

Alliance Contracting: Some Theoretical Perspectives

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Alliances are assemblages

I argue that alliances should be conceived of as assemblages. The word assemblage derives from the Greek word “sumbolm”, meaning the act of bringing together. From this we view assemblages-alliances as representing smooth space allowing multiple connections between parties compared to hierarchical sedimentary and top down command space which characterises traditional contracting environments. Alliances are thus relational in the sense that they are arrangements of different heterogeneous parties linked together to form a new whole or put in another way, we can conceptualise alliances as assemblages where “assemblage is a mode of ordering heterogeneous entities so that they work together for a certain time”.¹

As assemblages, alliances are productive, they produce new behaviours, new actors and new realities. By looking at alliances as assemblages we can clearly focus on what is innovative, all the entities or parties making up an alliance are co-functioning, there is no pre-existing conflict of self-interested positions to be promoted and protected. In alliances trust replaces mistrust and so frees energy to devise solutions and a focus on quality and productivity. In contrast to traditional contracting alliances are connective, consensual, flexible in command and self-governing.

Deleuze defines an assemblage as follows:

It is a multiplicity which is made up of many heterogeneous terms and which establishes liaisons, relations between them across ages, sexes and reigns – different natures. Thus, the assemblage's only unity is that of co-functioning: it is a symbiosis, a 'sympathy'
*It is never filiations but always alliance.*²

If we look at alliances as involving multiple parties (actors) and various instruments (gainsharing schemes, open accounts) that all work together we have an assemblage. But there are problematics with bring all these heterogeneous elements together and keeping them together. What are involved here and this is central to the innovation that alliancing is, are processes of enrolment and translation. By these I am referring to the translation of a former work culture that existed under traditional contracting which needed to undergo radical transformation to form an alliance culture.

Such a translation required a ‘problematization’ were problems could be identified (such as a claim and blame culture, litigation) and mechanisms developed by multiple actors to address these issues. This needed to be followed up by a process that locks in actors to new roles and a new work culture. And for this to happen in practice requires an effective enrolment of all parties.

I contend that alliance contracting has achieved all the above and has come out with effective ways of doing business. But there are other dimensions to the innovation so produced. The understanding and use of power in alliancing has certainly been an innovation in organisational practice.

Power: finally, the “Kings” head has been cut-off.

Alliancing has produced a new economy of power. Michel Foucault, the controversial French theorist of power, did not live to see the birth and rapid diffusion of “alliance contracting”. Had Foucault visited a construction project using an alliance contract, I believe he would declare that “finally the Kings head has been cut-off”. What does this mean?

Foucault noted that in Western societies almost all institutions and organisational forms were structured on the sovereignty-judicial model of power. These power relationships were about the negative. One consequence is found in political theory where power is seen as a capacity, something to obtain and store. Foucault took a contrary view, reducing power to something that only exists in its exercise. He defines power as an action on another action.

Regarding both the convenient theory of power and the power apparatus' it produces, deriving as they do from the sovereign and the law, Foucault was to say:

..... this power is poor in resources, sparing of its methods, monotonous in the tactics it utilises, incapable of invention, and seemingly doomed always to repeat itself. Further, it is a power that only has the negative on its side, a power to say no; in no condition to produce, capable only of posting limits, it is basically anti-energy. ³

This is not a bad characterisation of traditional multi-party construction power relationships. Such were governed by large legal contracts. These were primed with triggers for conflict and litigation. A feast for the legal community and a very costly path for contractors and project sponsors. Looking at construction sites governed by such contracts, Foucault would have noticed that essential items of every project manager was a flak jacket and a copy of The Art of War. With alliancing contracting such items are in the dustbin.

Alliance contracting releases creative energies. Rather than conflict we see cooperation, productivity rather than negative stand-off's and costly delay. So, with alliancing Foucault would note the productivity of power. The operation of an apparatus of power were action on other action is no longer based on law with all its sanctions and negativities, rather it is based on the Zen of the creative.

Alliancing has in situ, finally severed the established link between the law and large construction/ engineering projects. Finally, lawyers have been locked out of conflictual site politics. They now support project management teams in developing co-operative project cultures. Ones that put the project first. They assist in the

preparation of a common risk and reward framework which underpin alliancing.

In contrast to the conflict laden traditional contracting format, alliance contracting avoids draconian contract terms, which fuel a lack of trust and a lack of co-operation between the parties. With alliancing, the prime focus is on project outcomes (“win-win”), rather than individual claim entitlements.

In order to draw out some of the radical differences between traditional contracting and alliance contracting, we again look to the world of political theory and draw on another French philosopher, Gillie Deleuze. Deleuze, looked at contrasting root systems of trees to understand rigid systems as opposed to flexible non-hierarchical regimes or systems of understanding and action. Traditional legalistic contacting systems fit Deleuze's arborescent fixed radial root system, with its rigid hierarchical command structure. Here, dispute and claim are endemic and are regarded as the price of doing business. As Deleuze remarks:

*In arborescent systems, an individual has only one active neighbour, his or her hierarchical superior. The channels of transmission are pre-established.*⁴

This war like business culture uses power in the negative, it forecloses effective discussion and cooperation between parties. Success is measured as a zero-sum game.

In contrast, alliance contracting is akin to Deleuze's rhizome root system. With multiple inter-connected roots, the rhizome system has no hierarchies, decisions are made at the point of effective application. Power, is used in all its positivity. The essence and further design of alliance systems need to develop rhizome like formats. Alliances should not be fixed organisational forms, rather ones on the move, making connections, not automatically reporting back along a formal truck like tree. Alliances function by all parties freely and openly communicating across multiple networks.

The advent of alliance contracting has effectively and economically brought a new pragmatics to the world of multi-party construction and heavy engineering projects. It provides a radically new mode of governance.

Alliance contracting provides a way to think otherwise about the governance of projects. It has proven itself in releasing additional value, and it demonstrates that conflict, blaming, war like attitudes and legal battles are not the only way to do business. Alliance contracting has brought a new economy of power to the business world. It has move along way from the “King”. It has broken the shackles of power as a negative force, which for so long has dominated Western thinking and organisational forms. As Foucault remarked:

*All power, whether it be from above or from below, whatever one examines it on, is actually represented in a more-or-less uniform fashion throughout Western societies under a negative, that is to say a juridical form. It's the characteristic of our Western societies that the language of power is law, not magic, religion, or anything else.*⁵

Alliances are governed at a distance

Multi-party projects undertaken with an alliance contracting format have a unique governance apparatus, one which allows, what we would describe as “governing at a distance”. As a new mode of project governance – “governing at a distance” is not an end point but rather a precondition for an open-ended, inventive, more human form of work organization. This is highly innovative. So, what does all this mean?

I start with Michel Foucault's approach to what 'government' is: he defines 'government' as the “conduct of conduct and a management of possibilities”.⁶ And according to Dean “this definition plays on several senses of the word 'conduct'. To conduct means to lead, to direct or to guide, and perhaps implies some sort of calculation on how this is to done”.⁷

Now human history has generated various formal of governing, from the despotic, ultra-authoritarian, fascist, inclusive participatory, and anarchist, etc. With alliance contracting, the governance format is all about governing at a distance.

The very nature of alliance contracting in multi-party projects is formed when intensive cooperative relationships have been developed between all active parties. A sense of common purpose is up-front and embedded by a common risk and reward calculation. Litigation is off limits and creative energies are drawn on by all appropriate parties to collectively solve problems. Of course, there is a governance apparatus. It is usual to find various layers: an alliance board, an alliance manager or CEO, a management team, and a widely based project team drawn from all the parties.

It would be reasonable to say that the above governing apparatus is not a strict hierarchy. In situ, each of these layers is about conducting a governance function. In fact, governance in alliance contracting projects is all about “governing at a distance”.⁸ This mode of governance allows the bringing together of otherwise separate, isolated and often suspicious parties into a collective project ownership based on a common purpose. The provision of project documentation, communications and project accounts; open to all parties, reinforces such common purpose.

The practical results of such calculation allow for benign leadership and hands off governance. A governance apparatus not based on the roar of authoritarian command and rule by fear, which forecloses possibilities for meaningful discussion and cooperation. It is rather the art of the sage ruler, only consulted when the parties reach an impasse and require a further opinion or a way to think differently about how to resolve a complex problem. Thus, the governance of alliance projects allows and actively encourages parties to creatively set work programs and find solutions as and where problems occur. This reduces overbearing governance to hibernation or to a reserve status. This is what I mean by governing at a distance.

Another way of conceptualising alliance governance is to see it as the 'steering' of the action and conduct of

others. In the words of Pottage:

Action upon actions is a principle which allows for the articulation of autonomous and discontinuous processes, none of which is capable of mastering or constraining the others. They may 'steer' conduct, but this implies less a relation in which one instance binds another than an 'agonistic' process of reciprocal anticipation and adaptation.⁹

This concept of the 'agon' as a distinctive feature or style of the governance in alliance contracting is simply about the calculation that it is rewarding to actively sculpt a mode of freedom for the parties. A freedom to self-govern their actions and in particular to bring cooperative skills to the resolution of the evitable problems that occur in complex project work.

And for this to happen is one of the significant achievements of alliance contracting. It starts by a transparent and actual recognition that all the parties are strong and creative, that all are independent equals. This governing at a distance is fuelled by active power rather than re-active power. For a project run on reactive power prevents parties the freedom to do what they do best.

Alliance contracting, in its style of project governance has moved the world of complex multi-party construction and engineering from negative commands and negative sanctions. It has replaced this once accepted world with a creative positive based governance which disallows the blame and claim culture in litigation based multi-party contracting. A type of governance not based on a zero-sum calculation of winners and losers, but rather one that allows a project to self-heal when necessary, to continue rather than be forced into costly delays.

Alliance contracting is all about governing at a distance.

Conclusion

Alliance contracting has been a rare innovation. It has prompted Government to produce National Guidelines for its use. It is especially useful in high risk environments and as shown in the Christchurch re-build is highly suitable in situations where it is difficult to cost projects and where things need to be done in a timely way.¹⁰

Alliancing may not be the first choose for some in the construction industry, but we now have a choose. Australia has a full book of new infrastructure projects and at least one project should trial full union involvement in an alliance.

Of note is the recent use of alliance contracting in other sectors such as remote aboriginal housing and in the delivery of health services. Alliancing is also being considered as a tool in sustainable construction and carbon reduction.¹¹

It is one thing to describe an alliance but importantly it is productive to see what an alliance does. I argue that

alliance contracting has been a rare innovation. It had produced a highly useful new capacity in what has been a stagnating construction industry. Its innovation is that it provides a capacity to think differently and hence to do things differently.

¹ Muller, M. (2015) “Assemblages and Actor-networks: Rethinking Socio-material Power, Politics and Space”, *Geography Compass*, 9,30.

² Deleuze, G, and Parnet, C. (1987). *Dialogues*. New York: Columbia University Press, p69.

³ Foucault, M. (1990) *The History of Sexuality*, Vol 1, Penguin, 85.

⁴ Deleuze, G and Guattari, (1987) *A Thousand Plateaus: Capitalism and Schizophrenia*, London: Minnesota Press, 16.

⁵ Foucault, M. (1980) “Confessions of the Flesh”, in *Power/Knowledge*, ed, C. Gordon, Pantheon Books: New York, 201.

⁶ Foucault, M. (1995) *Foucault: Essential Works*, Vol 3, Penguin, 341.

⁷ Dean, M. (1999) *Governmentality: Power and Rule in Modern Society*, Sage Publications, 10.

⁸ This term is taken from Rose, N. (1999) *Powers of Freedom: Reframing Political Thought*, University Press, 49.

⁹ Pottage, A. (1998) “Power as the art of contingency: Luhmann, Deleuze, Foucault”, *Economy and Society*, 27:1, 24.

¹⁰ On the use of alliance contracting in the Christchurch re-build see SCIRT
<http://www.oag.govt.nz/2013/scirt/part1.htm>

¹¹ On these matters see Clark M. (2015) “Commissioning for better outcomes in mental health care: testing alliance contracting as an enabling framework”, London School of Economics.
http://eprints.lse.ac.uk/64327/1/Clark_Commissioning%20for%20better%20outcomes.pdf, Gauld, R. (2014)

“What Should governance for integrated care look like? New Zealand’s alliances provide some pointers”, Medical Journal of Australia, 201:3.https://www.mja.com.au/system/files/issues/201_03/gau00658.pdf

Davidson, J. (2011) “Remote Indigenous housing procurement: a comparative study”, AHURI; Kenley, R. (ND) “Sustainability non-price incentives and rewards: a collaborative procurement perspective”,<http://www.cib2014.org/proceedings/files/papers/582.pdf>

Sanchez, A, et al (2013) “Sustainable infrastructure procurement in Australia: standard vs. product practices”, Proceedings of the 19th International CIB World Building Congress, Brisbane 2013: Construction and Society, Queensland University of Technology, Brisbane Convention & Exhibition Centre, Queensland, pp. 1-12.http://eprints.qut.edu.au/59834/1/cibwbc2013_submission_42.pdf

Sanchez, Adriana & Hampson, Keith D. (2012) “Sustainable road infrastructure procurement in Australia”, in Procurement, Innovation and Green Growth: The Story Continues, International Institute for Sustainable Development, Winnipeg, Canada, pp. 33-37.