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Robert O. Keohane

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Commentary on the Democratic Accountability of Non-Governmental Organizations

Robert O. Keohane*

The essays on the accountability of non-governmental organizations (“NGOs”) in the spring issue of this journal were so thoughtful and balanced that all I can do is to make explicit some points that seemed implicit, particularly in the essays by Kingsbury, Spiro, and Wapner.

Accountability is not a pure good. Much of the writing on accountability seems to imply that accountability is like friendship: more is better. But as Kingsbury observes in passing, “the total possibilities for participation are inescapably constrained by the need to accomplish the institution’s tasks.”¹ Too much accountability could hinder NGOs from performing their tasks, as itemized by Spar and Dail in their typology of NGOs.²

It is important to distinguish internal from external accountability, as the essays by Spiro and Wapner do. NGOs often have weak institutions for internal accountability, but on the other hand, their members can easily exit. The more important point, however, is that even effective internal accountability would not guarantee external accountability. The claims of NGOs to a voice over policy depend on beliefs that they actually speak for victims of injustice, and that they are true to the normative principles that they articulate. However, NGOs are internally accountable to their members, usually privileged people in rich countries whose knowledge of NGO policies comes largely from the organizations themselves. Clearly there is a temptation for NGOs to engage in symbolic politics, satisfying their internal constituencies at the expense of effectively fostering the values they claim to promote. The vulnerability of NGOs to exit by their members does not guarantee either effectiveness or accountability to the people whose lives they most affect. Kingsbury provides an example of such a tension, in the campaign against fur sealing that was

* James B. Duke Professor of Political Science, Duke University.

1. Benedict Kingsbury, *First Amendment Liberalism as Global Legal Architecture: Ascriptive Groups and the Problems of the Liberal NGO Model of International Civil Society*, 3 *Chi J Intl L* 183, 186 (2002).
2. Debora Spar and James Dail, *Of Measurement and Mission: Accounting for Performance in Non-Governmental Organizations*, 3 *Chi J Intl L* 171, 175 (2002).

initially promoted by Greenpeace, but that had adverse effects on the livelihoods of indigenous hunting communities in the Arctic.³

The effects of NGOs on overall patterns of external accountability depend not only on the accountability of NGOs, but on their actions to hold other entities accountable. As Spiro points out, NGOs play an important role in holding states and intergovernmental organizations accountable to broader publics, by serving as independent sources of criticism. He is right that “[g]overnments can get away with an awful lot before having to answer to their memberships.”⁴

Certain traditional forms of accountability are irrelevant to the external accountability of NGOs, or would be pernicious. In domestic democracies, officials are accountable to electorates, but there is no world electorate that can hold intergovernmental organizations, much less states, accountable. Legal accountability is of only limited relevance. NGOs are, as Kingsbury notes, subject to national public law, but if there is an international public law, it is only emerging, and is more a set of norms that serves as a “shared starting point” than an enforceable legal code.⁵ I am more cautious than Spiro about holding NGOs accountable to “obligations,” since it is not clear to what entities the NGOs would be held accountable.⁶ Here the author’s use of the passive tense obscures key issues of politics. If NGOs are to be held accountable to intergovernmental organizations, controlled ultimately by governments, their most outstanding virtue—independence from governmental authority—would be threatened.

NGOs should be held externally accountable chiefly through peer and reputational accountability. Wapner emphasizes that NGOs, unlike states, can only be effective by working through networks, since NGOs do not have the same operational responsibilities, huge budgets, or control over force. They can only be effective, therefore, if they earn the respect and trust of a set of their peers. Were an NGO to be “shunned” by too many other NGOs, its efficacy would be threatened.⁷ An NGO’s public reputation is perhaps even more important. Wapner notes that Greenpeace lost credibility and support as a result of erroneously campaigning for the oil rig Brent Spar to be dismantled on land rather than dumped in the North Sea.⁸

3. Kingsbury, 3 Chi J Intl L at 189 (cited in note 1).

4. Peter J. Spiro, *Accounting for NGOs*, 3 Chi J Intl L 161, 164 (2002).

5. See Kingsbury, 3 Chi J Intl L at 185 (cited in note 1).

6. See Spiro, 3 Chi J Intl L at 166 (cited in note 4).

7. In this respect NGOs fit very well the argument that Abram and Antonia Chayes made about “the new sovereignty.” It is even truer of NGOs than of states that achieving their purposes requires “participation in the various regimes that regulate and order the international system.” Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* 27 (Harvard 1995).

8. Paul Wapner, *Defending Accountability in NGOs*, 3 Chi J Intl L 197, 203 n 11 (2002).

NGOs depend on credibility and cannot afford many incidents such as this, or sustained and well-founded negative publicity.

How strong accountability relationships need to be depends on the power of the entity being held accountable. Accountability and power are closely linked because true accountability requires that outsiders be able to impose costs on insiders. If the insiders control a very powerful organization, such as a major multinational corporation or a state, they may be able to ignore many sanctions against them. But if the insiders only manage a weak NGO, they will be much more vulnerable. It follows that Spiro and Wapner are right to emphasize that states are often less accountable, externally, than NGOs. Independently of how well democracy works at home, the United States, when it operates abroad, is not very accountable to anyone. It is powerful enough to refuse to pay its UN dues for over a decade, ignore UN General Assembly resolutions, and to brush aside the reservations of its NATO allies whenever it so chooses. Certainly it bears some reputational costs, and it may be foolish to act unilaterally; but its effectiveness is not necessarily strongly affected. In contrast, no NGO could withstand a fraction of the criticism faced by the United States without crippling its ability to achieve its objectives.

The contributions to the symposium on the accountability of NGOs in the Spring 2002 issue of the *Chicago Journal of International Law* are excellent. They also, it seems to me, have the right tone. NGOs vary in their internal accountability, and, like other entities in world politics, are only held externally accountable through peer monitoring and reputation, both relatively weak mechanisms. Yet since NGOs are themselves relatively weak, their external accountability deficits are not as severe as the accountability deficits for other organizations in world politics, particularly states. NGOs should be scrutinized and their frequent lack of accountability criticized, especially when they become powerful. But their contributions should also be evaluated within the broader context of the external accountability of a variety of entities, including democratic states, in world politics.



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