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Was Ella Fitzgerald right?

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Inaugural speech

**Chair in “Openbaar Bestuur in Kleinschalige
Rechtsordes”**

**University of Aruba
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Was Ella Fitzgerald right?

Your Excellencies, Ladies and Gentlemen, dear colleagues, students, my dearest Lies,

1. Introduction

It is a great honor to present to you my inaugural speech on behalf of accepting the governor's chair: "Openbaar bestuur in kleinschalige rechtsordes", i.e. "Public Governance in Small Systems of Law" here at the University of Aruba. It is a post installed by the governor within this beautiful university for academic purposes. As it says in the job description, this chair will give special attention to the development of governance in relation to the available capacities, and to the conditions needed for an effective and transparent public administration, taking the cultural context into account. Later on in the same memo a crucial question is posed, namely the question "in what way can institutions be strengthened or designed in order to shape a public administration that fits a small system of law and which is in conformity with the general requirements for good governance". Well now, if you expect me to give answers to those questions during this inaugural speech, I have to disappoint you. I start this post modestly, without any pretences, but with a lot of questions only to be answered after doing thorough research. One of those questions that has come between me and my sleep for a long time is a very complex one, although it finds its origin in a simple, but beautiful song by Ella Fitzgerald. I refer to the song: *It ain't what you do, it's the way that you*

do it'. Nowadays this song is translated in an adage for Public Administration in its emphasis on good governance. As we are told again and again: "It does not matter what government does, as long as it does it in a legitimate, transparent, accountable, efficient way, with regulatory quality and control of corruption". This is nowadays called "good governance". Kofi Annan in his function of secretary general of the UN said about good governance that it is perhaps the single most important factor in eradicating poverty and promoting development¹.

2. The trend towards governance

This is nicely said, but what does it imply? What is that thing called governance, and what does it explain? Governance is a concept that many scholars have addressed before. When asked what governance is exactly, many different answers can be and are usually given. The most simple definition, having my support, is that governance is nothing else than the conduct of government. This is nevertheless rather different from the interpretations given to governance in the last 20 years. Below I will argue that it has become a concept that includes more and more phenomena related to the steering of societal developments Originally it was seen as an alternative for government. It was – according to the scholars of that time - something like the final blow for government that had to accept that society cannot be hierarchically steered or controlled. The steering of developments had to be left to societal actors and had to be accomplished through networks in which hierarchy hardly played a role. In the second half of the 1990s and the early 2000s the interpretation changed. There was a role for government in governance, but this was not a dominant role. According to Raadschelders governance refers to all organizations and institutions that are involved in the structuring of society,

¹ www.unu/p&g/wgs

including governmental as well as non-governmental actors and independent agencies, without any one of them being dominant². According to others, governance is a key concept in contemporary analyses of policy networks³. It is only recently that the role of government and the creation of good institutions by government is deemed important again. Scholars began to realize that government should do what it is supposed to do, that is, at least create security, protect property rights, reduce societal problems and take back its leading role in controlling and steering societal developments (See for instance the recent literature on failed states and nation building).

3. The dubious implications of good governance

If the popularity of the concept would only be used to describe different trends in the steering of societal developments there would not be a problem. One can analyze what is going on, try to explain it and test the findings.

However, the term governance has become dangerous in that scholars as well as (international) organizations have added a normative prefix to it, namely ‘good’ and have added a large number of criteria for ‘good governance’. These scholars and international organizations have imposed an agenda on governments which by now has become overloaded. In practice good governance implies large-scale institutionalization, formalization and regulation. In terms of the almost 50 year old classic of Michel Crozier, it is formalization as risk-avoidance⁴.

I have three potential problems with the concept of good governance:

² Raadschelders, J.C.N. 2003. *Government, a public administration perspective*. New York: M.E. Sharpe. P. 4

³ Kickert, W.J.M., Klijn, E.H. & Koppenjan, J.F.M. 1997. *Managing Complex Networks*. London: Sage.

⁴ Crozier Michel. 1963. *Le phénomène bureaucratique* Paris, Éditions du Seuil.

1. Emphasizing only one dimension of government (institution building in order to achieve good governance) implies neglecting other equally important dimensions (outputs, outcomes), and even has negative side-effects⁵;
2. There is the problem of overload and cost-inefficiency involved in building one institution after the other under the guise of good governance. This creates complexity where parsimony might be in order;
3. The institutionalization supposedly needed to achieve good governance is in the end a kind of one-size-fits-all solution, where tailor-made solutions could be more effective.

3.1. The neglect of outputs and outcomes

Governments should act according to all the criteria of good governance. That is, on the basis of rule of law, voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, and control of corruption. If a government would proceed in this way and improve itself as much as possible on these dimensions, this is supposed to be sufficient for eradicating societal problems.

This assumption is quite different from earlier explanations for socio-economic development, in which for instance, economic growth is induced by the actual contents of the policies a government develops and implements. Such theories point to the need for demand-side or supply-side policies, that is, tax policies, stabilizing interest rates, controlling public expenditures on the one hand and promoting education and training, research and development and mobility on the other hand.

⁵ de Vries, M.S. 2010. *The Importance of Neglect in Policy Making*, publ. Palgrave, MacMillan, London, New York.

The idea that the way in which governments act is more important than what they actually do, constitutes one of the many, many dubious assumptions, or to put it benevolently, hypotheses, surrounding governance. It is a problematic supposition especially in relation to the scale of a system of law, when human resources are scarce and when it would take a disproportionate part of the financial resources available to improve the process at the expense of improving outputs and outcomes.

One might even expect that ongoing formal institutionalization in small systems of law has its limitations and even drawbacks, because such systems have the historical advantage of the possibility of informality in which institutionalization might be redundant and even counterproductive.

At present, one of my students is doing a PhD study asking herself whether there is an optimum amount of institutionalization of public participation processes. As we know, public participation is not always effective and often a tiresome process in which the stakeholders are disappointed in the end.

Sometimes this is the consequence of such processes resembling a brainstorm session, being unstructured and free-floating. In other cases it is the consequence of such participation being completely bureaucratized (cf. De Vries, 2000⁶), i.e. administrators already telling beforehand what the alternative options are, what the relevant criteria are and how many times the stakeholders can meet. Just to tell an anecdote from the Netherlands: in one case of public participation the agreement was to have three meetings. However, it proved that another meeting was needed. However, this was not according to the rules agreed upon. Hence, a zero'th meeting was invented.

Such experiences tell us that there might be some optimum of institutionalization in between the two extremes. A crucial question is to locate

⁶ de Vries. M.S. 2000. The Bureaucratization of Participation. *International Review of Administrative Sciences*, 66(2), 325-348

this optimum, but the one-million dollar question is whether the location of this optimum is the same everywhere, which would make for universal and therefore efficient recommendations regarding the planning of such processes. The more realistic answer is that such an optimum is culture-bound and it is necessary to perceive such an optimum of institutionalization as being contingent. This implies that in practice one needs to adjust the procedures to the specific characteristics of the context. This outcome would result in more complex recommendations regarding the planning of such processes, but would probably be far more effective.

That the optimum might be in between is also seen in research done by Euwema and others⁷ into the way governments deal with complaints. Many complainants are dissatisfied after going through the whole procedure and judge the procedure to have been overly formal⁸. Euwema's research suggests that in some cases governments can deal more informally with such complaints. Where to be on a scale that runs from complete formalism on the one hand to a completely informal reaction by just making a telephone call at the other extreme seems to depend primarily on the nature of the issue and characteristics of the complainant. The nature of the complaint can concern a request for missing information, an administrative error, improper behavior by the official, insufficiently tailor-made policies or disputes on fundamental principles. According to Euwema, the former issues can do without a formal approach, whereas the latter cannot. Characteristics of the complainant are also important. Does the complainant just want to be treated fairly or have the idea that he is treated fairly (procedural justice) or does the complainant want to make a point and to win a procedure against government (instrumental justice)? To push this

⁷ Euwema, M., L. van der Velden, C. Koetsenruijter. 2010. *Prettig contact met de overheid: praktische handleiding voor het inzetten van mediationvaardigheden*, Den Haag: BZK.

⁸ See also Tyler, T.R. 2006. *Why people obey the law*, Princeton, New Jersey.

idea further, the proper way to handle complaints might also be contingent, that is, dependent on the uncertainty, dynamics of the context, its culture and socio-economic development and as a matter of fact the scale of the system. I will return to this point later. That is important, was argued by Herweijer and Lunsink. They tell us that although an informal approach in dealing with complainants is not always optimal and dependent on the context, the nature of the issue and the characteristics of the complainant, less formalism in dealing with complaining citizens where this is possible, might well result in more acceptance by the complainant (higher legitimacy), a shortening of the run time and diminishing administrative costs (efficiency)⁹.

3.2. The overloaded agenda

Another assumption with regard to good governance is that all the mentioned dimensions thereof are expected to have positive effects and that this also goes for any dimension added to the concept. For governments wanting to have good governance or on which the criteria for good governance are imposed, this results in an overloaded agenda, sometimes squandering all the desperately needed resources to induce socio-economic growth and probably being counterproductive in that regard. Overloaded also, because there is no prioritizing between the criteria or dimensions. Overlooking the period from 1995 until now, many aspects and dimensions were added to the concept of governance. At first the number of criteria were not that many. The UNDP, for instance, saw five good governance principles, namely legitimacy and voice (including participation and consensus orientation), direction (including strategic vision) performance (including responsiveness, effectiveness and efficiency) accountability (including transparency) and fairness (including

⁹ Cf. Heweijer, M. and J.R. Lunsink. 2011. *Hoe beleven burgers de bezwaarprocedure*. Ministerie van Binnenlandse Zaken en Koninkrijksrelaties. Den Haag

equity and rule of law)¹⁰ The World Bank has given six dimensions to the concept, namely: Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption (Faqs provided by World Bank).

Five or six dimensions does not seem to be too bad. However, behind each of the dimensions there are multiple indicators. If we, for instance, only look at the number of indicators measuring the dimension ‘government effectiveness’ as done by the World Bank, there are more than 40 indicators¹¹. A similar complexity in indicators is visible for the other five dimensions, resulting in an agenda for improving governance, that is really huge with over 150 indicators. In this sense the concept has become ‘slippery’¹² (Kettl, 2002: 119).

One of the first critics on this abuse of the term good governance was Merilee Grindle. She tells us that most of the good governance agenda is about what governments need to do to put their political, administrative, and financial houses in better order. At the same time, many governments (in countries lacking the financial and/or human resources) not only have low capacity to carry out such commitments, but are also locked in conflicts of interests between trying to do the right things and doing things right. That consumes their energies and resources (Grindle: 2004: 539). Furthermore, according to her, it is not at all self-evident that improving governance in all these aspects will result in a reduction of the societal and managerial problems those

¹⁰ Graham, J., B. Amos, and T. Plumptre. 2003. *Principles for good governance in the 21st century*. Policy Brief No. 15, Institute on Good Governance. Available: <http://www.iog.ca/publications/policybrief15.pdf>

¹¹ Kaufmann et al, 2002. *Governance Matters III: Governance Indicators for 1996-2002*, World Bank, Washington. p.93

¹² Kettl, D.F. 2002. *The Transformation of Governance: Public Administration for Twenty-First Century America*. Johns Hopkins University Press

governments face. The innovations may provide short-term responses to serious governance deficits, but may not provide long-term solutions. Furthermore, because the conceptualization is often a-historical, solutions insufficiently take the difficult trade-offs and dilemmas into account, and neglect the distinct features of the contexts and the varying levels of development in different countries. This is congruent with the argument of Collier in his recent book about the bottom billion, namely that bad governance is only one of the traps in which countries are caught.¹³

Grindle argues that the good governance agenda is unrealistically long and growing longer over time. Among the multitude of governance reforms that “must be done”, there is little guidance about what’s essential and what’s not, what should come first and what should follow, what can be achieved in the short-term and what can only be achieved over the longer term, what is feasible and what is not. If more attention is given to sorting out these questions, “good enough governance” may become a more realistic goal for many countries.¹⁴ Good enough governance is described as governance that scores high on those factors that do matter for the reduction of societal problems, although it may fail on other indicators of good governance which are less relevant in a specific context.

The idea of good enough governance is comparable to the scientific principle of striving for parsimony. In this case it asks which known dimensions of good

¹³ Collier, P. 2008. *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*. Oxford University Press, 2007. Other traps he mentions are being landlocked, the resource trap and civil war

¹⁴ Grindle, M. 2004. Good Enough Governance: Poverty Reduction and Reform in Developing Countries. *Governance*. Vol. 17 no. 4. pp 525 - 548

Grindle, M. 2007. Good Enough Governance Revisited. *Development Policy Review*. Vol. 25. no 1. pp. 533-574

governance and indicators for these dimensions pose the necessary and sufficient conditions to explain economic growth and reduction of poverty. Originally known as Ockham's razor, the parsimony principle states that the explanation of any phenomenon should make as few assumptions as possible, eliminating those that make no difference in the observable predictions of the explanatory hypothesis or theory. Swinburne argued for such simplicity on logical grounds: "...other things being equal -- the simplest hypothesis proposed as an explanation of phenomena is more likely to be the true one than is any other available hypothesis, that its predictions are more likely to be true than those of any other available hypothesis, and that it is an ultimate, a priori, epistemic principle that simplicity is evidence for truth" (Swinburne 1997¹⁵). Why did we never apply this principle to our Public Administrations and why do we – despite our knowledge that the best way to do things, to conduct policies, to structure organizations is contingent - never ask ourselves what the important dimensions in the relevant context are and on a meta-level whether the relevance of these dimensions might vary amongst contexts. It is the question whether in small states other aspects of good governance, or rather good enough governance, are at stake than in larger states or even in super states.

Small states hardly have to bother about violations of human rights in China, they will not be listened to anyway. They don't need to bother about their international position vis-à-vis Russia or the United States. They cannot beat them anyway. Nor do they have to worry about their position over the relations between Israel and the Palestinians, because this does not impact anyway. On the other hand whereas in large systems of law interpersonal trust is perhaps of minor importance, because transaction costs and especially the prevention of what is called moral hazard, are minimized by extensive institutionalization, in

¹⁵ Swinburne, R. 1997. *Simplicity as evidence of truth*, Marquette University Press (Milwaukee)

small states interpersonal trust as a form of social capital - might be of utmost importance for reducing transaction costs and one needs to avoid that for the sake of preventing transaction costs one introduces even more costly institutions.

One of the problems is that institutionalization can be destructive for such trust. To give an example: In the old days, when smoking was not immediately associated with being a pariah of society, people asked one another: “Do you mind when I smoke a cigarette?”. Depending on the answer one took a cigarette or not. This informal interaction in itself created basic interpersonal trust.

Nowadays, laws and regulations tell us where it is allowed to smoke and where this is prohibited. The consequence is that people just look where they are. If it is a smoking area, they smoke. If it is prohibited, often they do not. But what is missing is the mutual interaction and the interest in one another and eventually the loss of what we should cherish, that is, basic trust. Regulations and institutionalization take over and the downside is that natural basic relations of trust diminish and even disappear (cf. Sztompka, 1999)¹⁶.

The same goes, inter alia, for governmental institutions. Large nation-states - in Europe especially France has this reputation – often try to formalize and institutionalize everything. It is their solution for all problems. They act like my daughter: “No matter what the problem, shopping solves it all”

3.3. The one-size-fits-all approach

If all the above is true more generally, the recommendation would be that it might be counterproductive just to transfer institutions from outside, as if it were one-size-fits-all solutions, even if they seem to be best practices in the country of origin. An example is provided by the situation in Central European countries. After the fall of the Berlin Wall and their strive to become member of

¹⁶ Sztompka, P., 1999. *Trust: A Sociological Theory*, Cambridge, Cambridge UP.

the European Union, they were required to copy the community *acquis* or *acquis communautaire* from the European Union, whether the regulations fitted their situation or not. The criticism on those countries afterwards was, of course, that not everything had been properly implemented and certainly not everything was seen as rational, legitimate, effective and efficient within the context of the recipient country. One could have predicted this beforehand. One of the causes of such unwarranted and problematic mimesis, is found in the role of external advisors. Just to return to the Central and East European countries when they made their transition from centrally steered economies to free market systems, and were confronted with unemployment for the first time, Western advisors stepped in and provided advice. Characteristic of much of this advice is that they told the recipient countries how they did it at home. Because at home they were wealthier, the recipients should just copy those standards (cf. Brunsson & Jacobsson 2000¹⁷; Røvik 2002¹⁸). The French advisors suggested to use the French forms for the registration of unemployment. And not without a cause: Equality before the law is crucial. However, they did not suggest to use just one form, but a big pack of forms, exemplary for the way the process was bureaucratized in France. For the small Central and East European countries the implementation thereof implied huge administrative costs, without any immediate effects regarding the reduction of the emerging problem of unemployment (cf. Sobis & De Vries, 2009¹⁹). Small countries in transition can

¹⁷ Brunsson, N. & Jacobsson, B. (eds.) 2000. *A World of Standards*. Oxford: Oxford University Press.

¹⁸ Røvik, K.A. 1996. De-institutionalisation and the logic of fashion. *In*: B. Czarniawska & G. Sevón (eds.) *Translating organizational change*. Berlin – New York: Walter de Gruyter, 139-172.

¹⁹ Sobis, I. & M.S. de Vries 2009. *The Story behind Western Advice to Central Europe during its Transition*. publ. NISPACee press. Bratislava.

even become completely confused because of the advice they get from foreign experts and advisors. In Romania, when it underwent its transition, US advisors told them the best thing to do was to decentralize – it was the dominant trend in the USA and that was paradise on earth, was it not? Simultaneously the French advisors, paid by the EU, told Romanian government to centralize. That was the way it was done in France, and France was an exemplary EU-member, was it not? In the end, of course, all the contradictory advice fell flat. One wonders whether the lacking and slow progress in such transition countries was due to the standardizers coming from outside and whether the real progress occurred despite these advisors (cf. Sobis & De Vries, 2009).

4. The State of Aruba

So you may ponder, what has all this to do with Aruba as a small system of law and its public administration? Well, perhaps you recognized some of the above and see it applicable to Aruba, but in general I must disappoint you: the answer at this moment is “It has nothing to do with Aruba yet”. The reason is that a thorough diagnosis of what is going on here, in my eyes, is still severely lacking. I hardly know anything about Aruba, its public administration nor its culture. But then I ask you, what do you think you know yourself about Aruba and the state of public affairs in Aruba? More than me, obviously, but is that “good enough” to judge the public governance in this small system of law and to provide advice on what to do?

Of course, you as well as I have read all the reports, mostly in Dutch and of Dutch origin, about what is happening in Aruba, among others, documents such as “Checks-and-balances in Caribische bestuurssystemen” (Nauta & De Goede, 2007) and the recent WODC report on “De Staat van het Openbaar Bestuur in Aruba” (WODC, 2011). But everything these reports tell me is that Aruba has a terrible reputation. All reports depart from the same sources in the 1990s and no matter what actually happened afterwards, Aruba still faces the same prejudices. Well now, I don’t know if anything actually improved. That is

something I could unfortunately not detect in those reports. I do see that the theoretical analysis is stable over time, that each incident is interpreted as a verification of the basic theory and adds up to your shady reputation. The theoretical analysis goes as follows; Aruba is a small island state and therefore it faces moral hazard. From the analyst point of view this is framed as being part of inevitable nepotism, fraud, bad governance and hopelessness of the situation.

However, simultaneously I see Aruba having a Human Development Index of 0,88 which far exceeds the figures common in other Caribbean states. I see a UNDP website on Aruba telling the literacy rates are 96,5%; the proportion of the population using an improved drinking water source being 100%; a GDP per capita of 25,231 US \$; the life expectancy at birth being 73 years; 42 internet users per 100 inhabitants; a population growth in the last 10 years of 12,5%, which is indicative for feelings of safety and stability; a diminishing average household size, indicative for progress; average incomes between 2,000 and 3,000 Aruban florins; more than 95% of the population having a mobile phone; and 81% of the population owning a house²⁰.

I have to make analyses in detail and have to see whether the statistics are an adequate reflection of reality, but at first sight, it seems - with all the provisions and conditions - that on the outcome side, that is, the current state of the Aruban people, Aruba must have done something right.

This adds to the puzzle. How can it be that a public administration and government with such a bad reception, nevertheless produces outcomes for its population which are pleasing, to say the least?

²⁰ <http://www.cbs.aw/cbs/>

Summary results Census 2010. found on:

<http://www.censo2010.aw/images/stories/pressrelease%20census%202010%20nederlands.pdf>

Is it the case that what seems to be the case is different from what is actually the case? Perhaps the relation between good governance and good outcomes is more complex than expected at first sight. Is something missing in our understanding? Or is the image of government very different from reality? Such questions can only be settled by doing comparative research and I am happy to be enabled to conduct such research.

5. Concluding

If the concept of good governance is asking too much where clarity and simplicity might be in order, especially in small systems of law; if the concept is based on dubious assumptions, because what government does might be as important as how it does it, and if it is based on a one-size-fits-all ideology while optimal organizational cultures and structures are contingent, perhaps the concept of good-enough-governance is to be preferred. The problem to be answered by empirical research is: what is good enough; what is the optimum amount of institutionalization and to which degree does this depend on scale, culture and other boundary conditions?

Ladies and gentlemen.

I can go on reflecting, but you and I need a drink to celebrate this installation of the governor's chair. Before we part just a few personal words. The label of this position is "Governor's chair", and you as an audience at this moment will know that it was a well-received present for the university given at the occasion of 25 years of Status Aparte for Aruba.

So with the endowment to me, I am a present.

Hmm... I can see people thinking: He...a present?

I can even see my wife thinking: "Why didn't I think of that... giving him away ... before".

In the future people probably forget the reason for installing this chair and only read “governor’s chair”. And they start to think: “Who is he, that Michiel de Vries, sitting in the chair of the governor?” Well now, there will be a printed version of this oration and they can read that it is without any arrogance that I have accepted this position. It is not something to be afraid of, as if the governor’s chair is occupied by someone who has political ambitions or even is choosing political sides. To be honest, as a scholar, I’d rather starve amidst plenty.

It is a post installed by the governor within this beautiful university for academic purposes. To give scholarly answers to pressing questions. Questions only to be answered after doing thorough research. I accepted because I love to do such research, to do research together with my colleagues at the University of Aruba and with the Aruban students. I am enthusiastic to tell students and administrators about the results of this research, curious about almost everything that happens in public administration and eager to find explanations. But recommendations about what to do? You have to wait.

I would like to thank some people who made this appointment possible.

First of all his Excellency, the Governor of Aruba, *mr. Refunjol* and the staff of the cabinet of the governor, especially *Peter Benschop* and *Martijn Boelen*.

Secondly I would like to mention the president of the board of trustees of the University of Aruba, *mr. drs. Gibbs*,

Thirdly, special thanks go to the members of the sounding board group.

Fourthly, the members of the Appointments Advisory Committee have put their trust in me. I am grateful and hope I don’t disappoint you.

Special thanks also go to the faculty dean *Eric Mijts*, with whom I hope to have a prosperous cooperation and who was so kind to give extensive help in the last three months.

Furthermore, I would like to thank the Radboud University in Nijmegen and especially the dean of the Faculty of Management Sciences, who supported this endowment to me.

Last but not least, there is my family. My dearest wife and three daughters, *Lies, Linda, Liza and Machteld*. Lies is here today and she is a precious person without who I could not have come this far. Thank you Lies. Today is December 1st. It was the birthday of my late mother and of Lies her late father. It is indeed a special day.

Ladies and gentlemen, it is time to do research to answer the questions posed.

Thank you for your attention.