

**Democratic Accountability:
The Third Sector and All
By
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Abstract

The state, the market and the voluntary non-profit sectors can be seen as each being characterized by a distinctive accountability regime. Those regimes focus on different subjects of accountability (actions, results and intentions, respectively) and on different mechanisms of accountability (hierarchy, competition and cooperative networking, respectively). Different regimes can complement one another, enhancing the democratic accountability of the system overall. They can also undercut one another, if their differences are not respected. Bringing the Third Sector under a market-style accountability regime, through 'public-private partnerships' based on competitive tendering, undermines the distinctive contribution that the Third Sector might make.

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Because they are motivationally and organizationally distinct, Third-Sector organizations are capable of doing many things that neither the state nor the market sectors can do reliably or well.

Markets notoriously fail in the face of positive externalities, for example. Profit-seekers prefer to free-ride rather than to contribute. But for community-oriented altruists of the Third Sector, the presence of positive externalities is merely an added inducement to contribute to such causes.¹ Within the state sector, non-market failures notoriously arise from rent-seeking, as profiteers attempt to co-opt the coercive power of the state to serve their private ends. But being voluntary organizations lacking any coercive powers, non-

¹ Weisbrod 1975. Assuming of course that people are 'agency altruists', who not only want the public good to be served but also want that to be done by their own hand. Were all they cared about the public good being promoted, by whomsoever's hand, each would try to free-ride on others' contributions, thus providing an 'altruism-failure' argument for government intervention (cf. Friedman 1962, pp. 190-1; Goodin 1988, pp. 155-7; Andreoni 1990; Rose-Ackerman 1997, p. 713). Such altruism usually has a

profits are immune to that threat as well. In short: the Third Sector works where the states and markets fail, for reasons that are by now fairly well understood.²

Note well, however, that what enables the Third Sector to play that role in supplementing the other two sectors is that that sector *is* motivationally and organizationally distinct from the other two. Recalling that fact ought make us wary of arrangements, whether of 'partnership' or 'competition', that straddle the various sectors. The worry must be that, in bringing different sectors under the same yoke, the very thing that made the Third Sector a useful adjunct to the other two sectors — its organizational and motivational distinctiveness — risks being lost.

These concerns, too, are familiar. Faith-based organizations rightly worry that their sacred missions might be compromised by the conditions that the secular state imposes (and inevitably and rightly so) when subcontracting public functions to outside bodies.³ Non-profits rightly worry that, in competing against for-profit organizations for public contracts, they will become not just interchangeable with but perhaps even indistinguishable from for-profit organizations, doing the same things in the same ways as for-profits would have done. And perhaps that, too, is inevitably and rightly so, given the 'level playing field' standards of fair competition that properly govern public tenders quite generally.

My focus here is on a particularly compelling case of that general conundrum: the implications for democratic accountability. Different sectors being accountable, each in its own complimentary way, can yield greater accountability across social institutions overall. But arrangements that straddle sectors (whether through partnership or competition) inherently blur the distinctions between the sectors. In so doing, those arrangements

the scope of such solidarity is less than universal, what is manifested toward people within its scope is a genuinely altruistic concern for (at least certain aspects of) the well-being of people.

² The corresponding 'Third Sector failures', presumably, arise from its loose links between principals and agents — the 'accountability failures' that this paper explores (cf. Herzlinger 1996).

³ A recurring concern in Minow (2002).

undermine the accountability of each sector in its own terms and, hence, the interlocking system of social accountability overall.

The plan of the paper is as follows: After some preliminary remarks on the concept of accountability and its various conceptions (section I), I develop a basic typology of accountability regimes (section II), with each of the three sectors of society being predominantly associated with its own distinct type of accountability regime (section III). I then sketch complementarities among these three accountability regimes, leading to greater accountability overall than if accountability was pursued in only one mode (section IV). Finally, I show (in section V) how certain ways of yoking the three sectors together in 'public-

sufficiently terrifying to induce Cardinal Wolsey to transfer his newly-built palace at Hampton Court to his liege lord for one famous example. Modern administrative accountability pales in comparison. But we still talk of the accountability *of* public servants *to* elected officials (and through them to the electorate in general) *for* their performance in office.

Corporate accountability refers to the accountability *of* a firm's managers *to* its owners *for* their conduct of the affairs of the firm. This is where accounts and accountants come into their own.

In the case of partnerships or joint-stock companies, the owners are plural. That gives rise to political-style mechanisms of accountability at partners' or stockholders' meetings. Political those meetings may be, but they are hardly democratic: the rule is not one-person-one-vote but one-share-one-vote; and the franchise, far from being universal, is limited to those with a share in the firm.⁶

If the firm is publicly-listed, that gives rise to further layers of accountability: *of* the owners-and-managers *to* public officials (and through them to elected officials, and thence the electorate at large) *for* fair dealing as specified by relevant statutes and regulations.⁷ Thereby arise the duties of publicly-listed companies to provide public accounts, compiled according to recognized and accepted accounting standards to ensure there is no fraud or deception, along with the duties not to engage in corrupt practices (insider-trading, etc.).

Those are very familiar forms of accountability in the first two sectors. It is often alleged that accountability is conspicuously lacking in the Third Sector.⁸ There it is unclear

⁵ Although that is often in tension with a service agency's being also accountable to its clients (OECD 1987, pt. 1, ch. 1).

⁶ Indeed, with a 'voting share', insofar as there are non-voting shares.

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measure of openness and transparency that is only rare and grudgingly accorded to

having done so, let me step back from those complexities to allow some larger patterns of accountability to come into view.

Different accountability regimes, I shall argue, are distinguished along two dimensions: the *subject* of accountability and the *mechanism* of accountability.

There are of course many other dimensions along which accountability regimes might

The first possible subject of accountability concerns what people *did*. Were their *performances* as prescribed (or proscribed) by the dictates of duty, or within the range of their

Any actual system of accountability usually employs a mixture of mechanisms. But generically there seem to be three distinct mechanisms by which people might be held accountable:

through *hierarchical* systems of command and control;

through the *competitive* discipline of the market and cognate systems of social control; or

through *cooperative networking*, monitoring and sanctioning with a group sharing similar norms and values.

The first mechanism of accountability operates through an authority relationship. Subordinates are accountable to their superiors, who are accountable to their own superiors in turn. Sanctions ensue if superiors deem their subordinate's performances wanting.¹⁵

The second mechanism of accountability operates through the clash of interests and perspectives, orchestrated so as to ensure that good outcomes ensue. Exactly what that latter clause entails depends upon what accountabilities the competition is supposed to underwrite. If the accountability in question is to God's will, trial by ordeal might (depending on the particulars of one's theology) suffice to secure it. If the accountability in question is to the common good, as the market's purports to be, then the competition must be further hedged by the constraints (of the law of property, tort and contract) that are required to underwrite that in a reliable fashion.

The third mechanism of accountability operates through praising or shaming and shunning, among a network of coequals sharing a common culture of similar norms and values, goals and principles. That inevitably gives rise to punishments on one side, to praise and rewards and encouragements on the other. The mutual adjustments that ensue often seem to have a strategic, bargaining-like side to it, with people offering rewards or punishments with a view to evoking behaviour more in line with their own preferences and perspectives.

But what is distinctive about accountability through shared values is that the mutual adjustment is not purely 'partisan'; the evolution of norms is not wholly instrumental.¹⁶ Generally, participants genuinely internalize values shared by others within their network, and critiques of their behaviour based on those shared values.

Again, I have no knock-down argument that these three mechanisms of accountability exhaust the realm of all possible such mechanisms. Still, they loosely correspond to the principal types of sociopolitical processes identified by students of social control over the past century.¹⁷

III. Three Accountability Regimes

My central theses are as follow:

the *state sector's* accountability regime focuses relatively more heavily on the *actions* of public officials as its subject of accountability, and it relies relatively more heavily upon *hierarchical* authority structures as its characteristic mechanism for achieving accountability;

the *market sector's* accountability regime focuses relatively more heavily on *results* (mainly but not exclusively financial) as its subject of accountability, and it relies relatively more heavily upon unfettered *competition* (mainly but not exclusively between firms in the economic marketplace) as its characteristic mechanism for achieving accountability;

¹⁵ The traditional model of 'superiors and subordinates' can alternatively, and more interestingly (as well as more descriptively, perhaps) be described in terms of 'specialization in monitoring and sanctioning', as Geoff Brennan has helpfully suggested.

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the *non-profit sector's* accountability regime focuses relatively more heavily on *intentions* as its subject of accountability, and it relies relatively more heavily upon mutual monitoring and reputational sanctioning within a *cooperative network* of like-minded others as its characteristic mechanism for achieving accountability.

These propositions are encapsulated in Table 1

Table 1: Accountability Regimes across Three Sectors

**subject of
accountability**

As a second caveat, I should also acknowledge from the start that in the real world each sector contains some elements of all these accountability regimes.¹⁹ No non-profit regime is sensitive *only* to intentions and wholly insensitive to results, for example — any more than any market regime can afford to be *wholly* oblivious to actions (laws restricting certain sorts of actions are constitutive of markets, after all). What my ideal regimes types aspire to do is merely to describe 'dominant tendencies' or 'distinctive possibilities'. None of the three sectors, in the real world, is a pure type of any of these ideal-typic accountability regimes.

A third caveat is that the particular combinations of 'subjects of accountability' and 'mechanisms of accountability' shown in Table 1 do not reflect any deep necessary connections between items in the second and third columns. What they reflect, instead, are merely characteristic practices of agents in the first column. It is the traditional accountability practices of the state sector, and those alone, that forge the connection shown there between 'actions' as the 'subject of accountability' and 'hierarchy' as the 'mechanism of accountability'; and so on down the list.

A. The State Sector: Action-based, Hierarchy-based Accountability

It is only a slight exaggeration to say that, within the public administration, the two greatest sins are to perform an action either 'arbitrarily' or 'ultra vires'.²⁰

administrative appeal, is acting within the scope of their authority and giving reasons for their action.²¹

The reasons do not have to be 'good' reasons, or even the official's own 'true' reasons. They merely need to be among the legitimate grounds on which the official would be entitled to make a decision. While a court or administrative appeals tribunal might conduct a

Traditional public sector mechanisms of accountability operates (or anyway classically did) through a set of nested hierarchies that serve as public-sector mechanisms of

accountability. The public sector traditionally governs through command-and-control,

externally, and through chains of command, internally.

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A remedy of sorts used to be found in the old (now substantially defunct) British tradition of ministerial responsibility, whereby the elected official formally in charge of a ministry assumed responsibility for all that happened within it, even in cases where there was no realistic way the minister could have known about or prevented the events in question.²⁸ But while this is a good model of 'responsible government', in the sense of always giving us someone to blame, it is hardly a model of 'accountable' government, in the sense of giving us someone from whom a first-hand account can sensibly be demanded.

Note however that this is a feature not only of the peculiar British model of 'responsible government'. It is also characteristic of hierarchical models of political accountability quite generally, whereby lower officials are accountable 'through' higher officials ultimately to the public at large. The account is passed through many hands. The agent who was the efficient cause of the event is subject to the direct scrutiny of the public at large only in extraordinary cases.²⁹

This is where other accountability regimes, and other sectors, come into their own, supplementing the sort of accountability regime that we typically find within the state sector. At the macro level, politicians in a democracy are required to enter into the political marketplace, engaging in a periodic competition for people's votes; and non-profits join in pressing their broad social concerns (in a 'non-partisan' way, if they want to retain tax-exempt status, of course) in the course of that campaign. At the micro level, state officials subcontract public services to providers in the market or non-profit sectors, hoping that this 'purchaser-provider split' will bring better accountability (by results or by intentions) than the

plucked from the sea. In the heat of the election campaign, however, the message was 'lost' somewhere in the upper echelons of the (these days, increasingly politicized) civil service. See Australia Senate Select Committee 2002, esp. chs 6-7 ('The failure to correct the record' and 'Accountability' respectively).

²⁸ Rather like the way in which owners of vicious dogs are held strictly liable for the actions of their pets, just as if they bit the neighbour themselves. Day and Klein (1987, ch. 2) report that accountability for things over which they have no effective control has been an increasingly dominant feature of ministers' lives in Britain over the past half-century or more.

sort of accountability obtainable through the hierarchical action-based regime that predominates in the state sector itself.³⁰ All the while, the Third Sector stands (sometimes ineffectual) guard against political money allowing the corporate sector to circumvent the democratic process and undermine accountability of elected officials to the public at large.

B. The Market Sector: Results-based, Competition-based Accountability

In the market sector, the subject of accountability is typically the financial 'bottom line'. That is basically what officers of a firm are held accountable for, when facing their shareholders.³¹ Those are the terms in which officers of a firm give an account of themselves, internally.

The accountability regime of the market sector has an external face as well. The way the market sector justifies itself, both to society at large and to consumers in particular, is similarly in terms of results. The market, it is said, maximizes (economic) well-being of the community as a whole. When the market sector as a whole is held to account by the community (as opposed to particular managers being held to account by their shareholders), those are the results-based terms in which the market gives its account.

The mechanism of that sort of accountability, within the market sector, is competition. The speculations of Mandeville and Smith as formally proven by Arrow and

²⁹The same is true with firms in the market sector: one does not know or care who within the firm is responsible for mistakes; one simply takes one's business elsewhere, if the results are unsatisfactory.

³⁰ OECD 1987. Le Grand 1991.

³¹ Clark (1997) has shareholders saying to managers, 'You are supposed to maximize our financial well-being. You meet your specific defined duties to everyone else. You pay taxes to the government, fulfill contracts to customers, obey the environmental laws, do right by your employees in accordance with the labor laws. You do all that, but what you're really supposed to maximize is the financial well-being of us, the owners, and by the way, we have the power to kick you out if you don't do it'. Significantly, the device social reformers choose for trying to make firms more socially responsible is couched in similarly results-based terms: 'the triple bottom line', incorporating social and environmental as well as financial results.

Debreu show that (under certain ideal conditions) each attempting to maximize his or her own well-being maximizes the well-being of everyone overall.

The hypothesized ideal conditions of perfect competition virtually never obtain in the real world, however. Externalities, natural monopolies and concentrations of market power abound. Where competition is less than perfect, any guarantee of the market sector's accountability to society at large can be seriously compromised. That is where the other sectors and their distinctive accountability regimes come into play, holding the market sector accountable, politically or socially, when it is not competitively. And that is where the Third Sector has a very particular role to play in pressing politicians to take action against powerful corporate interests which, in the absence of that countervailing public pressure, may well have utterly dominated political life.

C. The Non-profit Sector: Intention-based, Network-based Accountability

As I said at the outset, accountability as applied to the non-profit sector is a much less well-articulated notion. The formal legal accountability that derives from non-profits' articles of incorporation is thin stuff. Furthermore, many of the other sorts of accountabilities typically in play there — duties to obey the law and honour one's contracts, together with more diffuse duties of a moral sort — are nowise confined to the non-profit sector alone.

Here I shall offer an analysis of the accountability regime that is in one part very familiar and in the other part less so. The familiar part concerns the non-profit approach to what I have called the 'subject of accountability'. The novel part concerns what I have called the 'mechanism of accountability'. There, I suggest that network-based accountability could

(and maybe should; and maybe even sometimes does) characterize the non-profit sector, and

That motivational distinctiveness is a stylized fact about non-profits, the truth of which is an open empirical question. Some evidence seems to suggest that that stylized fact is indeed true.³⁶ But whether or not it is true does not really matter for present purposes. My point is not that non-profits *are*

ii. Network-based Mechanisms of Non-profit Accountability

As regards the distinctive 'mechanism' of accountability in the non-profit realm, my analysis is somewhat less mainstream.

To be sure, the phenomenon I shall be describing — networking among Third-Sector actors to achieve political results — is increasingly familiar in the real world, particularly in transnational politics (Sikkink, 1993; Keck and Sikkink, 1998; Fox and Brown, 1998; Brown, 2003). The interpretation I put on it is, however, slightly different. Networking among NGOs is generally seen more in strategic than accountability terms. It is seen as the way the Third Sector operates. It is seen as the Third Sector's way of forcing accountability on *other* actors (ranging from firms through national governments to the World Bank).³⁸ My proposal is that we should see that networking as also being a mechanism by which non-profits are *themselves* held accountable.

Whether or not the Third Sector currently conceives its own accountability in network-based terms, that mode of accountability constitutes a distinctive *possibility* which is open to the Third Sector much more than to the other two sectors. For that reason if no other, I therefore feel justified in describing it as 'the' non-profit sector's distinctive accountability regime.

In developing this model, I shall be building on analyses of network-based accountabilities from various other realms: how non-governmental organizations are (or could be) held accountable, transnationally or domestically; how coordination is (or can be)

³⁸ The Alliance for Nonprofit Management, for example, uses an open network method to promote better accountability (Light, 2000: 32-4; Brody, 2002: 482, 491). But the impression given is that this is not because the Alliance sees this as a distinctive form of accountability uniquely suited to the non-profit sector, but merely because networking is how non-profits do things quite generally.

achieved interdepartmentally, within the New Public Management ethos of reinvented government; how coordination has traditionally been achieved in the 'coordinated market economies' of Continental Europe. Such analyses are as yet rarely applied to problems of non-profit accountability as such, but I nonetheless hope they will resonate among those *au fait* with developments there.³⁹

Let us begin by considering briefly how goals of coordination, accountability, positive responsiveness and mutual adjustment are accomplished in those other disparate realms.

Internationally, many commentators fear that power is being exercised by a range of organizations that themselves suffer a serious deficit of democratic accountability. Transnational non-governmental organizations (NGOs) are formally accountable to virtually no one; and while there are strong informal pressures for them to be accountable to publics funding and supporting them, that often makes them accountable to the wrong people.⁴⁰ Intergovernmental-organizations (IGOs) are accountable to the governments of their various member states, which are accountable in turn (after some fashion or another) to their own people in turn.⁴¹ But accountability based on 'one-state, one-vote' (or worse) is a far cry from a system of democratic accountability based on equal representation of all affected interests, which is conspicuously absent on the world stage.⁴²

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competition and short-term imperatives characterizing share markets driven by the threat of hostile take-overs.

So how are these coordination and accountability challenges met, within each of those

After this long detour, let us now return to the issue of the accountability of non-profits. My proposal is that we model the distinctive accountability regime of the non-profit sector in broadly the same way.

Other mechanisms operate too, of course. (There is no pure case of any ideal type.) But what is or could be really distinctive about accountability in the Third Sector is this: Non-profits concerned to serve some public good and enmeshed in a network of others — other non-profits, locally, nationally and transnationally; government and quasi-governmental organizations, locally, nationally and transnationally; donors and sponsors, both public and private; contractual or otherwise.⁵⁷

What all the parties across a network of related non-profits share is a commitment to some particular common purpose.⁵⁸ Each no doubt conceives it slightly differently; some inevitably have private interests operating alongside their interest in the shared cause. And in

accountability in any democracy; and candidates, parties and interest groups are all rightly drawn into this competitive accountability process. Different departments of state and different levels of government, particularly in a federal system, compete with one another, often fiercely. Insofar as the state contracts with private suppliers, it typically does so through a process of competitive tendering; and much of the policy dynamic within government is driven by competition between departments of state (between spending departments versus revenue-raising departments, and among competing departmental claimants for funding). So too, in the world of New Public Management, is there much network-based accountability for cooperative activities that cross departmental lines and the hierarchical lines responsibility therein.

In the non-profit sector, likewise, accountability mechanisms have elements of

So none of these constitute pure cases. Still, the accountability regime I associate with each sector can, I think to say, be seen as the 'dominant motif' of accountability relations within each sector. There are other elements interspersed, to be sure. But the *principal* way in which each of these three sectors is held accountable — the *basic* mechanism at work — is the accountability regime I here associate with each.

V. Tri-sectoral Democratic Accountability

Theories of democratization tend to have an unfortunate 'one size fits all' aspect to them, inter-sectorally as well as internationally.⁶⁴ Democratizing non-elected institutions, both within the state sector and beyond it, is typically interpreted as mimicking key features of elective representative democracy.

Thus, for example, 'democratizing' the bureaucracy is often seen as a matter of making it more 'representative' of the citizenry as a whole⁶⁵ — in just the same way as the Reform Acts democratized the legislature. 'Democratizing' the economy is sometimes seen as a matter of expanding shareholding and participation in the labour market — in just the same way as expanding the franchise and participation in politics makes that more democratic. Other times 'democratizing' the economy is seen as a matter of increasing workers' control in the affairs of their firms — 'shopfloor democracy', modeled on 'town meeting democracy'.⁶⁶

The same is true of calls for 'democratizing' the Third Sector. Those often amount to pleas for giving everyone affected by organizations' activities more of a say in their

⁶⁴ Whitehead, 1996.

⁶⁵ Krislov 1974.

⁶⁶ Pateman 1970; Greenberg 1986.

decisions⁶⁷ — thus equating democratic accountability in the Third Sector to democratic accountability in the political sphere. Both the UN and European Union, for example, form consultative or partnership relations with non-governmental organizations only on condition they have suitable internal accountability mechanisms in place.⁶⁸ Other times, 'democratizing' the Third Sector is construed in terms of making it suitably pluralistic, so that

accountability of both appointed and elected officials to the Constitution and courts; the

to markets to produce democratic-like outcomes for us, we need to equalize people's capacities to make their demand effective. One way to do that, without redistributing money itself, is to create separate currencies useable only for the purchase of particular goods: school vouchers, housing rebates, public health insurance and so on.⁷⁴

Other ways to harness the power of the market as an adjunct in the democratic project of ensuring systematic responsiveness to people's desires and interests are to introduce 'internal markets' into the operation of government itself or to contract-out public services to private providers subject to market discipline.⁷⁵

The purchasers, in these cases, are public officials, subject ultimately (if often very indirectly) to the political discipline of the ballot box. Assuming they are able to specify the goods and services they are buying relatively precisely and to monitor the quality of the goods and services received relatively effectively (big assumptions!), then imposing the discipline of the market on providers of those goods and services would (at least under ideal

contracts.⁷⁷ Still, those conditions might sometimes be sufficiently closely approximated as to make the market a useful adjunct.

C. The Third-sector Contribution

Those are all familiar ways in which market-based accountabilities might enhance the systematic responsiveness of the state to citizens. Next let us consider other ways, some less familiar, in which the non-profit sector, too, might contribute to democratic accountability.

One way, which *is* familiar (from the writings of everyone from Tocqueville to Habermas), is by helping to mobilize demand for political action.⁷⁸ Much ink is spilt extolling some often pretty romanticized virtues of civil society. But to appreciate the present point, one need only recall that, legally, political parties themselves are just another instance of a non-profit corporation. Mobilizing political demands is not something that every non-profit does, but many do. And that is as it should be, democratically. In a democracy, it is highly desirable that political demands emanate from voluntary associations: certainly that, rather than from the state sector; and certainly that, rather than from the market sector alone.

Another way in which the non-profit sector can enhance the systematic responsiveness of the social institutions as a whole to citizen's desires and interests is by doing things that states and markets either cannot or will not. This comes principally in the

⁷⁷ Similarly, think about the 'hire/buy' decision. Firms hire employees, rather than buying the products that those employees produce, when it is easier to monitor the quality of their behaviour and inputs than it is to monitor the quality of their outputs (Coase, 1937). Reflecting on that fact ought to lead us to prefer internalizing production of public services within the public sector rather than contracting it out privately to anything larger than a single-person provider. For the same reason those contractors hire

form of responding to non-standard needs that people cannot afford to satisfy themselves through private markets.

The problem with states is that they operate according to rules. They provide standardized goods and services to people who fall within certain prescribed categories. There is always some element of discretion, but that discretion is usually pretty circumscribed. People with non-standard needs — cases that do not correspond neatly to categorical criteria — are not well catered for by the state. The market can provide tailor-made responses, for a price ('rationing by price', and ability to pay it). But people without the wherewithal to pay cannot get their non-standard needs met in the market. That is where charities have traditionally come to the fore.⁷⁹

Yet another way in which the non-profit sector might help make social institutions systematically responsive to citizens' desires and interests is as an adjunct to the public sector

'reference group' for public policymakers: a font of information and advice; an evaluative touchstone for policy formulation and transformation.⁸¹

The key to the cooperative ethos of those networks is mutuality. They are bands of coequals sharing common concerns, none having any formal authority over any other. Government is crucially different in that latter respect, of course; so government agencies probably cannot be part of those networks on exactly the same basis as non-profits themselves. Still, relevant government agencies might have an 'adjunct' standing within those networks, where they are semi-formally organized. And where they are merely informal networks of senior officers of organizations sharing the same substantive concerns, senior officials of the relevant public agencies can and ordinarily would presumably be included in that loop.⁸²

This marks a distinctive sort of accountability: 'policy-making accountability', Susan Rose-Ackerman dubs it. She reports strong evidence of it in the drafting and implementation of environmental legislation in the US and Germany, and growing evidence of it in the post-communist regimes of Central and Eastern Europe, under pressure from the European Union to form area-specific Partnership Groups with nonprofit organizations as a precondition of membership in the EU.⁸³

This 'reference group for policymakers' function is importantly different from the first-mentioned 'lobby group' function traditionally associated with the voluntary associations of civil society. That first function refers to the mobilization of political demands, in the face of other competing demands. Mobilization is for war, in domestic politics as internationally.

⁸¹ Something of this is captured in discussions of the role of 'epistemic communities' in policymaking (Haas 1989; 1992), though the contribution here envisaged for Third Sector networks extends well beyond epistemic issues, and crucially including advice based on the shared norms, values, principles and commitments pervading the network.

⁸² 'Revolving doors' also contribute: '[T]he recruitment of former managers of nonprofit agencies to high level public service positions has contributed to the homogenization of views between the two sectors... At the same time as they persuade their former colleagues in the private sector of the need for government priorities..., they seek to ameliorate government policy in directions favored by voluntary agencies' (Smith and Lipsky 1993, p. 145).

Whereas the dominant ethos of 'lobbying' is essentially competitive, the dominant ethos of network-based reference groups is essentially cooperative, at least within the network. (Different networks of course compete with one another, in pushing their particular barrows.) Networks unite people and organizations sharing common concerns and values, on a voluntary basis. Mutuality prevails, as each internalizes the perspective of the others. Differences of opinion exist within the network, of course. But assured that they are all aiming at the same goal, participants in networks respect one another's opinions, explore the bases for their differences and try in good faith to resolve them.⁸⁴

This is of course an idealized story about what might happen within the sorts of networks that link non-profits and hold them accountable. A fuller and more realistic account would require, at the more macro-level, lots of detailed case studies exploring how disparate groups with partially overlapping (but partially diverging) interests, goals and fundamental values come together in pursuit of the partial goals that they do share. How are shared norms socially constructed by and within such networks? That is an important topic for further research.⁸⁵ At the more micro-level, we need lots of detailed case studies of how individuals within those networks come to internalize such norms and adjust their self-appraisals in light of them.⁸⁶ The personal phenomenology of life within such networks needs to be explored much more fully.⁸⁷

⁸³ Rose-Ackerman 1995; 2003. EU Commission 2001.

⁸⁴ March and Olsen 1995, ch. 2.

⁸⁵ The chapters in Fox and Brown (1998) make a good start at this task.

⁸⁶ Such as Bates (2000).

⁸⁷ An excellent start is Mansbridge's (1995, pp. 27-9) account of what it is to feel oneself 'internally accountable' to the feminist movement: 'The entity ... to which they feel accountable is neither an aggregation of organizations nor an aggregation of individual members but a discourse. It is a set of changing, contested aspirations and understandings that provide conscious goals, cognitive backing and emotional support for each individual's evolving feminist identity.... The discursively created movement is what the people in the movement say it is, what is taken up and held to be feminism.... [T]he discursive process is always collective... The "movement" is made up of women figuring out and telling one another what they think makes sense, and what they think can explain and help crack the gender domination that they feel and are beginning to understand. I argue that this discursively created movement is the entity that inspires movement activists and is the entity to which they feel accountable'. Something like this seems true of life within 'issue networks' more generally (Mansbridge, 1992: 39-40).

Those are large and important tasks, for later occasions. For now, however, it just bears emphasizing that sort of mutual accountability through networks of significant others can happen only (or anyway best) among non-profits than among organizations in the other two sectors. Mutuality of the sort that lies at the heart of this network ethos presumes a voluntary band of co-equals. It assumes that none have authority over the other (as in a state's hierarchy) and that they are free from competitive pressures (as are found in markets) to cooperate in good faith with one another. This is thus a unique contribution that the Third Sector can offer toward helping public policy a more effective response to citizens' needs, interests and aspirations.

Realistically, too, it is important not to romanticize networks. While they can be collaborations in pursuit of true public goods, they can also be conspiracies against the public (as in the case of oligopolies⁸⁸) or cozy cabals covering one another's incompetence.⁸⁹ It is by no means analytic that networks of the sorts I have been discussing necessarily promote the public good. Whilst fully acknowledging that fact, we can nonetheless say that there are certain sorts of public goods that can only be promoted by groups connected in such ways. That such networks exist is a necessary, if not sufficient, condition of promoting those public goods.

VI. Compromising Mutual Accountability: Public-Private Partnerships

Around the world, the move is now toward a blurring and blending of the three traditional sectors.

⁸⁸ Nicholson 1972.

⁸⁹ 'An inbred group ... prey to lapses in judgement', as Brody (2002, p. 478) describes how interlocking directorates facilitated the spread of the 'Foundation for New Era Philanthropy' scam through Philadelphia's non-profit sector.

In the old order, business, government and charitable enterprise all had their particular places, and although there was much interaction among them, they remained relatively distinct in organizational terms, in motivational values, in their sources of support and in the work they carried out. That appears to be changing now ... [with] the emergence of a 'new governance' ... approach to solving public problems. The heart of this approach is an emphasis not on the differences among the sectors, but on the opportunities for collaboration among them. ... [T]he new clarion call is 'whatever works' — a non-formulaic, non-legalistic, non-political, non-categorical approach to getting the job done (Young and Salamon, 2002: 439-40).

But as the old saw has it, 'Britain and America are two countries divided by a common language'. Australia makes it three. The phrase 'public-private partnership' refers to importantly different phenomena in different corners of the world. To make sense of differing reactions to that phrase, we have to remember where people are coming from and what the phrase paradigmatically refers to in popular political discourse there.⁹⁰

In the US, it now seems to refer principally to the delivery of public services (education, substance-abuse, health services, etc.) by private (profit and especially non-profit) organizations, most interestingly and contentiously of a faith-based sort, on a capitation or fee-for-service basis that has them competing with one another for clients (students, substance abusers, patients, etc.). Service providers accrue government funding largely on the basis of client choices rather than on the basis of competitive tendering for contracts providing blocks of funding from government. School vouchers and Medicare reimbursements are paradigm cases.⁹¹

In Britain, in contrast, current discourse concerning 'public-private partnership' refers principally to strategies to employ private finance for capital-intensive public-works projects.

⁹⁰ Of course, all of these phenomena are found in all countries. It really is just an issue of where the focus of present political attention primarily falls.

⁹¹ Minow 2002; 2003; Grønbjerg and Salamon 2002, pp. 454-6. Lyons and Chan (1999, p. 3) remark upon this important difference between American- and Australian-style contracting out of public services. There is certainly that difference between those countries in the rhetorical focus in debates over contracting out of public services, anyway: in reality, the US also contracts with non-profits to provide substantial blocks of funds for specific purposes (Smith and Lipsky 1993, ch. 7), and increasingly so in the wake of the 1996 welfare reforms (Smith 2002, pp. 165-6; DeHoog and Salamon 2002, pp. 323-4).

⁹² An example would be a public hospital constructed with private capital then being leased by the National Health Service on a long-term basis.⁹³

In Australia, in contrast yet again, 'public-private "partnership"' refers principally to competitive tendering across all sectors (public and private, for-profit and non-profit) for contracts providing block grants to deliver public services. Most conspicuously and contentiously among them are employment services of the sort that used to be provided exclusively by the state employment service.⁹⁴

Obviously, these are three fundamentally different policies, travelling under similar names. I desist from remarking further here on the proper place of either piety or private capital in the discharge of public functions.⁹⁵ I shall concentrate here exclusively on the latter sort of public-private partnership, typified by Australian contracting out of public services to both private for-profit and non-profit organizations through a process of competitive tendering.

Any sort of contracting-out of public services gives rise to a plethora of accountability issues. In sub-contracting relationships of any sort, there is always the question over to what extent principals are responsible or accountable for the actions of their agents.⁹⁶ There is also the risk of 'a government ... try[ing] to perform an end-run around [its] obligations by delegating tasks to an entity not covered by those provisions' (Minow, 2003: 38; cf. 2002: 252-3). The obligations of confidentiality in contract law can get seriously in the way of

⁹² Likewise in France (Amsier, 1995).

⁹³ Le Grand et al. 1997. Freedland 1998. Commission on Public Private Partnerships 2001. See more generally the publications of the Institute of Public Policy Research, which is making much of the running in this area (<http://www.ippr.org.uk/research/index.php?current=21&detail=publications>). On France, similarly, see Amsier 1995. Of course, a lot of earlier Thatcher-era privatization involved contracting-out, much of which continues under her successors.

⁹⁴ Vanstone 1996. See further Lyons and Chan 1999; Eardley et al. 2001; Considine 2001; 2002; Considine and Lewis 1999.6(th)6.9(In)6.9(stit0.1 13.2(e)m0.0041 Tc-0.0011 Tw[(a(n)16 78.3 f)34.3997T*-050054 Tc0.1405 T

public accountability for contracted-out services. 'Commercial-in-confidence' clauses can be used to shield from public scrutiny actions done by private contractors, with public money and on behalf of the government: the executive would have been answerable to Parliament for those actions, if done by government itself; but it now pretends to be immune from parliamentary scrutiny, because they were done through some third party with contractual guarantees of confidentiality.⁹⁷

Those are not inevitable necessities built into the internal logic of contracting out, of course. A government not cynically committed to shielding its actions from public scrutiny

their distinctive accountability regime and eliminating the distinctive contribution it could have made to the overall accountability mix across society as a whole.

It is a common worry, among non-profits, that simply taking public money makes them susceptible to political control, diminishing their independence.¹⁰⁰ And a *sine qua non* for one institution to hold another to account is that the first institution must be genuinely independent of the second. Courtiers cannot hold their king accountable. Neither can clients genuinely hold their patrons accountable, in a system of clientilistic politics.

It is also a common worry, among non-profits, that simply performing tasks of the government's choosing — even if they do not become particularly dependent on the government, financially, in the process — subtly changes the organization's priorities, management structures and fundamental ethos. There is evidence of this, too.¹⁰¹

All that is true and important. But my real focus here is on something else: (a) the competition between non-profits that these arrangements induce¹⁰²; and (b) the terms that govern that competition, particularly when for-profits are also free to compete.

The effect of the latter feature of Australian-style competitive tendering for contracted-out public services is easier to see. With both for-profits and non-profits responding to the same tender briefs, and with rules of fair competition governing the tendering process, non-profits are becoming increasingly like for-profits. They do the same things, in the same ways: and they simply cannot help it, if they want to participate in the tendering process at all; there is after all a monopsony, with the government as sole buyer.¹⁰³

contracting-out, those other forms are more frequently found in contracted-out personal social services in the US, for example (DeHoog and Salamon 2002).

¹⁰⁰ For example, 'Twenty-eight percent of Head Start programs are nonprofit organizations with almost 100 percent public funding' (Rose-Ackerman 1996, p. 717). See more generally Smith and Lipsky 1993.

¹⁰¹ DiMaggio and Powell 1983, pp. 150-4. Smith 1993, pp. 95-9. Smith and Lipsky 1993, ch. 9.

¹⁰² Evidence of which is found in the US as well (Young and Salamon 2002, pp. 426-8; Smith 2002, pp. 165-6).

¹⁰³ Evidence from Australia of this is found in an analysis of interviews with staff at both non-profit and private-sector employment agencies operating under contract from the government's Job Network: instead of the clear differences of styles that should be expected, Lyons and Chan (1999) found no systematic differences between the two sectors; rather, there were clear indications of convergence of operational

by its nature undermines cooperation.¹⁰⁷ In so doing, it undermines the essential element of the Third Sector's distinctive accountability regime, and the contribution that that can make toward the democratic accountability of social institutions overall.¹⁰⁸

Important though such mutual monitoring among a band of well-intentioned coequals may be as a supplement to the accountability regime of electoral democracy, it can never replace it.

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