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Legal mechanisms of public management of financial and economic processes

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Abstract: The article considers the assertion that law and public administration are each an independent system inevitably interconnected in terms of scientific research or in practice. The role and nature of legal mechanisms within the frame of public administration, in particular in management of financial and economic processes, are considered through the lens of public administration transformation from New Public Management to Smart Governance paradigm.

Keywords: *Agility, Legal mechanism, Multistakeholder approach, Public administration, Public management, Smart governance.*

1. Introduction

In several OECD member nations, public management practices underwent significant shift starting in the 1980s. Performance-oriented budgeting methods, with an emphasis on results, outputs, and/or outcomes, as well as decentralized management in accountable organization units, have replaced budgets based on inputs and financial compliance. The major nations that have implemented public management reforms have also fundamentally altered their internal organizational structures, personnel management systems, and government accounting systems.

Public management is now based on the New Public Management (NPM) paradigm in many industrialized and emerging nations, while NPM components are still implemented in nations that still use traditional bureaucracy. Specifically, the "New Public Management" Western managerial paradigm was modified for China's unique institutional circumstances (Wu and Walker, 2020).

Doorgapesad (2011) analyzed the New Public Management and found the following features: the corporatization of the administrative institutional system by hiring certain civil servants in agency structures to have a mixed staff structure and exchange of experience; the decentralization of the administrative institutional system by creating specialized agencies and departments at sub-national levels; the external contracting by outsourcing certain activities, including the provision of certain goods and services; the performance contracting by negotiations between the State and agencies fighting in a competitive market for public services.

It is important to acknowledge the contribution of New Public Management to the evolution of Public Administration. The paradigm includes market standards and performance in the creation and delivery of public goods and services, which frequently results in an improvement in their quality. It can also cause prices to be formed based on the law of supply and demand, which suggests ensuring lower levels of them. This type of paradigm gets closer to the rules that govern the market when decentralized and hybrid administrative structures are established. These structures can and should guarantee the

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professionalization and performance of the system's public servants. Naturally, this made it necessary to modify the legislative framework governing financial and commercial operations.

In 2005, Lienert observed that new legislation supporting innovative public management had been widely adopted (Lienert, 2005). The function of the state and the budgetary procedures that support it have undergone significant changes in many nations that have undertaken extensive and profound reforms thanks to new or revised legislation (Kryshtanovych, S. et al. 2023; Kryshtanovych, M. et al. 2023a-2023e). Ironically, nations that frequently depend on executive decrees to enact reforms have seen the greatest advancements in comprehensive changes to the legal framework for public management (Alieksieienko et al. 2022; Lyubomudrova et al., 2023; Ramskyi et al. 2023; Tanashchuk et al., 2024). This illustrates the essential elements of the modifications, which include improving budgetary transparency and accountability and implementing performance-oriented budgeting. The legal foundation for public administration will not become globally uniform due to differences in political systems, policy concerns, administrative structures, and legal cultures (Head et al. 2016).

The landscape of legal mechanisms of financial and economic processes public management is very diverse and depends on various factors of internal (domestic), external, and latent nature.

Furthermore, there is a clear global trend toward the transition from new public management (NPM) and new governance (NG) to e-government. The components of e-government in the world of new technologies appear to be examined in a more comprehensive framework of government that has to be implemented in the same setting as new technologies .

Furthermore, smart cities are rapidly expanding globally with the aim of leveraging technology and social innovation (Gaievska et al., 2023.). A thorough analysis of problems pertaining to the economics and finance of smart cities, such as the economic model and financing methods, is necessary for the transformation of smart cities to be successful. These concerns are founded in efficient public administration and are backed by the relevant legislative framework. Moreover, empowering rural areas in multi-level governance processes is a critically important agenda item for today. This calls for holistic governance approaches to rural policy development based on transparent communication between institutions and stakeholders as well as inclusive citizen participation, which is made possible by the use of recently developed (digital) tools (Moodie et al., 2023). In this case, public administration becomes intelligent government. Establishing a comprehensive framework for evaluating all business models found in smart cities and smart villages is necessary in order to provide the foundation for long-term financial and economic models.

Thus, the analysis of appropriate legal mechanisms in public administration processes provision should be carried out namely in the plane of these new trends.

2. Literature Review

There are two different, and sometimes incompatible, theoretical philosophies of public administration: legalism and managerialism. A legalistic approach to public administration, as asserted correctly by Christensen et al. (2010), depends on law-based goals and procedures to strike a balance between accountability and discretion/innovation. To achieve the same goal, a managerialistic approach depends on efficiency and innovation. The dynamic link between law and management in public administration has been extensively studied in the United States over the years, and researchers have frequently proposed that law and management reflect essentially distinct values in the administrative process.

As market-based reforms of new public management have favored values of efficiency and performance to an even greater degree relative to legal and democratic mores like accountability, equality, transparency, representativeness, and value plurality, the tension between law and management has become noticeably more apparent in recent decades (Kryshtanovych, M. et al., 2021). It is significant to note that changes in administrative paradigms affect the contested ground between managerialism and legalism, and that the dynamic administrative environment of the current financial

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crisis may alter this tension as the government plays an increasingly important role in regulating and sustaining failing markets (Awang and Beh, 2012).

However, today experts claim that law "not only constrains but also enables" (Basheka and Sabiiti, 2019). They contend that by strategically employing contracts, administrative adjudication, rulemaking, and interjurisdictional agreements, conscientious managers might enhance the provision of public goods to citizens (Basheka and Sabiiti, 2019).

Writings on modern public management abound. The modifications to the legal systems that support NPM have been recorded for each nation. Comparative studies between nations, however, are few when it comes to the degree to which pertinent laws were changed or new ones enacted to support public administration changes.

However, one aspect of NPM is consistent throughout all of its national iterations: public administration ought to prioritize attaining outcomes above procedures and activities. Thus, legal mechanisms of processes provision should not impede achieving sound results – the task which is difficult to be solved under the conditions of today' 'new normality' - social/political/economic/geopolitical turbulence and BANI-world.

In the course of implementation, public law and a few contemporary public management instruments complement one another to strengthen public ideals like accountability. In actuality, the goal of management is to advance many of the same standards and ideals that advocates of a law-based administration have maintained are most obviously codified in and safeguarded by public law (Randall, 2019). Among the many important tasks that many public managers already perform are expanding representation, encouraging citizen engagement, and fostering cooperative partnerships that guarantee value pluralism in the administrative process. The daily activities of managers of municipal and local governments may be the most obvious example of these positions in action. More democracy in local government, where residents are actively involved in the creation and management of initiatives, has been advocated by academics (Estevez et al., 2021). Going a step further, some analysts contend that local government managers has the ability to foster civil society and create social capital in addition to improving government efficacy (Bolivar, 2018). Financial and economic processes really serve as the foundation for the development of effective legal procedures in NPM, particularly when it comes to e-government. These mechanisms may then be extended to other processes. To put it another way, public managers have the power to influence the administrative law system.

3. Methods

The methodological basis of the study is a set of scientific research methods: dialectical, system-structural, philosophical-legal. In the process of the study, within the framework of the dialectical and systemic approaches, such methods as process, structural, functional, comparative were used, as well as the principles of unity of the historical and logical, concrete and abstract, induction and deduction. Elements of logical-structural analysis were implemented.

4. Results

There is proof that program managers have the power to improve rather than undermine democratic principles by influencing legislative and judicial actions. Program administrators, in particular, are frequently able to form coalitions in favor of new initiatives and are even better positioned to push for legislative modifications to current regulations (Boettke, 2018). The benefits stem from these players' relative legitimacy and experience in the policy discussion; there are many instances of their effect. The US Postal Service's mid-level administrators spearheaded the promotion of rural free delivery as a way to strengthen ties between individuals and their government (Carpenter 2001). There is strong evidence that managers have been enacting rules and laws that further democratize administration by promoting representativeness and involvement for some time, at least in municipal government (Contreras, 2022). Police chiefs are recognized in many places for having taken the initiative to create community policing techniques and for negotiating with city governments to acquire

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the budgetary and legal adjustments required to make the shift away from traditional policing. When chiefs have a penchant for more conventional tactics, they can also be effective opponents of changes to policing regimes (Contreras, 2022). An example from yet another programming area is that in several of the states that passed open enrollment laws, school superintendents were a significant and supporting voice in the discussion.

Additionally, e-government opens up even more sensible angles in this area. The global economic community is now in the process of deciding on the research criteria that will be applied by economists worldwide to analyze and evaluate the effects of e-government initiatives. Which uniform standards apply to the assessment of e-governance projects, or will the standards change based on the kind of project? Apart from this problem, change management is another problem that is strongly associated with this one. To make the e-governance program more successful and efficient, manual processes, systems, and procedures must be replaced by electronic processes, systems, and procedures. Over the next years, human behavior, attitudes, beliefs, values, and a host of other elements that are crucial to the change management process will become more well-known. An investigation into the effectiveness and change management factors has been going on in an effort to create a framework for these concepts, which will ultimately lead to the creation of successful e-governance programs and an effective framework for e-governance initiatives (Kondur et al. 2024).

Governments should make the greatest use of their resources by focusing on the issues that matter most to their target audiences and by using a strategic framework to make the most of their resources (Benson, 2024).

E-government can help local governments close their budget deficits, according to county-level statistics from China (Yan and Lyu, 2023). Furthermore, as the authors assert, less developed economies clearly show how e-government reduces budgetary deficits.

Policy makers who are committed to raising a nation's per capita income are taking notice of the rising significance of e-government and financial development (Avedyan et al., 2023). According to Tariq and Malik (2016), global economies stand to gain greatly from financial development provided that e-government is guaranteed to be of a high enough 'caliber'.

According to Habuka (2024), there is now too much complexity in the universe to be managed by a single actor or set of rules. Rather, a multi-stakeholder strategy will be required, in which each stakeholder will create adaptable solutions and share specific aims (a horizontal approach). According to Habuka (2024), the following two components are necessary to implement the horizontal governance model:

- Agile governance cycles: The new form of governance must adapt to the ever-changing risks, objectives, and environment;
- Multistakeholder approach: Rather than a single government enforcing uniform laws, the new governance model must involve numerous stakeholders in the formulation of regulations and the resolution of issues.

Habuka (2024) talks about agile governance and proposes the following basic model of agile governance cycles (see Figure 1):

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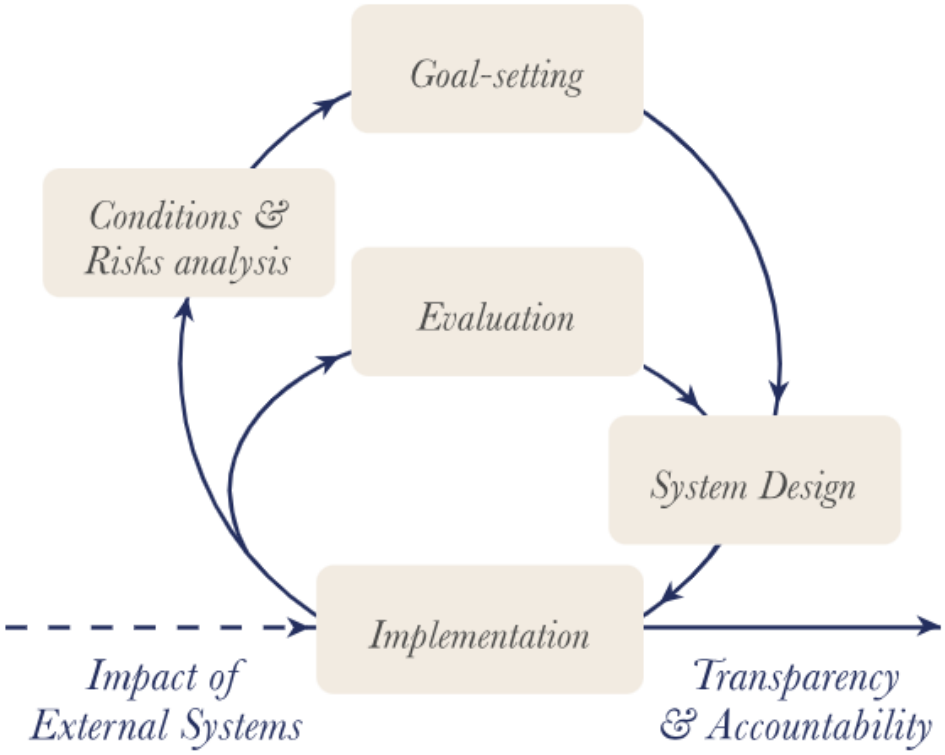

Figure 1.
Agile governance cycles (Habuka, 2024).

This model includes the Plan-Do-Check-Act (PDCA) process (the bottom half's elliptical cycle, which begins with "System Design"). Furthermore, before beginning "System design" (the outer circular cycle), it necessitates (i) ongoing "condition and risk analysis" and "goal-setting", and (ii) adequate responsibility and transparency to external stakeholders (the right bottom line). These specifications are part of an agile governance cycle, which is predicated on the idea that objectives, risks, and the environment are ever-changing and that reaching the goals calls for a multistakeholder approach.

In the context of the multistakeholder approach, the conventional governance model places a strong emphasis on the "government", which is responsible for formulating and enforcing regulations. The foundation of this vertical paradigm is the idea that one institution may establish suitable laws and that society is generally straightforward and predictable. As a result, legal frameworks are created to assist this system.

But a digitally based society is incredibly complicated, unpredictable, and changing very quickly. In a society like this, regulations find it challenging to keep up with the rapid advancements in technology and corporate strategies, and the government's ability to monitor citizens is limited. A decentralized governance model that prioritises horizontal linkages between stakeholders, including enterprises, individuals, and communities, is seen important in such a society.

The following changes are anticipated in each stakeholder's function under this horizontal governance model (see Figure 2):

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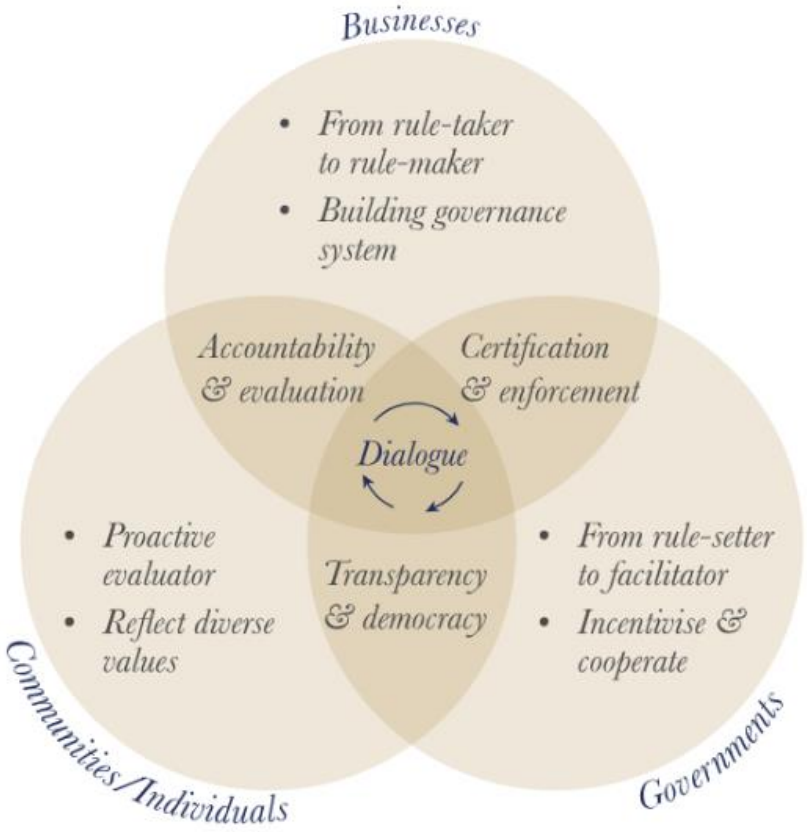

Figure 2.
Horizontal governance model (Benson, 2024).

In this paradigm, the government does not act as the exclusive source of regulations; rather, it acts as a facilitator for multi-stakeholder rule-making. The government would provide incentives for companies, communities, and individuals to actively participate in those governance systems in order to monitor and enforce them. The components of such a model are, in smart cities and participatory rural communities, de facto implemented to varying degrees, influencing the flow of financial and economic processes and the following legal consolidation of those activities. The progression from implementation to conceptualization - or, to use the terminology of Tomasz Janowski (2015), from transformation to contextualization—is the logical progression here.

5. Discussion

In addition to the third sector's notable growth in recent decades, other notable developments include the increased involvement of civic movements and non-profit organizations in national (as well as EU) policy planning and the growing significance of social activity in local development. This tendency is evident in the European Union, where the steady development of the scope of collaboration between governmental institutions and civil society groups is postulated by the ideas of subsidiarity, partnership, and social dialogue. Therefore, "the basic question is not Should I cooperate? But How to cooperate?" (Jastrzębski et al., 2023). The state has two mostly distinct roles in the intersectoral cooperation system.

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First of all, the state interacts with the other players in this collaboration as one of the actors in the state-business sector (also known as the public-private partnership) and the state-non-governmental sector (also known as the public-social partnership). Second, the regulations governing the public sphere's operation and the guidelines for inter-actor interaction are established by the state in its capacity as legislator. This certainly provides the state an advantage, which in a democratic society is somewhat counterbalanced (or at least ought to be) by the idea of the state's authority being restricted.

In Europe, there are two predominant models of collaboration between public administration and non-governmental groups concerning public benefit, sometimes known as social benefit: the German and the English models.

The German model is distinguished by two key elements: (1) the complete application of the state subsidiarity principle, which is reflected in the legal system as the social entities' priority when using public funds to provide social services; and (2) the corporate character of the relationship between public administration and non-governmental organizations. The latter may be seen in the third sector's high degree of federation as well as the real construction of structures that are able to work with public administration structures and negotiate conditions of collaboration at all levels of the state's administrative division (Torfing et al., 2020).

More market (or quasi-market) procedures in the system of commissioning public tasks results from (1) the English model's increased openness to competition amongst service providers and (2) the consequent absence of preferences for non-governmental organizations. It is no accident that discussions on collaboration between the government and the independent sector - which is characterized as all for-profit and nonprofit organizations eager to bid on public projects - are taking place in Great Britain. Furthermore, public-private partnerships have a bigger influence on the tenets of intersectoral collaboration than does public-social partnerships. The literature identifies and describes the advantages and disadvantages of each paradigm. It is important to note that the German model's standardization aims to ensure two things: (1) the continuation of high-quality social services; and (2) the maintenance of such services. The latter objective has as its result the legalization of non-governmental groups. According to Jastrzębski et al. (2023), the English model prioritizes efficacy over uniformity, which ultimately results in lower maintenance costs for the social care system.

All governments have participated in ICT efforts over time, albeit at varying degrees of maturity. E-government and e-participation have evolved through multiple stages that have been studied by academics: (a) e-presence, in which websites are primarily static and non-deliberative (Moon, 2002); (b) e-service delivery, which is centered around online service provision; and (c) e-democracy, which aims to facilitate more extensive citizen participation (Cuadrado-Ballesteros et al., 2021). Accordingly, legal mechanisms of public management of financial and economic processes should correspond to appropriate stage of this development, which means that they should be agile.

As it is evident, in particular, the use of AI in public management is in the process of regulations development, albeit AI is already widely introduced in the practice of government. In fact, we observe a kind of grounded theory paradigm in the development of legal mechanisms for public management: legislation projects are based on conceptualization of already existing practices.

Dragos and Langbroek (2017) correctly point out that attorneys nowadays appear to be primarily focused on legal technicalities as well as the rights and responsibilities of corporations and individuals in connection to various public administration bodies and organizations, office holders, and civil servants. However, elected officials' policy initiatives - particularly those at the municipal level - have shifted away from the law and toward effective action that achieves policy goals. With legislation becoming more and more externalized from the political process, legal accountability and democratic accountabilities appear to have become diametrically opposed. Law and justice appear to have been replaced in public administration organizations by project management, efficiency targeting, and political accountability.

Simultaneously, administrative authorities appear to be growing less willing to take risks. Externalization and contractualization of public responsibilities increased as a result of managerialism

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in the public sector; nevertheless, because private law is prevalent, this erodes the administration's legal control. If a state outsources everything, it becomes a hollow vessel, and accountability is lost in intricate and ambiguous competency divides, leaving the court's only function as an arbiter of results' legality (Rosenbloom et al., 2010). We agree that, from the standpoint of public finances, legal proceedings pertaining to the results of administrative and political procedures might occasionally be problematic. However, it may also assist maintain administrative legal accountabilities plain and concise. Did the administration carry out its duties in a way that was compliant with the law, or did it violate it?

Additionally, there are tendencies in the overall regulatory framework that impact the working habits of attorneys and public administrators. Specifically, the conventional dispositive civil law reasoning that establishes due process is gradually being replaced with explicit imperative standards. Put another way, key state functions - such as mining, healthcare, transportation, education, and market regulation - have been arranged into semi-autonomous governmental entities with oversight and law enforcement powers, separate from day-to-day politics. And that completely aligns with the viewpoints of judges and attorneys. According to Cuadrado-Ballesteros et al. (2021), risk evaluations conducted by these supervisors contribute to the instrumental approach in public administration by decreasing the need for balancing and deliberative actions, which are essential components of the administration's job. According to Dragos and Langbroek (2017), law as "the art of what is equitable and good" therefore seems to lose way to a kind of "mechanical law engineering, broadly supported by an army of specialized administrative lawyers focused on supervision and law enforcement in retro perspective".

However, some academics have lately argued that public management theory overlooks much too many legal issues. The legitimacy of public institutions is therefore threatened by the under-legalized vision of public management, which has led to a faulty understanding of both public management theory and public management practices. But as Zouridis and Leijtens (2021) correctly point out, law has never been excluded from public management philosophy. Instead, the relationship between the state and the law has been reinterpreted twice. The law-government nexus is the term used by Zouridis and Leijtens (2021) to describe the presumptions that form this connection. In public administration, this relationship was lawfulness; in public management, it was legal instrumentalism; and in public governance (PG), it was a networked idea.

In 2021, Zouridis and Leijtens present the concept of the "era of network governance". The public governance (PG) paradigm views government as a collection of institutions and procedures that go beyond what is customarily called government. Government is limited in its scope; governance includes private players like corporations and non-profit organizations in its structures and procedures. There was also a new law-government connection brought about by the paradigm change from NPM to PG. In administrative law, the public-private divide is likewise called into question by the PG paradigm. While private entities may undertake public functions, conventional administrative law and procedure are based on the public administration (PA) paradigm, which exclusively acknowledges public entities (Grossi and Welinder, 2024). Additionally, the PG paradigm reframes law as a networked reality. Rather of focusing on the legality of the PA paradigm or the effectiveness of the NPM paradigm, the PG paradigm seeks to create a cohesive network of networks that can effectively tackle intricate social issues and difficulties.

Table 1 provides comparative overview of the three paradigms on the law-government nexus.

Table 1.
Three paradigms on the law-government nexus (Zouridis and Leijtens, 2021).

	PA Paradigm	**NPM Paradigm**	**PG Paradigm**
Idea of governance (What is the purpose of public	The implementation and management of legal regulations	Effective management of society and effective delivery of public services	Oversee the public-private networks that deal with intricate matters

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institutions?)			of governance
Law concept (What is law?)	Rules serve as the cornerstones and guidelines (mostly administrative and constitutional law) for decision making	Instrument of public administration (including tort, contract, and administrative law, as well as constitutional law)	Outcome of coordinated action and decision-making (including public and private legal frameworks, including certification, arbitration, and so on)
Law and government relations (How do government and law interact?)	The government is a tool of the law, and the administration is the machinery of both the law and the constitution	Law is a governing instrument	Government and law serve as both the foundation for and the outcome of network governance
Primary normative basis	Legality	Efficiency	Robust governance approaches to complex issues
Core values	Fairness, assurance, and parity	Effectiveness and efficiency	Cooperativeness and co-creation
Pathologies uncovered by a paradigm change	Legalism, red tape, and bureaucracy	Market failure, managerialism, and asymmetric performance impacts	Public discontent, spread duties, and diffuse regulation

The implementation of smart governance on a larger scale and the new paradigm of public administration necessitate suitable modifications to the legal framework that underpins public administration procedures. Accordingly, public administration, as a science or social subsystem, should be strengthened with policy or managerial elements, but not at the expense of its insufficient legal order. Neither system should be undervalued in the development of the other, and both systems should be respected and matched (Kovac, 2021). Thus, the following is a diagram that illustrates how legal procedures are changing (see tabure 3):

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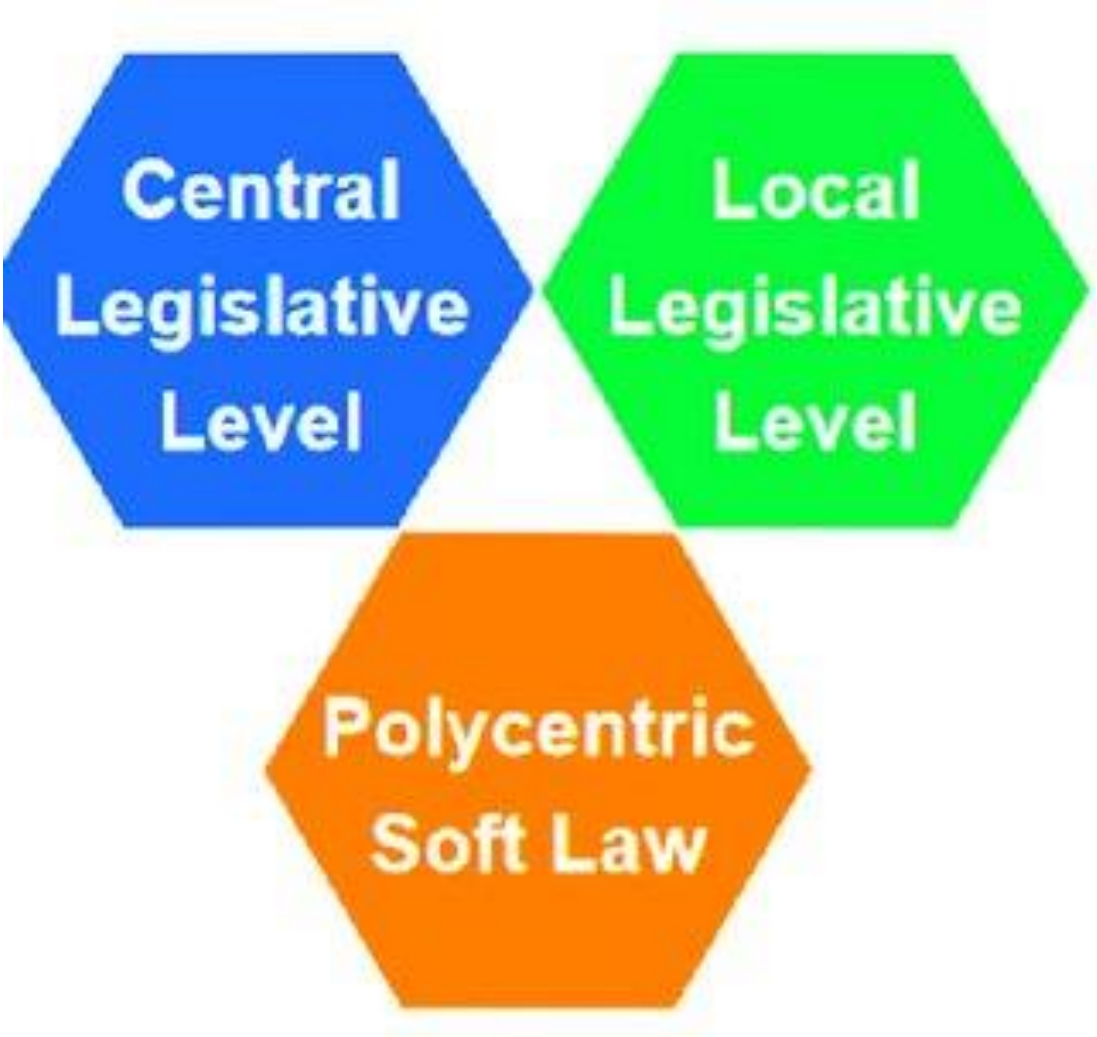

Figure 3.
The specific path to improve the legal governance of public administration within its new paradigm (He et al., 2022)

This changed landscape is also further complicated by the realities of BANI world. In this environment, benchmarking, good practice standards somewhat similar to Good Manufacturing Practice (GMP) in pharmaceutical industry with their continuous harmonizing, as well as agility are seen as the optimal vectors in development of legal mechanisms of public management of financial and economic processes.

6. Conclusions

Therefore, practice rather than academia is more likely to play a role in bridging the gap between attorneys and public administrationists. In order to close the knowledge gap, there needs to be constant communication between legislators, public administrators, entry-level employees, and attorneys - and even between the courts and de administration.

It is reasonable to expect public administration managers and attorneys to be willing to operate under ambiguous standards that arise from compromises in policy. Rather than prioritizing the creation

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of legal clarity and risk reduction, the impulse should be to build engagement processes that promote the desired objectives. Once again, before, during, and after the current administrative process is formalized, the importance of good governance standards of fair play, openness, and accessibility of the decision-making process for people must be taken into consideration.

The updated law-governance nexus would allow the PG paradigm to address modern problems without running into historical pathologies.

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