Says Who? Evaluating Legitimacy in Accreditation

 Accreditation systems have existed since the early 1900s beginning with the accreditation of medical institutions and education. However, in the early 1970s there was a sudden surge in the demand for accreditation propelled by a variety of causes such as changing political and professional environments (Weissman, 1980, p. 41). In response to this pressure, the government created the Council on Accreditation for Children and Family Services (COA), which is responsible for the accreditation of many social service agencies, including battered women’s shelters, adoption agencies, and , in a growing number of states, the Department of Children and Family Services—just to name a few. It requires no government funding and is commonly recognized as being a fully independent, non-profit, NGO. The goal of this paper is to test Kelly’s theory of the inverse relationship between input and output legitimacy by applying it to a national accreditation organization.

Claire Kelly’s (2008) theory, states that legitimacy often requires a tradeoff between input legitimacy and output legitimacy. Input legitimacy can be viewed as the processes and people involved in decision making; output legitimacy is the policy outcomes, both intended and unintended. Kelly’s theory, which is designed to explain legitimacy in international organizations, emphasizes how they rely on derivative legitimacy to gain power and authority through a variety of actors and means. While this idea is directed at international organizations, it can also be helpful in analyzing some national organizations, such as accrediting firms. Accreditation organizations also often rely on derivative legitimacy as they are private organizations exerting power over other private organizations. Therefore, it is conceivable that national institutions face these same trade-offs between input and output legitimacy that are described by Kelly, even in those cases in which they have not been given the explicit power of government.

 Section I of this paper reviews relevant theories and literature in the areas of private governance, accreditation, and legitimacy. Section II explains the history of COA including its founding, clients, and current important activities, including an overview of the actual accreditation process. In section III, Kelly’s theory will be applied to the case of COA, concluding in an evaluation of any trade-offs between input and output legitimacy. Section IV will discuss further research. Finally, section V will serve as a reflection on the process of this paper.

**Section I: Literature Review**

 When discussing COA it is first important to address the concept of private governance. An understanding of private governance provides an understanding of where COA’s power comes from, and why it is important to the larger political picture. Using COA as a case study provides insight into how concepts of legitimacy in private governance can be further explored.

Private governance is a new field within political science, so new in fact there is much dispute over exactly what defines private governance. To begin unraveling this mystery, it is first necessary to define “public policy.” According to Kraft and Furlong (2007), “Public policy is what public officials within government, and by extension the citizens they represent, choose to do, or not do about public problems” (p. 4). This is most clearly understood as the government making a decision, often through some form of legislation that has a direct consequence on citizens. This may be something as simple as a state setting speed limits, or far more complex, such as tax code. Kraft and Furlong (2007) emphasize the difference between the policy and its results—essential to understanding the difference between intention and execution. However, they fall short by identifying public policy as something that is only made by the government (p. 5).

 Catherine Rudder (2008) asserts that “the language of political science is inadequate” (p. 5), arguing that the “public” in public policy is equated with government, which limits the whole world of other policies affecting the public but made by non-governmental bodies. This is a large problem for private governance, which is focused on the production of policies by non-governmental, often private, actors. Rudder argues for a clarification of public policy as policy made by government or private organizations. According to Rudder, policies produced by the government should be referred to as “government policy” (p. 23). Rudder concurs with Mark Nadel (1975), who states:

It can be seen that we are left with a major paradox. On the one hand, it is readily acknowledged that in many instances no clear distinction can be drawn between governmental and nongovernmental organizations. But on the other hand, public policy is viewed as emanating exclusively from the government. But how can the latter definition be useful when, in many instances, it is not clear what is a government? The answer must be that the prevalent definitional equation of public policy with government policy is therefore limited and unrealistic. An alternative and preferable strategy would be to analyze the nature of public policy and to determine who makes it. (p.9).

In light of new works, I will be using the following definition to guide the meaning of private governance for this analysis:

Private Governance is composed of authoritative or sanctioned, binding decisions of private groups ranging from non-profit organizations to professional membership associations and multi-national corporations which establish norms, rules, and institutions that guide the behavior and affect the opportunities available to not only their members but also others. This authority may be indistinguishable from the authority exercised by government.

In many cases, Private Governance is a result of the delegation of governmental functions by the government either explicit or implicit to private groups groups that are essentially unaccountable to many of those affected by the policy decisions they make. It is not so much a usurpation of a policy-making role by private interests as a voluntary delegation of that function by the government. (Weissburg, n.d.)

This definition of private governance best captures the actors, authority, and action of private governance.

 One example of private governance is accreditation. In general, accreditation is defined as a process in which one organization is recognized as having met standards outlined by another independent organization. According to one source, “Accreditation by COA attests that an agency has complied with identified requirements regarding its governance, administration, and delivery of social and mental health services to individuals and families” (Brommel, 2006, p. 175). It is important to note that accreditation and licensing are not the same thing “Licensing is mandatory for private organizations, and is not a peer-review process. Accreditation goes beyond the requirements of State licensing, which normally establishes service minimums” (U.S. Department of Health and Human Services, 1994, p. 2). Most forms of accreditation are not permanent but require renewal every few years and usually entail annual reporting in the years that the accreditation is held. The largest body of literature on accreditation was written in the 1980s, just after what many authors point to as a sudden surge in accreditation in the United States (Weissman, 1980, p. 41). Most literature on accreditation focuses on the accreditation of education—regionally, at the K-12 range, and higher education. These sources do point to one other source of accreditation, the American Medical Association, and the Flexner Report, which occurred at roughly the same time (Young, 1983c p. 3). Despite the narrowness of literature on accreditation, there are still some theories which are useful to an understanding of COA’s accreditation processes.

 There are two concepts commonly associated with examples of accreditation: industry self regulation, and private rulemaking. The first, industry self-regulation, is when a group of corporations or other power players within a specific industry choose to establish a regulatory body that creates standards for their own industry. The three main reasons for industry self-regulation are market competition, fear of government regulation, and legal defense. In the case of the accreditation of education, it has been argued that fear of government regulation played a large role (Weimer, 2006, p.574; Young, 1983c, p. 11). But accreditation also has other benefits such as allowing participating organizations to secure higher caliber employees and signaling to customers that they meet certain standards. In these cases, Weissman (1981) explains the main purpose of accreditation is not to solve problems but to alert leaders to current or possible problems, by encouraging review and self development (p.47).

 The second concept, “private rulemaking” refers to government delegating regulatory powers to private authorities. Wiemer (2006) cites two major reasons for private rulemaking, both of which are very relevant to accreditation. The first he refers to as technical efficiency; this is when the field being regulated requires a lot of expertise and continual revision of policies as technology changes. The second is blame avoidance, where the government does not want to be technically responsible for the policies being made, this moves any disputes about policy out of congress (and elections) and into the courts (p. 578-580). Most examples of accreditation fit these two criteria very well. For example, looking at the health industry and the American Medical Association, there is a great deal of expertise required, and there is constant innovation which requires very careful regulation to fetter out dangerous advancements and promote the most beneficial ones.

 When accreditation first began in the early 1900s standards were very quantitative and either an organization met these standards or it did not. There was very little room for interpretation. Today, however, there has been a shift to qualitative standards and assessment, with the exception of a handful of industries such as healthcare and accounting. Generally, however, there is a great emphasis on the self-study step in accreditation, in which an organization reviews its own policies and submits a report to the accrediting organization. Today’s standards focus more on outcomes of policies and organization rather than meeting quotas. Many authors from the 1980s pointed to quantitative standards as being problematic because this made accreditation inflexible and it overlooked the most important part of any organization—the actual outcomes (Kells, 1983, p. 119-120, 124-125; Young, 1983c, p. 9; Young, 1983a, 34; Young, 1983b, 381). As Weissman (1980) explains, “Accrediting associations which focus solely on procedures are without question in danger of institutionalizing the old phrase ‘the operation was a success, but the patient died.’ The procedures can be meticulously followed, but the institution can remain unsuccessful” (p. 45).

Today, COA prides itself on the focus on qualitative outcomes. Specifically, standards are continually reviewed. This is important because it keeps standards up to date, and it allows them to adjust to any problems with implementation that are discovered. COA places great importance on self review and continued documentation to allow continued improvement in organizations (Mihalik, 2001).

 A general focus on quantitative standards and assessments is not the only criticism of the accreditation process. Weissman (1980) explains that accreditation can interfere too much with day to day operations of organizations. When accreditation, piled on top of the demands of major donors causes the amount of paperwork in an organization increase exponentially it can cause very real problems for employees, which has a direct negative effect on its consumers and clients. This is often related to the self study or other accreditation issues that require an organization to keep track of what is being done with each individual as a means of tracking success. When the processes of an organization are interfered with to such an extent that they become laborious or unwieldy, accreditation has become a problem, not a solution (p. 45).

This can sometimes be an issue for COA, as the self-study process can be quite lengthy requiring an excessive amount of paperwork, especially for organizations serving more than one service area. Once accreditation has been achieved, paper work loads continue to be elevated as organizations are required to document every interaction with a client to ensure quality customer service and evaluate outcomes. In recent years, however, COA has worked to reduce the amount of paperwork required by eliminating some of the mandatory documents when applying for re-accreditation. Instead of submitting certain documents, the applying organization’s CEO signs a document vouching that no significant changes have occurred with the documents since accreditation was granted (Brommel, 2006, p. 142, 201; Stockert, 2003, p. 39) .

 Another problem Weissman (1980) points to is the motivation that is used to pressure an organization to become accredited and the consequences of the loss of that accreditation. All too often the primary source of motivation is funding. Either an organization maintains accreditation or it loses its resources. Weissman argues this is far too drastic and causes the organizations being accredited to view the process as antagonistic rather than cooperative. However, it is a double edged sword as there must be some form of accountability otherwise most organizations would not choose to be accredited. The solution to this problem is not to deny accreditation. Instead, suspension or delayed accreditation allows the organization to make necessary changes. This allows more organizations to achieve accreditation, while still maintaining the credibility of standards (p. 49-51).

Many organizations choose COA accreditation to receive government funding (Mays, 2004, p. 11). This often makes the process antagonistic as employees feel they are being threatened into compliance. While the application process is lengthy and laborious, maintaining accreditation requires that organizations change day to day practices to include more paperwork so that they can document progress under specific standards. To motivate employees, leaders will often focus on the positive changes that accreditation can bring (Alexander., 1996, p. 217). Without successful employee participation an organization will likely not succeed at accreditation because it is such a time-consuming process.

Acknowledging these difficulties, it’s helpful to look at what can be called a sort of “best practices in accreditation,” as put forth by Chambers (1983). These best practices focus on three main areas: autonomy, due process and accountability. “Autonomy” refers to an accrediting agency’s ability to make its standards free from the undue interference of other groups. Chambers cautions that there is no one organizational structure ideal that ensures this but rather it will vary by industry, and requires a careful evaluation of the relationships between the accrediting agency and other organizations. It is here that Chambers asserts accreditation must remain in the private sector as government officials in accreditation would always be hindered by partisan politics to the detriment of the industry being regulated. Due process refers to the actual processes of the accrediting organization. There are several things organizations expect an accrediting agency to perform in order be fair. First, it must make clear exactly what its standards are and how they are tested. It also must make clear who is accredited and who is not. Another aspect of fairness is providing an appeals process where an organization can challenge a decision. A final important aspect of due process is providing the necessary technical support, such as assistance with filing forms, or interpreting standards (p. 145-148).

These are all important features to COA’s claim to legitimacy. In order to achieve these goals, COA publishes its standards and list of accredited organizations on its website. During the application process, each agency is assigned a coordinator who provides one-on-one technical support. Additionally, after the site visit, a report is sent to the organization explaining, in detail, any problems that were found. Applying organizations are then allowed a chance to respond to these issues, or provide evidence of how they have changed practices to reach compliance with standards.

 With an understanding of private governance and accreditation, it’s next necessary to address the heart of the issue – legitimacy. Most political scientists view legitimacy in terms of one party deeming another person, group, or institution as holding authority. Kelly uses Hurd’s definition of legitimacy as “an actor’s normative belief that a rule or institution ought to be obeyed” (qtd. Kelly, 2008, p. 612). This definition is important as it identifies legitimacy as something that comes from outside of the organization, and therefore it is not the study of legitimacy itself, but rather an institution’s “claim” to legitimacy that is being analyzed (Kelly, 2008, p. 612).

Before embarking on the bulk of Kelly’s theory it is first important to make one caveat. Kelly’s theory is addressed at international organizations. While some scholars might argue there is a significant difference between international and domestic organizations, Kelly’s theory on legitimacy is used here for several reasons. First, there are very few theories on legitimacy that directly address domestic organizations. Many political science scholars have been forced to look to business or other social models that can often be unwieldy in the understanding of legitimacy in political terms. Second, while there has been a recent surge in legitimacy theories within political science a majority of them are focused on global governance and the erosion of the state’s power by third party actors. While Kelly’s theory is international, it does not focus solely on the issue of state power. Finally, while this theory is addressed at international organizations, it can be very easily applied to the processes and values of most organizations—and particularly COA—where there are clear processes, policies, and constituents. Therefore, while this theory is targeted at an international organization, it is one of the best theories for analyzing what individual parts constitute legitimacy for a policy producing institution.

To evaluate what Kelly calls, “The Legitimacy Problem,” legitimacy is divided into two sub groups: input and output. Input legitimacy measures outside participation in the accreditation process. Output legitimacy measures outcomes of the accreditor’s policies such as whether or not it meets personal or industry goals. These two forms of legitimacy may actually come into conflict with one another (Kelly, 2008, p. 612-614). For example, in order to achieve industry participation, many international organizations will often seek to adopt policies by consensus, while this achieves input legitimacy, it often results in watered down policies that fail to achieve the organizations goal and therefore lacks output legitimacy.

Kelly uses four criteria to assess input legitimacy: representation, inclusion, process, and anticorruption. Representation refers to whether the voice of important constituents is present in policy making within the institution. This can be problematic for organizations where there are a wide variety of constituents, or where the interests of different constituents conflicts. However it is important that there is fair representation within an institution as this holds the organization accountable. When a group is making policies that affect a very specific group, they should be accountable to those they affect. Inclusion also ensures accountability, but instead of relying solely upon constituents, it seeks outside resources such as experts in the field. This again holds the group accountable to authorities in the field, and lends additional credence to policies.

Process refers to what internal rules and polices a group has as well as how its external policies are made. Specifically, Kelly (2008) points out, “Among the process tools that promote legitimacy are rules for sound rulemaking, transparency rules, public participation mechanisms, controls against corruption, and power-sharing devices” (p. 616). This is particularly important for standard setting organizations such as COA because the process by which standards are made affects the final policy, and what degree of legitimacy these policies or rules receive. Anticorruption is not as clearly defined by Kelly. Instead, this is discussed in terms of the shortcomings of aspects of representation, inclusion, and process, where intentions to be legitimate actually stall progress or cannot measure up to commonly held norms. For example, Kelly (2008) explains, “Even where one requires only some form of representation or inclusion, as opposed to democratic representation, representative institutions do not necessarily represent all interests equally” (p. 617). The problem of capture theory is also addressed. Capture theory is when an institution is created to serve the public interest, and is subsequently captured by the private sector serving business interests rather than the greater good (Kelly, 2008, p. 612-619). An example of anticorruption would be any policy that mitigates these effects or acknowledges issues with representation, inclusion, etc. and subsequently addresses the issue.

 Output legitimacy looks at the actual outcomes of policies. As Kelly (2008) explains, “In short, output legitimacy questions whether the … [institution] is effective at generating useful norms and having them implemented” (p. 619). This means looking at the achievements of the organizations and testing them against their own goals or the perceived goals of the constituency. For example, a group that is regulating business may seek to prevent fraud, and it achieves output legitimacy if it in fact does prevent fraud and perpetuates norms that support the prevention of fraud such as transparency. It is important to note that output legitimacy is normative. Judgments on output legitimacy depend in part on the extent to which one agrees with the goals of the organization. One might, for example, find fault with regulations that discourage fraud but which do so through the enforcement of excessive regulation, making it difficult for honest business to succeed. Whether or not the policy is discouraging fraud is an empirical question, but whether or not the gains of the policy outweigh the costs is largely a normative one.

 Indicators of positive output legitimacy are often compliance and effectiveness, although they are not the sole indicators. Parties who believe policies to be in line with their norms are more likely to comply. Additionally an accreditor’s policies are more effective if they are in line with the norms of their field. This is important to legitimacy because, as Kelly explains, legitimacy can be a self perpetuating cycle, “the perception of legitimacy leads to great compliance (effectiveness), and in turn stronger legitimacy claims” (Kelly, 2008,p. 619).