for drinking and domestic use (including in times of drought), as well as for cultural and recreational purposes. (MDBA 2011c, p. 2)

The appeals to 'strong and vibrant communities' clearly denote a normative focus on achieving a common, collective good, as MDBA Chair Craig Knowles' speech to a local Basin community event shows:

It's about time we got it right, that the processes of buyback and infrastructure funding and state government programs as well as the role and functions of the environmental water holders at Commonwealth and State levels be better aligned and more streamlined to serve and benefit communities rather than tie them up in more red tape. (Knowles 2011a)

'Serving communities' has been an especially prevalent line since a draft Guide to the Basin Plan (henceforth 'The Guide') provoked political backlash in October 2010 (see below). Press releases sought to assure that 'we are moving toward a Plan that will seek balance, respect communities' (MDBA, 2011g) and emphasize the importance of 'community feedback' in the Plan's implementation. Knowles further acknowledged the importance of communitarian values in a December 2011 speech:

We have made it very clear that our plan says there should be a bias towards investment in infrastructure as opposed to taking water out of communities. It's a very clear statement of principal [*sic*] in the belief that as we have seen so many times, by investing in communities, you not only get an economic and social dividend, you get an environmental return. (Knowles 2011b)

This focus on the 'environmental return' leads to the second moral emphasis on 'sustainability' (second and third points), which refers to the normative stance of sustaining natural environments and their reproductive capacities (row 3, column 3, table 2). Documents consistently emphasize the importance of 'healthy and diverse ecosystems with rivers regularly connected to their creeks, billabongs and floodplains, and ultimately, the ocean' (MDBA 2011c, p. 2). Appeals to maintaining a 'healthy working Basin' (MDBA 2011d), a 'balance between the environment, economies and communities' (MDBA 2012d, p. i), and respect for 'the precious resource' (Knowles 2012) are common rhetorical themes, and 'health' and 'sustainability' are closely linked:

As the Basin Plan is implemented, it will be critical to incorporate new knowledge from ongoing research and to make future changes to the plan based on this knowledge and the experiences gained as we progressively move to a more *sustainable and healthy* Basin. (MDBA 2011e, p. 64, italics added)

These latter narratives were strongly successful, feeding into and reinforcing existing norms among the general public (row 3, column 4, table 2). Consultation responses show agreement on the principle of environmental sustainability among respondents not affiliated with environmental campaigns (MDBA 2011f). Out of all responses that were not associated with political campaign organizations, 71 per cent supported sustainability as a goal, while 7 per cent of total respondents believed the Basin Plan did not go far enough in pursuing sustainability, but they still supported the Plan overall (MDBA 2011f, p. 8). Amongst respondents affiliated with political campaigns, support for sustainability was even higher, at 86 per cent, with 19 per cent advocating the need to go further (MDBA 2011f, p. 8). Respondents are also broken down geographically and, amongst those from within the Basin, 73 per cent supported the overarching sustainability values, with 33 per cent suggesting the need to go further (MDBA 2011f, p. 8). As such, it can be argued that the MDBA was successful in its sustainability narrative to the extent that it tied in with, and reinforced, existing and developing beliefs about sustainability among Basin stakeholders and consequently garnered substantial support for those aims.

Regarding communitarian narratives, however, it can be argued that there was a significant disjuncture between the professed values and 'reality' as viewed by respondents (row 3, column 4, table 2). The MDBA acknowledged, for example, that there was 'a sense of "reform fatigue", a lack of trust and concern that consultation was not genuine' (MDBA 2011f, p. 6).

Importantly, the MDBA subsequently sought to appeal more to 'localism' and the intrinsic value of community (row 3, column 3, table 2). One key example was the *Yarn on the River* project, a consultation with indigenous communities guided by 'localism' or 'involving communities in developing and implementing water reforms so that they have ownership of decisions and actions' (MDBA 2012d, p. 14). This consultation developed the notion of 'cultural flows', that is, 'an important and respectful acknowledgement of (indigenous) culture, traditional knowledge, and spiritual attachment to place' translated 'into the language of water planning and management' (MDBA 2012d, p. 26).

As intimated above, this communitarian narrative developed primarily in response to feedback on an initial Guide. This suggests that certain 'moral' strategies may seek to mend damaged legitimacy relationships, a point returned to in the conclusion.

Pragmatic legitimacy

The dimensions analysed above – cognitive and moral – both largely saw legitimation of the MDBA and the Basin plan. However, this ‘acceptance’ was not total and appeals to communitarian values and ‘professionalization’ was more problematic. Here, it is argued that this was because of delegitimation along the *pragmatic* dimension when a Basin Plan Guide was released (row 4, table 2). This was because the MDBA did not actively appeal to the socioeconomic benefits of the Plan, and its potential impact was a significant area of ‘push back’ from Basin stakeholders, despite an initial programme of consultation. In this period, there was a lack of attempts at showing stakeholders that the Plan was in their interests, followed by angry protests against the Plan when the Guide came out.

The first point is that there was relatively little attempt to achieve legitimacy through appeals to socioeconomic benefits (row 4, column 3, table 2). To an extent, a brief ‘information session tour’ (Daniell 2011, p. 416), advertised as offering opportunities for ‘local communities (to) be able to discuss the guide with senior Authority staff’, could be seen as appealing to socioeconomic interests (MDBA Basin News e-Letter Issue 7, August–September 2010). Engagement activities in the Basin Plan development included, for example:

- individual meetings with stakeholder groups and communities
- presentations, discussions, and information stands
- digital communications including MDBA website, on-line forums, and blogs
- comprehensive regional workshops (MDBA 2009b, p. 4).

These engagement strategies were intended to ‘acknowledge and value people’s contribution to the planning process’ and hence ‘increase people’s understanding of the Basin Plan issues’ (MDBA 2009b, p. 4). These intentions might be seen as a way of promoting pragmatic legitimacy by providing stakeholders with ‘input’ into the decision making process, although they were more implicit attempts than systematic strategies.

This engagement strategy, however, ‘received widespread criticism from, and distressed many of, the (Basin’s) stakeholders’ (Daniell 2011, p. 416). When an initial Guide was released in October 2010 (MDBA 2010c), there was ‘an angry backlash’ (Kelly 2010). Newspapers reported how farmers and local communities feared the Plan ‘could wipe out 16 per cent of the irrigated agriculture industry – worth up to \$1 billion a year – and have severe social and economic impacts on rural communities in the nation’s foodbowl’ (Franklin and Karvelas 2010). One widely reported incident saw the burning of paper copies of the Guide in Griffith, New South Wales (Kelly 2010). As one official noted: ‘it [the MDBA] got clobbered for it [the Guide], absolutely clobbered ... you saw a lot of politics flare up’ (MDB futures workshop, October 2013). This political pressure led to a parliamentary inquiry that noted a ‘reduction in business confidence’ (Windsor Report 2011, p. 2):

The MDBA was met by angry and concerned regional communities, including farmers, town business people and professionals, Indigenous people and individuals representing schools, churches, community organizations and local governments ... [the Guide] provoked despair, anger and anxiety as communities reacted to what they felt was an attack on their livelihoods. (Windsor Report 2011, p. 4)

Here, we can see how reaction to the Guide marked a period of delegitimation along the ‘pragmatic’ dimension (row 4, column 4, table 2). Those who would be directly affected did not see what was ‘in it for them’, and hence pushed back against the Plan itself. Feedback on the Guide from Basin respondents showed 27 per cent outright opposition, whereas

only 2 per cent of feedback from the rest of Australia was fundamentally opposed, highlighting a distinctly higher level of objection by those most directly affected (MDBA 2011f, p. 8). Moreover, 33 per cent of consultation respondents from within the Basin rejected the methods and targets proposed within the Plan, much higher than outside the Basin (6 per cent) (MDBA 2011f, p. 8). Put together, only 8 per cent of respondents from outside the Basin rejected either the Plan outright or its methods and targets, compared to 60 per cent of respondents from within (MDBA 2011f, p. 8). Hence, as one MDBA official noted, the common reaction from Basin stakeholders was 'it's my family, it's my livelihood' (MDBA futures workshop, October 2013), and as another put it, 'there was a lot of emotion' and the MDBA had to 'earn back people's trust' (interview, MDBA stakeholder manager, October 2013). One stakeholder response summed up the mood: 'This Basin Plan will affect me every day, for the rest of my life' (Snowden 2012, p. 3). Delegitimation is hence most visible on the pragmatic dimension, as stakeholders and the wider public feared for the impact of SDLs on their socioeconomic wealth and livelihoods.

CONCLUSION: FROM PRIVATE TO PUBLIC?

This article demonstrates the importance of political legitimacy as an institutional resource for securing the authority of an agency, beyond formal accountability mechanisms. Interestingly, formal mechanisms of accountability were only invoked in this case when political legitimacy was under threat – the formal parliamentary inquiry launched in the wake of stakeholder outburst against the Basin Plan. This suggests, at least in this case, that accountability may have been a secondary mechanism for resetting the institutional base of the agency to rebuild its political legitimacy, since initial methods (the public consultation) encountered problems. Political legitimacy – acceptance of the authority of the agency by stakeholders – was hence of critical importance in this case. Moreover, the article shows multiple overlapping dimensions along which legitimacy is won (cognitive and moral) and lost (pragmatic). The article hence demonstrates the value of a framework analysing three forms of political legitimacy, and may be systematized in further comparative analysis.

Clearly, the importance of political legitimacy cannot be generalized across all agencies from a single case. Rather, political legitimacy may be particularly important in similar 'wicked problem' policy areas where a new agency is created and has to govern in a highly volatile, complex, and contested field where formal accountability guarantees may not be enough to secure legitimacy, and hence authority. Critical reflection is required first, however, about translating the framework from private to public governance.

Suchman's (1995) framework was originally used to examine stakeholder engagement by private firms without recourse to traditional state-based legal authority. As such, it purposely broke from traditional frameworks examining public authority because, as Cashore (2002, p. 505) notes, 'A focus on material ... incentives alone fails to uncover these dynamics'. Applying this framework back onto *public* authorities might seem paradoxical here. In the case of the MDBA, collective action problems again appear to be an issue because of the importance of 'pragmatic' considerations. The question hence arises of what value this approach has. Two responses are made here, one to justify continued use of the framework, and the other to stress the need for further methodological/conceptual specification.

First, even though pragmatic legitimacy *is* important in this case, it is not the only form of legitimacy the agency seeks, or achieves. As the case shows, legitimacy is sought, and granted, through sociological processes of publicization/normalization (cognitive) and

identification with a common normative/ethical project (moral), but is challenged by socioeconomic arguments (pragmatic). Indeed, given that the SDL policy itself leads to significant cuts in water usage, 'pragmatic' appeals to self-interest were difficult to make; the agency could not simply show stakeholders how it would be in their immediate self-interest (because for most it would not!). This led to delegitimation along the pragmatic dimension, which the agency combated through a stronger strategy along the *moral* dimension. Using a moral legitimation strategy in the face of pragmatic delegitimation enabled the agency to pass the SDL policy. It is this overlapping relationship between different forms of political legitimacy – both the strategies for achieving it and its external acceptance/rejection – that mark the value-added of the framework. Legitimacy may be achieved across one dimension, but then be challenged by stakeholders across another. Further research using this framework may prove fruitful for uncovering relative differences between forms of legitimacy across policy areas and producing policy-relevant findings for achieving authority in these areas.

Second, despite the potential of the framework, more conceptual and methodological specification could help its successful application elsewhere. This is particularly the case for successfully measuring 'pragmatic' strategies, which appear relatively absent in this case, but could potentially be present in more nuanced or less immediately obvious ways that this study has not picked up, being focused on national public debate and engagement. According to Cashore (2002, p. 517), pragmatic legitimacy is achieved by 'addressing the issue of material self-interests'. This is clearly more difficult to detect in 'wicked problem' contexts where their management requires agencies to focus on long-term societal benefits, so appeals to 'direct' economic interests are less likely. The apparent lack of pragmatic legitimation strategies may therefore mean not only that different legitimation strategies are important, but that a more nuanced, contextually sensitive specification of the 'pragmatic' dimension may be needed to detect it. One solution is to define it as appeals to long-term rather than short-term socioeconomic interests.

Public agencies may appeal to self-interests, but in a less obvious way than private regulatory institutions. Moreover, analysing not only public engagement strategies, but also private conversations and consultations with important stakeholders may identify these sensitive, nuanced strategies. While methodologically intensive, the use of freedom of information requests and similar tools can facilitate analysis of these informal processes. A broader appreciation of the tactics employed, and intricate identification of the audiences targeted and the times and places particular strategies are used, is key for building a systematic theory of the political legitimacy of delegated agencies.

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