



Chapter IV

The Significance of Law and Knowledge for Electronic Government

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THE WIDENING SCOPE OF E-GOVERNMENT

Governments at all levels--national, regional and local--are faced with growing demands to organize their work more efficiently and effectively. Moreover, a fundamental reassessment of their agendas has started world wide, which in many cases reduces the role which governments play in serving their societies. Government is considered as a cost factor in the first place, and it has to explicitly legitimize both its standing agenda and the take-up of new tasks. At the same time, it is recognized that public governance structures continue to be necessary to tackle many problems of an ever-changing world. Since newly emerging tasks will demand more and more attention, the existing governmental units are urged to accomplish their core business with only a part of the costs incurred at present.

The use of information technology already has a long tradition in the public sector (Lenk, 1998). Its deployment over more than four decades primarily benefited typical back office operations of a routine type. Less developed is the support of what we perceive as the core activity of public administration, i.e. policy implementation involving complex processes of negotiation and of decision making. These activities shape the business processes of public administration which are the main focus of our attention. To varying extents, these processes are shaped by legal provisions, often to the point that they are chiefly considered as "executing the law." Moreover, they draw on different assets of knowledge which are often situational and implicit. Such processes can only partly be automated, and they have to be carried out by qualified staff. Yet the challenge consists in supporting these activities with IT in innovative ways.

This chapter appears in the book, *Electronic Government: Design, Applications and Management* by Ake Gronlund.
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We feel that in the long run, e-Government will only be successful if its scope is widened so as to include all activities of public administration which can be supported by IT. So far, e-Government dealt with some highly visible aspects of the public sector only, in other words with the tip of an iceberg, whilst the hidden part of the iceberg (i.e., the manifold activities of public administration of a more complex nature) did not profit yet from the use of IT in a meaningful sense. In its present form, e-Government puts its focus on typical front office operations concerning the contact of administrative agencies with citizens. It brings about a new quality of citizen-state interaction, but in doing so it tacitly assumes that the back office part of transactions between public agencies and citizens primarily concerns routine processes in the field of service delivery like, e.g., granting drivers' licenses, registering vehicles, etc. Such processes do not exhibit the same level of complexity as administrative decisions which demand sophisticated human intervention.

This tip-of-the-iceberg approach misses the point. It ignores that the role of government is not only to provide services to citizens which could be provided by commercial firms as well. Beyond services in the narrow sense, government covers many processes which are different from the type of processes encountered in retailing, banking or other branches of the economy. Essentially, the difference is to be found at the level of the legal provisions which govern such processes, as well as in the knowledge which is required to make the decisions which are normally the result of the process. Such processes include:

- complex decision making, not only about policy questions but also with regard to operative matters;
- processes involving negotiations among various stakeholders about matters of public interest;
- processes of policy formulation (e.g., legislative processes) and democratic participation.

IT has a great potential to support such processes. In this contribution, we take our start from a view of public administration in which law enforcement and the regulation of society through policy implementation are constitutive factors, to a much greater extent than the delivery of public services to individuals. In this view, the role of law and knowledge in reaching administrative decisions has to be explicitly acknowledged.

We will start by drawing attention to the wide scope of activities of public administration, as well as to the fact that its activities depend on law and knowledge in characteristic ways. Then we will sketch a process model of administrative work and distinguish several basic types of processes. After addressing the problems related to knowledge management, we try to account for the relationship between the process and the results of decision making on one side, and law and knowledge on the other. Finally, we discuss specific problems of knowledge use and decision making related to the four basic process types.

THE SPECIFIC NATURE OF ADMINISTRATIVE ACTION

Starting from the famous expression coined by Wallace Sayre (Jann, 1998), we can say that “public and private management are fundamentally alike in all unimportant respects.” The most important aspects which do make a difference are:

- the specific tasks of government,
- the role of law (normative aspects),
- the special significance of knowledge.

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