## Nongovernmental Organizations and Accountability in an Era of Global Anxiety

by Patrick Kilby

#### Introduction

One of the little discussed effects of the post–September 11 world order is the global shift in attitudes towards nongovernmental organizations (NGOs) including international development NGOs. Like their domestic counterparts, these NGOs, in most countries, are under scrutiny on a number of fronts, one of which is in their engagement in the public policy process as advocates for social change. This scrutiny may be related to the current reassessment of national policies of openness and tolerance, in favor of a more closed, inward, and conservative politics in many, if not most countries. This shift is in part a response to a perception that many aspects of globalization have affected personal and political security in a way that has lead to increased fear and anxiety. These fears have generally been directed at external forces and the outsider so sharply brought into focus by the attacks of September 11, 2001 and its aftermath. The rise of a neo-conservative political agenda and the growth of more conservative and fundamentalist religious sects are two examples of this fundamental shift.

This closer scrutiny of course does not apply to the full panoply of NGOs, but rather applies to the large group of *public benefit organizations* who work on issues of social justice, rights and social disadvantage both as advocates for policy change and as direct practitioners. It is these public benefit NGOs that concern this paper. These NGOs are not only being queried on their role as advocates but are also being directly linked to a second concern: their effectiveness as service providers. The question continually comes up as to why NGOs should not compete directly with market–based providers in service provision. If market–based providers can deliver services, then policy makers may be relieved of pesky advocacy NGOs. A third area of concern is the perception of poor formal systems of accountability that NGOs have to their supporters, their donors, or the people with whom they work – the constituent or beneficiary.

These three issues are interrelated but it is the latter one on accountability that opens the door to the critics, and gives them traction in public policy debates. This paper reviews these changes in approach to NGOs, and will offer some explanation

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of the role of NGOs as public benefit organizations, and the unique accountability relationships they have. It will offer both a defense of the NGO approach as well as some suggestions for change that not only reduce their vulnerability to criticism but also improve their effectiveness.

#### THE ROLE OF NGOS

A recurring theme in the modern development discourse is the role of development and other NGOs in strengthening civil society for poor and marginalized communities. This process *inter alia* includes organizing and 'empowering' marginalized communities to overcome the effects of disadvantage and marginalization. This is done generally through promoting the greater participation of the poor and marginalized in the economic, social, and civic domains within their communities. Hopefully, the poor and marginalized can gain improved access to government and community resources that previously has been denied, and to engage in the process of government as citizens. In short, NGOs are seen to have a role in democratization.

This task, however, involves more than the provision of services, it involves advocacy, and some entry into the policy debate by NGOs. This can occur both at a local and national level, but also at an international level in those issues such as human rights and globalization, which have profound effects on marginalized citizens in developing countries. However, critics such as the corporate interest NGOs like the Free Enterprise Institute in the Unites States, or the Institute of Public Affairs in Australia ask the question: from where do NGOs obtain their mandate to enter the public policy debate as advocates for social change?

#### NGOs are seen to have a role in democratization.

This concern regarding NGOs, and their role, plays out in a number of ways that affect NGO practice, in both developed and developing countries alike. In Bangladesh, there has been unprecedented scrutiny of NGOs not only for their probity, but also in their anti–fundamentalist advocacy, and perceived anti–Government stance.<sup>3</sup> In India, while NGOs have been scrutinized since the early 1980s,<sup>4</sup> there has been a marked increase recently due to the former Union government which depended on a fundamentalist support base. This closer scrutiny in India is manifest in the adverse targeting of Islamic and Christian NGOs, increasing regulation including prior Government approval being required at local level for many NGO activities, and a crack down on those NGOs involved in 'instigation,' i.e. more direct forms of advocacy.

In Australia, there have been two separate reviews of NGOs and their advocacy activities being undertaken for the Federal Government. One was carried out by the Institute of Public Affairs, a corporate interest NGO with a history of public opposition to public interest NGOs at both local and international levels. The second was a review by the Australian Taxation Office with a view to possibly removing the or limiting the tax deductibility status from those NGOs involved in advocacy, even if

it was part of their service delivery work. In the United States the recently enacted Patriot Act, and its sometimes strict interpretation, is likewise limiting a range of legitimate NGO activities.

This concern with the activities of NGOs marks a sharp divide from the 1980s and 90s. At that time the emergence of a neo-liberal paradigm and its associated agendas of free markets, a reduced state, and an institutional reform agenda, provided a role for non-state actors such as NGOs.<sup>5</sup> This role was to fill the gap in service provision left by the withdrawal of the State and where there was market failure, and also be a countervailing force to the authoritarian tendencies of the State.<sup>6</sup>

The overriding reason for NGOs' chosen governance structure is that they see their role as promoting certain values and advancing broader community interests—they are public benefit organizations rather than mutual benefit organizations.

The shift from general support for NGOs in the 1980s and 1990s, to a questioning of their influence followed the high profile NGO support for the global advocacy campaigns against the World Trade Organization, the associated free trade negotiations in Seattle in 1999, and the Multilateral Agreement on Investment. Here the NGOs arguably challenged the authoritarian tendencies of the market. However, NGOs are now perceived as having too much influence in the public arena as non-representative actors with poor accountability processes.

At the America Enterprise Institute's Washington workshop held in 2003, 'NGOs: the growing power of an unelected few', speakers raised several key issues with NGO activities. Peeters examined participatory democracy in the European Union - which includes NGOs in the governments' consultative processes.<sup>7</sup> His assertion was that participatory democracy has been at the expense of representative democracy. Bate and Tren examine the role of NGOs in medical advocacy arguing there is a marked Western left liberal agenda in the campaign against HIV drug pricing, genetically modified plants, and agricultural and health chemical regulations.<sup>8</sup> Entine in turn attacked campaigns by NGOs for corporate social responsibility as being deliberate designed to 'disrupt free market activities.' Finally, Johns argued that while NGOs may perform a useful role in non-democratic states; in democracies they can undermine the role of government, and reduce or supplant the interest of the citizen with the interests of the NGO. What is interesting is that none of the speakers at this conference chose to examine the role of corporate interests, and corporate interest NGOs, and their advocacy in these sectors by way of comparison.

The key to understanding the rationale for these attacks lies in NGOs' function in society and how they are accountable in that role. While most NGOs working in development and other social sectors will argue that they are part of civil society,<sup>11</sup> and play both an empowering and representative role;<sup>12</sup> they are generally not

membership based, governed, or financed.<sup>13</sup> NGO boards tend to be self–appointed, usually from local elites, rather than having external appointment mechanisms. Added to this, in many places, to receive tax breaks or Government grants, NGOs cannot have direct representation of constituents on Boards—this is to avoid a conflict of interest. However, the overriding reason for NGOs' chosen governance structure is that they see their role as promoting certain values and advancing broader community interests—they are *public benefit organizations* rather than *mutual benefit organizations* such as trade unions or co–operatives.

For development NGOs, broader community interests include *inter alia* alleviating poverty, addressing marginalization, achieving social justice, and advancing human rights - all of which are of concern to a broader community of interests than a particular membership. In brief, a public benefit organization is able to serve a wider group of people in society than a mutual benefit organization, which represents the interests of its members.

### An NGO's basis for existence is not in representing a membership of a particular group, but based solely on the representation and promotion of certain values.

What is emerging in the contemporary conservative public policy discourse is a questioning of the validity of taking such a public interest position. New corporate theories of governance argue that public policy should emerge from a contestation of self–interests, rather than to seek a balance of a range of public interests, which has hitherto generally being the case in liberal societies. <sup>14</sup> This new view of corporatist public policy is quite different from neo-corporatist social contract approaches to government which are common in northern Europe.

More recent theories on the role of NGOs are similar to the corporatist societies of the 1920s and 1930s, which restricted the extent to which various interests could organize, and limited the number of societal actors that related to Government.<sup>15</sup> At the heart of the current attacks on NGOs is the desire to restrict the number and range of groups that can legitimately interact with Government through advocacy. As far as the critics are concerned NGOs do not have the same standing as business, for example, when it comes to relating to government.

It is precisely the public benefit role that leaves NGOs open to criticism. They lack the defined accountability path to their constituency that a representative structure provides. Salamon et al. refer to this feature as an 'accountability gap.'¹6 While NGOs purport to represent the interests of their constituency, but in representing these there is no clearly defined path by which they can be held accountable by their constituency. For example, while NGOs might be advancing the cause of the poor and oppressed, in practice they cannot be held to account by that group in how they advance that cause, and so the constituency has little power in the relationship. This is a defining feature of NGOs as public benefit organizations that leaves them vulnerable to criticism. It is this point that this article is concerned with.

#### SO WHAT ARE PUBLIC BENEFIT NGOS?

While the term NGO covers a wide range of organizations, public benefit organizations, as discussed above, have as a key defining characteristic: their governance.<sup>17</sup> They are self–governing independent bodies, voluntary in nature, and tend to engage their supporters or the people with whom they work, based on values or some shared interest or concern i.e. they have a public benefit purpose.<sup>18</sup> Generally, they are in some way formally registered by the state as either private not-for-profit organizations or associations. The World Bank Handbook on NGO Laws defines these NGO as:

... an association, society, foundation, charitable trust, nonprofit corporation, or other juridical person that is not regarded under the particular legal system as part of the governmental sector and that is not operated for profit — viz., if any profits are earned, they are not and cannot be distributed as such. It does not include trade unions, political parties, profit-distributing cooperatives, or churches. 19

NGOs generally act as intermediaries between resource providers such as government or other supporters, and small community-based organizations or 'grassroots' self–help groups, which while being notionally representative may not have a formal structure or recognition.<sup>20</sup> These characteristics can be found in both developed and developing country NGOs.

The inclusive approach of public benefit organizations toward their constituents gives them legitimacy with donors and the public.<sup>21</sup> However, Couto argues the lack of formal feedback mechanisms can have an impact on the effectiveness of the work.<sup>22</sup> For example, a study of Indian NGOs found that it was those NGOs that had more formal or predictable and less arbitrary accountability mechanisms that were more effective in their community work.<sup>23</sup> This raises the question of whether their support of certain values hinders these, what I call 'downward' accountability processes.

#### NGOs and Values

The perspective of NGO management is often derived from a values set that often has its genesis in a welfare ethic of providing a service. This trusteeship role of NGO Boards raises the issue of how well the formal board members of an NGO can adequately reflect the interests of the constituency.<sup>24</sup> The neo-conservatives argue this is the very issue that denies NGOs their legitimacy. What is poorly recognized though is that an NGO's basis for existence is not in representing a membership of a particular group in society such as workers, indigenous peoples, women, or business etc. It is based solely on the representation and promotion of certain values. It is through those values that the representation of the issues of say the marginalized and voiceless occurs.

These values are often religious or spiritually based, but they can also represent values based on humanism, altruism, environmental concern, or the pursuit of rights.

One could argue that the overarching value for development NGOs is humanitarian. That is to make the world a better place for its poorest and most marginalized citizens. Because NGOs represent values rather than a specific constituency that votes, governments and other critics have trouble assessing the representative nature of an NGO, and how they should respond to them. The problem which neo-conservative critics assert is these values are not universally or even widely held.

The values of the NGO may not accord with the values of the constituency. Many values are normative, and people and organizations can promote or exhibit values that are inimical to others in society and can lead to tensions or conflict.

None of this is new. The history of NGOs has been a long one. For example, development NGOs, such as religious missions, have been sending people, not only to proselytize, but also to 'help the poor and needy' for the last three or four hundred years. <sup>25</sup> The whole concept of service and altruism is a fundamental precept of most religious traditions. Private aid for addressing injustice and alleviating poverty at home and in foreign lands occurred well ahead of any thoughts by governments to do the same. The NGO role in delivering aid to poorer countries took off in the early 19th Century, followed by the first formal recognition given to agencies such as the International Committee for the Red Cross in the latter half of that century. <sup>26</sup>

Due to the plight of the people NGOs witness during their work, they became involved in advocacy to change government policy of the time. The Anti Slavery Society, which is still in existence, was founded in 1787. A quick glance at the Nobel Peace Prize winners for the last century will show NGOs including the Red Cross (a staggering four times), the Quakers, Amnesty International, Medicine San Frontiers and a number of NGO Peace groups having all earned the honor for their tireless advocacy. The humanitarian crises that followed the end of the Second World War and the Korean War saw NGOs become more prominent, and in the 1960s, the Vietnam War and Biafran crisis put NGOs on the center stage in public debates of the time. These same processes of NGO interaction with Government and society have also been carried out at a national and local level for probably longer.<sup>27</sup>

This potted history presents a case that NGOs have earned legitimacy as civil society actors. <sup>28</sup> NGOs perform a role in mediating between the citizen and the state in a range of different contexts. The real issue is in that it is the form of representative relationship that an NGO has with the community that determines the effectiveness of the NGO at social change. <sup>29</sup> Couto argues that these non–representative NGOs are at best 'technical representatives': they have a special knowledge of a group, are not members of it, but speak on their behalf. <sup>30</sup> Arguably, that it is distance between the NGO and its constituency that reduces NGO's legitimacy in speaking on their behalf.

It is worth examining this conundrum a little further. Lissner's political science theory of NGOs identifies some dilemmas NGOs face as non–representative organizations.<sup>31</sup> They derive a set of values from a certain socio–political milieu that drives their approach to their work, and so they work for a larger group in society, from a very small membership base – much in the same way a political party does. Elsenhans takes this point further when he moves away from the issue of representation, and the accountability implications, and identifies both an economic and political character of NGOs.<sup>32</sup> He argues that NGOs are part of the non-market economy in that their work with the poor serves to increase the poor's bargaining power over economic rents – that is the poor are empowered.

This increase in bargaining power serves to increase entitlements for the poor without them having a direct economic base for these entitlements. For Elsenhans, the role of NGOs therefore is political in character but economic in impact.<sup>33</sup> It is the increase in the bargaining power of their constituency that is key - and also how NGOs derive their legitimacy. However, to be most effective the bargaining power of the poor should be in relation to the NGO as much as with other societal actors, such as family, government, business, and the like. This way their interests are more likely to be reflected in the NGO advocacy. In the new corporatist theories, however, this approach is probably seen as giving the marginalized beneficiaries of NGO work an unfair advantage in the contest of interests – i.e. with corporate, labor and other such interests. The next section will attempt to draw out the role of values and how these relate to the relationship between NGOs and their constituencies.

#### THE VALUES BASE OF NGOS

Referring specifically to NGOs, Lissner describes values as:

...the basis on which agency policy makers interpret trends and events. It emanates from religious beliefs, historical traditions, prevailing social norms, personal experiences, and similar basic sources if human attitudes ... [they] cannot be directly translated into concrete action because of their degree of abstraction ... yet they are still sufficiently clear for the policy makers to take their bearings from them when deciding on the fundamental direction of their agency.<sup>34</sup>

The discussion of NGOs as values-based organizations is important because it raises a number of issues around NGOs' accountability processes, the role of the constituency in their work, and ultimately their autonomy as non–governmental agents. Fowler argues that regardless of the source of the values, whether they emerge from religious traditions, paternal leadership, or other traditions, it is the values which 'condition the rules of the game.' This approach to values is important in accountability terms as Fowler seems to be implying that the accountability (or being true to) to values is a primary concern for NGOs. This raises the problem of NGOs' representative role as discussed above.

First, the values of the NGO may not accord with the values of the constituency

in terms of their own aspirations. Many values are not universally held, they are normative, and people and organizations can promote or exhibit values that are inimical to others in society, and can lead to tensions or conflict.<sup>36</sup> Rose refers to this as a 'non-bargainable values conflict'<sup>37</sup> that can reduce the consent for and effectiveness of any institution or organization. For example, promoting the interests of the marginalized, such as women, can be seen a threat to an existing social order – which may be the case in Islamist societies. While M. Edwards and G. Sen describe the role of NGOs in normative terms as providing an opportunity for 'expanding moral space,'<sup>38</sup> others argue that the same NGOs are concerned with narrowing a moral space to a particular religious or social ethic or values systems: '...when the values of communities or organisations become the basis for separateness, exclusivity and righteousness they can become internally oppressive as well as externally xenophobic.' <sup>39</sup>

# The accountability of NGOs is constantly tested by the state, a source of NGO legitimacy, both via formal legal sanction and registration processes.

Second, a focus on values can lead to a moral hazard. In order to receive a service there may be a tacit or explicit requirement for the constituency to adopt the values of the NGO. In this case, Joshi and Moore argue that when an NGO, because of its values base, articulates its values and priorities as representing the values and priorities of its constituency—then that NGO enters a realm of moral hazard. <sup>40</sup> Judgments must be made by constituents whether they agree with or support the values of the NGO they are receiving support from, or allow the NGO to speak on their behalf. This is very difficult for the poor and marginalized as they have few alternative sources for the services being provided, or the skills to argue different priorities or values to those of the NGO. This felt need by the constituency to adopt or accept the NGO values can negate whatever legitimacy the NGO believes it may have. <sup>41</sup>

#### NGOs and Accountability

The issue of values brings us to the range of accountabilities that NGOs have to respond to. These are complex, diffuse, and multiple to the extent that to some they may seem to be nonexistent, 42 and the tools of enforcement beyond state sanction limited. 43 Tandon identifies three broad accountabilities that NGOs have to meet: to their values and mission; to their performance in relation to the mission; and to their role as a civil society actor. 44 The civil society type accountabilities are generally to their constituents, donors, and the state. 45

The problem for NGOs is how to privilege accountability to their constituents in this complex accountability environment. Fox and Brown argue that:

... although they usually lack formal institutional accountability mechanisms their [NGOs] dependence on maintaining at least the appearance of consistency between theory and practice creates informal, inconsistent, but often powerful accountability pressures.<sup>46</sup>

The accountability of NGOs is constantly tested by the state, a source of NGO legitimacy, both via formal legal sanction and registration processes; and the state as a donor, through its provision of resources either as direct grants or tax concessions. The effect of these pressures is to move the locus of accountability away from the constituency to the state. From the state's point of view, social mobilization is at best a lesser priority, with NGO performance increasingly measured according to the managerial and market values of efficiency and effectiveness in service delivery. Expression of the state of t

The point of the problem neo-conservative critics raise is not that NGOs are not accountable, but rather NGOs are accountable in the wrong direction. It is the regulation by states that the critics would like more of, something that restricts NGOs ability to be accountable to their constituents.

#### Conclusion

The current criticism of NGOs in their role as civil society actors, particularly from the neo-conservative groups and private interest NGOs, together with an environment where there is considerable anxiety about external influence has strong implication for NGOs. There is a greater need of NGOs to be more connected with the constituency with whom they are working, that is a focus on the 'downward' accountability of the NGO to the constituent groups as being a source of their legitimacy. As public benefit organizations, NGOs due their work with poor and marginalized communities are in quite a powerful position as they are bodies over which the constituency has little power. As there are few alternatives for the poor to access certain services other than the NGO, and arguably they should have a greater not lesser say in an NGO's work and its advocacy.

Only a small number of NGOs generally have strong 'downward' accountability mechanisms that directly account for their actions or decisions to their constituents. While generally there are no compelling reasons why formal accountability mechanisms should exist for agencies that are providing services, the evidence seems to suggest that those NGOs with more formal mechanisms that inform the agency's strategic direction, as well as its project work, are most effective.<sup>49</sup>

The lack of demand for accountability puts the NGO in the position of being able to drive the accountability relationship, which is not the case for membership bodies where the members are in some position to demand accountability and so are in a position of power within the organization. This paper suggests that a voluntary reversal of the power relationship between NGOs and the people to whom they are providing services is required if NGO work in advocacy or programs are seen to be legitimate. Such a reversal of power is difficult, even with the best of will, because

handing over control can pose a potential threat to the stability and cohesion of the NGO. As Joshi and Moore point out, it is an exceptional NGO who is prepared to risk the basis of its work, which is about a broader public benefit, for a narrower constituent interest.<sup>50</sup> It becomes even more difficult when NGO critics question the fundamental basis of a public benefit and how it is derived and advanced – i.e. through values.

The challenge therefore for NGOs is to seek more *formal* 'downward' accountability mechanisms. The engagement with constituents should go beyond loose notions of participation, and look to notions of 'downward' accountability as the source of legitimacy for NGOs and their engagement in public policy processes. The implications for NGO practice lies in how NGOs balance their accountability to the constituency with their accountability obligations to their values and public benefit purposes, but also to other stakeholders in their work such as donors, and governments that regulate their activities. While this strategy has its dangers it is one way in which the increasing clamor from the neo–conservative critics can be challenged, and taken on directly.

#### Notes

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- <sup>3</sup> T. Islam, "In Bangladesh, Government eyes regulation of NGO 'businesses," Inter Press Service, Dhaka, 2002.
- <sup>4</sup> S. Sen, "Non-profit organisations in India: historical development and common patterns," *Voluntas*, 3, no.2 (Nov. 1992), pp. 175-193.
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- <sup>6</sup> R. Tandon, "The Civil-Society-Governance Interface: and Indian Perspective", in R. Tandon and R. Mohanty (eds)., *Does Civil Society Matter? Governance in Contemporary India*, (New Delhi: Sage, 2003).
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- <sup>8</sup> R. Bate and R.Tren, "Do NGOs improve wealth and health in Africa," Paper presented at a workshop sponsored by the American Institute June 11, 2003, *Non-Governmental Organisations: the growing power of the unelected few*, Washington
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- <sup>10</sup> G. Johns, "The NGO Challenge: Whose Democracy is it anyway?" Paper presented at a workshop sponsored by the American Institute June 11, 2003, *Non-Governmental Organisations: the growing power of the unelected few*, Washington.
- <sup>11</sup> While there is a wide theoretical literature on the nature of civil society, a relatively straightforward definition which captures most of the debate is '... that segment of society that interacts with the state,

- influences the state, and yet is distinct from the state..." Naomi Chazan, "Africa's democratic challenge: Strengthening civil society and the state," World Policy Journal (1992), 9 no. 2, p. 281.
- <sup>12</sup> D.M. Abramson, "A critical look at NGOs and civil society as means to an end in Uzbekistan," *Human Organization* 58, no. 3 (1999), pp. 240-250; P.J. Nelson, *The World Bank and NGOs: The limits of Apolitical Development*, (London: Macmillan, 1999); Gaventa, J., 1999. "Crossing the great divide: Building links and learning between NGOs and CBOs in the North and South," in D. Lewis (ed.), *International Perspectives on Voluntary Action: Reshaping the Third Sector* (London: Earthscan, 1999).
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- <sup>23</sup> P. Kilby, "NGOs and Empowerment: A Study of Indian Women's Self-Help Groups," Unpublished Ph.D. thesis, Canberra: Australian National University, 2003.
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