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BY WHAT AUTHORITY? THE LEGITIMACY AND ACCOUNTABILITY OF NON-GOVERNMENTAL ORGANISATIONS

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INTRODUCTION

1. In September 2000, the IMF and the World Bank were preparing for their annual meeting. The meeting was to be in Prague but the memory of the “Battle of Seattle” was fresh in everybody’s mind – not least that of the Czech police. The week before the meeting, *The Economist* ran a special issue on globalisation which included a long article on Anti-Capitalist Protest. The piece examined the nature and tactics of the groups that loosely form the vanguard of the “backlash against globalisation”, distinguishing between small “activist groups” and “mainstream NGOs”. In a backlash against the backlashers, it went on to question their credentials:

“The increasing clout of NGOs, respectable and not so respectable, raises an important question: who elected Oxfam, or, for that matter, the League for a Revolutionary Communist International? Bodies such as these are, to varying degrees, extorting admissions of fault from law-abiding companies and changes in policy from democratically elected governments. They may claim to be acting in the interests of the people – but then so do the objects of their criticism, governments and the despised international institutions. In the West, governments and their agencies are, in the end, accountable to voters. Who holds the activists accountable?”¹

2. One of the ways that *The Economist* makes a profit, pays its journalists and rewards its shareholders is by selling advertising space. As a result, on the facing page of this article, there was a full page celebratory statement by the large multinational company, Bayer, announcing a first half rise in sales of 22% to EUR14.8bn and a 31% increase in operating income to EUR 2bn. Much of this growth came from their pharmaceutical group, particularly its cholesterol -lowering and anti-hypertensive drugs - treatments that seem to be essential for combating the stresses of globalisation! Below the blurb, in the bottom right hand corner, the Bayer logo sat proudly on top of the company strap-line: “Expertise with Responsibility”. Here was corporate accountability at its most glowing, informing

¹ The Economist, 23rd September 2000, p129.

existing and prospective shareholders of large profits growth while also reassuring them of the company's moral respectability. If "expertise" is what gives Bayer their competitive edge, the company's sense of "responsibility" resonates with the newly espoused business values of "corporate social responsibility". Such values have been encouraged by the likes of Oxfam whose own credibility was being so seriously questioned on the facing page. Here, within a staple's breadth, were two competing claims about the legitimacy and accountability of two different types of international organisations – the transnational corporation and the transnational NGO. Both types of organisations are distinctive features of today's mainly capitalist, neo-liberal and globalised world system. Both are under pressure to be increasingly accountable.

3. Human Rights organisations have also regularly come in for questioning on their legitimacy and have by no means been immune to the kind of criticisms levelled at Oxfam and others. Some of the most articulate questioning has come from within the human rights movement itself. Chidi Odinkalu has criticised the elite nature of much of the human rights movement and in doing so called into question their legitimacy. Talking about human rights groups in Africa, Odinkalu has observed how they are seldom part of inclusive and participatory struggles for justice but that they appear almost by design to exclude the participation of the people whose welfare they claim to advance.

"Most human rights organisations are modelled after Northern watchdog organisations, located in an urban area, run by a core management without a membership base (unlike Amnesty International), and dependent solely on overseas funding. The most successful of these organisations only manage to achieve the equivalent status of a public policy think-tank, a research institute, or a specialised publishing house... Instead of being the currency of a social justice or conscience-driven movement, "human rights" has increasingly become the specialised language of a select professional cadre with its own rites of passage and methods of certification. Far from being a badge of honour, human rights activism is, in some of the places I have observed it, increasingly a certificate of privilege".²

4. The focus of this paper will be on international NGOs – mainly humanitarian, development and human rights organisations. But it is important to recognise that accountability is a central issue for all forms of human organisations and that it is not just a matter for voluntary organisations. However, as groups who make it their business to demand accountability in others, it could be said that NGOs and human rights organisations have a particular responsibility to lead by example in this area and shine as beacons of legitimacy and accountability.
5. This paper is in three main parts. First, it reviews the changing understanding of NGO accountability as it has developed in the last ten years. Secondly, it sets out a framework for identifying the main tangible and intangible sources of NGO legitimacy, specifically identifying the question of whether organisational democracy is necessary to NGO legitimacy. Finally, it examines the mechanics of accountability, emphasising stakeholder analysis and involvement as central to accountability methodology alongside an appreciation of context and a commitment to transparency and responsiveness.

REDEFINING ACCOUNTABILITY IN THE 1990S

6. The two pages of *The Economist* cited above, saw both Bayer and Oxfam called to account on two fronts: who they represent and how they perform. For Bayer – an example of *The Economist's* group of "law-abiding companies" – there is a very traditional mercantile formula for accountability. The company represents the interests of the shareholder and its performance is measured in profit and growth. This mercantile tradition of accountability has long roots in western capitalism but has now been challenged by progressive business people, NGOs and others who demand that corporate

² Chidi Anselm Odinkalu (2000) Why More Africans Don't Use Human Rights Language, Human Rights Dialogue, Carnegie Council on Ethics and International Affairs, 2 (1).

accountability become deeper and broader. Moving beyond a single financial “bottom-line”, companies are now being urged to account for a “triple bottom-line” that also encompasses social and environmental accounting. Ethical business is increasingly being understood in terms of “corporate citizenship” that makes companies explicitly responsible for wider “public goods”³. Their legitimacy increasingly depends on doing this or, at least, being seen to try to do it.

7. Also in the western tradition, charities have a well-worn way of accounting that has long historical precedent. Many western charities have traditionally reported in a similarly minimalist vein to the business enterprises of the numerous merchant philanthropists who founded or supported many of them. In broad terms, charities have mainly been asked to report on the money raised and spent, the number of poor people reached, and the administrative cost of raising and spending the money. This last measure is the notorious fund-raising and administration ratio that has become the peculiar benchmark of organisational probity and efficiency in the voluntary sector. Strangely, this ratio has always attracted far greater scrutiny than the actual effect of the expenditure on poor people. Such is the pecuniary focus of the protestant ethic and the spirit of capitalist charity.
8. But like commercial companies, NGOs are also forcing themselves, and being required by others, to broaden and deepen their notion of accountability. Their legitimacy also depends on this. With the rise of NGO advocacy as a mainstream strategy in alleviating poverty and working for social justice, issues of accountability and legitimacy have become critical in recent years as NGOs speak out to challenge corporations, governments, armed factions and other non-state actors. Long before it reached the pages of *The Economist*, discussion of NGO accountability was already well advanced amongst NGOs themselves. Throughout the 1990s, on paper at least, international NGOs working in the humanitarian and development fields had staked out the key issues fairly well. Their policy makers and resident thinkers had long recognised that to be credible and legitimate they were required to meet two main requirements. First, they had to justify the voice with which they spoke in their campaign materials, press conferences and private lobbying. Secondly, they had to prove the effectiveness of the things they actually did in slums, villages and refugee camps around the world. And, of course, all of them realised that one of the best ways to justify the former was by relating it directly to the latter. The corridors of many a relief and development NGO embarking on major advocacy work echoed with the mantra that: “we must always be seen to be speaking from our own practical experience”. NGOs knew instinctively that their authority came essentially from their presence in that mysterious place they call “the field”.

PERFORMANCE ACCOUNTABILITY

9. In the 1990s, therefore, the challenge was set within the NGO community to be “more accountable” for what NGOs actually did. In the community of humanitarian agencies, this call to account for agency performance achieved a new urgency in the wake of criticisms of some NGO response to the Rwandan genocide. To their credit, humanitarian NGOs came together to try and put their house in order. In so doing, they overtook their development colleagues and emerged at the end of the decade with several mechanisms to try and achieve this: a Code of Conduct; a Humanitarian Charter and a set of technical standards⁴; a not-quite Ombudsman called the Humanitarian Accountability Project (HAP); a new emphasis on the quality and transparency of evaluations⁵; an active learning

³ Simon Zadek (2001) *The Civil Corporation*, Earthscan and (1997) *Building Corporate Accountability*, Earthscan.

⁴ SPHERE (2000) *Humanitarian Charter and Minimum Standards in Disaster Response*, Oxfam.

⁵ Wood et al (2001) *Evaluating International Humanitarian Action*, Zed; ALNAP (2001) *Humanitarian Action: Learning from Evaluation*.

network gathering and sharing the lessons learnt from humanitarian operations (ALNAP), together with initiatives to explore quality models and professional accreditation.⁶

10. On the development side, moves were rather slower with less immediate results in the form of new overview institutions and standards. Nevertheless, things happened. Many NGOs realised that they too had a multiple bottom-line in their development work. It was no longer acceptable to simply report in terms of programme “outputs” like a well dug or the distribution of a tonne of improved seed. The quest for “outcome” monitoring and “impact” assessment began.⁷ The practice of social audit was also actively explored by several NGOs – not least because they were also urging social and environmental audit on commercial corporations. From the late 1980s onwards, most international NGOs also adopted strategic planning and logical framework analysis that enabled them to set specific objectives across their whole organisation (from Board level to project level) and account for them corporately.⁸ But none of this has proved to be easy. New managerialist modes of working have been difficult to “roll out”. Most NGOs have found that profit or outputs are much easier to show than more nuanced questions of outcome, impact and attribution. Creative accountants have a long tradition of complicating financial reporting to make profit a matter of interpretation. But the current art and science of social and environmental accounting is truly complex on occasion. Accounting for the impact or outcome of NGO work can be uncertain, is usually contested and can border on pure speculation at times as NGOs try to track cause and effect between their actions and the personal, social, economic, environmental and political change around their projects.
11. In the UK, the five biggest international NGOs (British Overseas Aid Group - BOAG) took the lead from the SPHERE humanitarian standards and the new emphasis on quality frameworks in the UK voluntary sector to explore the idea of quality standards in development work.⁹ The subsequent report cautioned against the tendency of standards to proliferate and further bureaucratise organisations with an overly procedural mind-set. However, it did recommend the idea of organisational definitions of quality, a commitment to continuous improvement and a core set of around 10 key organisational standards, making the point that several of these (like a participation standard) could be drawn directly from existing human rights standards. A number of humanitarian and development NGOs are continuing to pursue a quality and standards approach. World Vision International has ten “ministry standards” for its 65 member agencies. Oxfam International has agreed common programme standards between its 11 organisations and, most recently, Caritas International has begun its own attempt to set quality standards across its many member organisations. Mike Edwards of the Ford Foundation has also put forward the development of “light but firm” quality standards for NGOs, an independent development Ombudsman, certification and agreed complaints procedures but with no result as yet.¹⁰
12. But the risks involved in standardising development are not just bureaucratic but also relational. The BOAG report warned against an over-zealous adoption of a business quality model in particular:

“The world of development is not the world of business and may not want to be subsumed into a quintessentially business-like contractual relationship of manufacturer and consumer or service provider and client. In its more charismatic form, western development discourse still talks of a relationship of

⁶ See Dorothea Hilhorst (2001) *Being Good at Doing Good? Review of Debates and Initiatives Concerning the Quality of Humanitarian Assistance*, Netherlands Ministry of Foreign Affairs, October. Also, HAP Project (2001) *Humanitarian Accountability: Key Elements and Operational Framework*, Geneva.

⁷ Chris Roche (1999) *Impact Assessment for Development Agencies: Learning to Value Change*, Oxfam; Mike Edwards and David Hulme (1995) *Non-Governmental Organisations: Performance and Accountability*, Earthscan.

⁸ Tina Wallace (1997) *Standardising Development*, Worldview, Oxford.

⁹ Hugo Slim (1999) *Future Imperatives: Quality, Standards and Human Rights*, Report of a Study to Explore Quality Standards for the British Overseas Aid Group, Oxford Brookes University, October.

¹⁰ Michael Edwards (2000) *NGO Rights and Responsibilities: A New Deal for Global Governance*, Foreign Policy Centre, London, p30.

solidarity, accompaniment and partnership between NGOs and poor people. An overly business-like application of quality and standards could distort such relationships forever.”¹¹

13. Mike Edwards has similarly pointed out that the problem with elaborate systems of accountability is that they “professionalise” still further a relationship between NGOs and poor primary stakeholders that should be continuous, immediate and human.¹² More technical accountability mechanisms may mean less relationship

VOICE ACCOUNTABILITY

14. If in the last 10 years, NGOs realised they had to account differently for what they did, they also had to account for what they said. This sort of “voice accountability” had to respond to two areas of interrogation: the *veracity* of what they said and the *authority* with which they spoke. Although obviously linked, questions of veracity were essentially empirical (can you prove it?) while questions of authority were essentially political (from where do you derive your power to speak?). International NGOs have tried to respond to both. In the 1990s, many of the big NGOs have significantly increased their own research capacity or made strategic alliances with academics and think-tanks to assure the quality of their research. But they have also kept firmly to their mantra of experience-based advocacy. Much of what they advocate, lobby and campaign on uses detail drawn from their own projects. This micro case-study approach is then added to the more macro analysis of academic and policy researchers to produce an advocacy discourse of personalised facts which claim to illustrate trends.
15. If this is a research technique that seeks to guarantee veracity, the question of authority is more complicated. It is on this point that *The Economist* and others have sought to pin down NGOs and it is here that many NGO people have felt vulnerable. This vulnerability is not just technical around issues of representation, it is also very personal because not many people in international NGOs are or have been poor themselves. Their experience of poverty and suffering in war or disaster is indirect and mediated through “their” projects. The issue of class is therefore critical to discussion of NGO voice. Being mainly middle class, people in international NGOs can feel, or be made to feel, somehow fraudulent in speaking out about poverty. The British Secretary of State for International Development, Clare Short, does a particularly good line in tormenting the white man with his burden. She often lashes out at this Achilles heel when being cornered by British NGOs but has few reservations about her own right to boss governments around in Africa and Asia. At the time of the G8 summit in July 2001, she observed “Who is better placed to speak on behalf of the poor, middle-class white people in the north or the elected representatives of the poor of Africa themselves?”¹³
16. This question of voice is perhaps the most contested area of NGO accountability and legitimacy. It seems to have replaced the old fundraising and administration ratio as the critical criteria of NGO legitimacy in the new century. And curiously, like its predecessor, this new voice ratio also bears very little relation to the actual effectiveness of an NGO in the lives of poor people. Most NGO critics are still not primarily concerned with whether or not NGOs do any good in the struggle against poverty or human rights violations. What matters, it seems, is their class and their politics. In the 19th and 20th centuries, the fundraising ratio determined the key question of charitable probity. In the 21st century, the voice ratio looks set to determine the key matters of NGO legitimacy and credibility.
17. NGO discussions of voice accountability have been serious and thought through – not least because of the criticisms they receive from critics in rich and poor countries alike. The questions NGOs have

¹¹ Slim, op cit p8.

¹² Michael Edwards (1999) *Future Positive: International Cooperation in the 21st Century*, Earthscan, ch11.

¹³ Clare Short, quoted in *Why Clare Short is Wrong*, Jeremy Seabrook, *Guardian*, 24th July 2001.

asked themselves concentrate on how their voice relates to the people they are primarily concerned about - the poor, people whose rights are violated, and the victims of war. These debates about NGO voice might be summed up as follows: *do NGOs speak as the poor, with the poor, for the poor or about the poor?* As so often in life, it is the little words in the debate that are complicated rather than the big ones. Arguments of NGO voice accountability are essentially prepositional and hinge on the nature of their relationship with the poor or the victims of human rights violation.

18. How NGOs answer this question determines the precise nature of their legitimacy. If they are an NGO or CBO (community based organisation) that is made up of poor people or the victims of human rights violations then they can be regarded as *speaking as*. If an NGO is working very closely with such people and speaks with their consent, then they can be said to be *speaking with*. If – as much NGO rhetoric declares – the poor and the oppressed are effectively unable to speak out and so are somehow “voiceless” then NGOs could claim to be *speaking for* or on behalf of them. However, this last form of voice must be treated with great caution as it can be argued that it is in the organisational interests of middle class NGO people to keep lower class people voiceless. In other words, some voiceless-ness may be the result of NGO oppression as well as government or other violent oppression. The problem of northern NGOs “capturing” the agenda and taking over the voice of southern NGOs is well known.¹⁴ Finally, if NGOs are not strictly speaking as, with or for a particular group of poor or victimised people, or are speaking so generally as to make specific relationships meaningless, then they may claim to be *speaking about* poverty or oppression.
19. Many NGOs will not have one uniform form of voice. Depending on the situation, an NGO will be *speaking with* in one place and *speaking about* in another. But some NGOs and CBOs will always be *speaking as* while others at the more policy end of the spectrum will always be *speaking about*. But even in the most rooted and apparently representative of membership organisations, certain power dynamics may mean that the voice of the group may also be “captured” by a section within the group and skewed accordingly. It is obviously important for NGOs and human rights groups to be clear about where their voice comes from in a given situation and to be transparent about it. The precise nature of their legitimacy will change depending on which mode of voice they are using. But they will lose all legitimacy if they are found to be masquerading – a sort of ventriloquist to the poor and oppressed.

SOURCES OF LEGITIMACY

20. As seen from the above review of the new accountability challenges to NGOs, legitimacy and accountability are not the same thing, but they are closely related. Without indulging the academic’s tendency towards protracted definition, the rest of the paper will use a single sentence summary definition of legitimacy and accountability. It will then try to unpack each term a little further and identify some principles which NGOs and human rights organisations might use to develop and argue their accountability and legitimacy.
21. For our purposes, legitimacy might be defined as “*the particular status with which an organisation is imbued and perceived at any given time that enables it to operate with the general consent of peoples, governments, companies and non-state groups around the world*”. From this working definition, it can be further observed that an NGO or human rights group’s legitimacy is both *derived* and *generated*. It is derived from morality and law. It is generated by veracity, tangible support and more intangible goodwill.

¹⁴ Alan Fowler (2000) *Civil Society, NGOs and Social Development*, UNRISD, pp25-27; Wachira Maina (1998) *Kenya: The State, Donors and the Politics of Democratisation*, in Alison Van Rooy, *Civil Society and the Aid Industry*, Earthscan.

MORAL AND LEGAL SOURCES

22. At a fundamental ethical level, an organisation derives its legitimacy legally and morally. NGOs are essentially self-mandating. In the international arena, by definition, they do not operate in accordance with specific mandates given to them by states under international law. This is in contrast to specifically mandated organisations like the ICRC and United Nations agencies. Their legality and their moral recognition must therefore be argued more from first principles than from specific international statutes.
23. NGOs gain some legitimacy simply from claiming their legality within international law and by their being law-abiding. The fact that they operate legally nationally and internationally in accordance with government legislation thus contributes to their legitimacy. Internationally, NGOs can also claim to operate legally as NGOs recognised in Art.71 of the UN Charter. As importantly, NGOs and human rights groups can claim to work in support of international law because in their human rights, humanitarian or development work, they operate with reference to human rights law, international humanitarian law and refugee law. Under international humanitarian law, the staff of NGOs operating as impartial humanitarian organisations are recognised as protected persons in an armed conflict.¹⁵ Protection by these laws increases their legitimacy.
24. But the legitimacy of human rights groups and development NGOs does not come as a result of simply recognising human rights law. As organisations of concerned people, such organisations can actually claim legality, legitimacy and protection from these laws because of the importance these laws place on human duties alongside human rights.¹⁶ Key articles of human rights law emphasise the individual's responsibility to promote respect for the human rights of others and to limit their actions when they may violate the rights of others.¹⁷ These are duties that people must actively take on. Such duties and responsibilities have been spelt out in further declarations relevant to NGOs and human rights groups. In 1986, the General Assembly adopted a Declaration on the Right to Development. This makes clear that "all human beings have a responsibility for development, individually and collectively".¹⁸ Building on this principle of responsibility, the UN General Assembly also adopted a specific Declaration on Human Rights Defenders in 1998 that affirms the right of individuals and groups to promote and protect human rights.¹⁹
25. So, in an important way, an organisation's duty or responsibility to promote development and human rights can be argued from international human rights law. In much of their advocacy work with governments, armed factions, corporations and the public, NGOs and human rights groups can be seen as reminding people of these duties and, in so doing, meeting their own responsibilities and duties under human rights law.
26. But legality is only a small part of an organisation's fundamental legitimacy. An NGO or human rights group's wider legitimacy is morally derived. An organisational mission to challenge and end human rights violations is derived explicitly from a moral case based on the values of human equality, dignity, impartiality, justice, freedom and personal and collective responsibility. This moral case gives human rights organisations and NGOs an ethical legitimacy that resonates with the moral reasonableness of people across the world. Expression and recognition of this fundamental morality

¹⁵ Protection and legitimacy provided by the Geneva Conventions and their Additional Protocols has also been enhanced in UN law by the 1994 UN Convention on the Safety of United Nations and Associated Personnel.

¹⁶ For a full exploration of this issue, see *Taking Duties Seriously: Individual Duties in Human Rights Law*, International Council on Human Rights Policy, Geneva, 1999.

¹⁷ See for example: Article 29 of the Universal Declaration of Human Rights; Preamble to the two International Covenants, and the Preamble to the African Charter of Human and Peoples' Rights.

¹⁸ Declaration on the Right to Development, Article 2(2).

¹⁹ This is officially called *The Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Protect Universally Recognized Human Rights and Fundamental Freedoms*.

is essential to an organisation's legitimacy. This is particularly important because simply being part of the new sacred space of "civil society" is not enough to guarantee an NGO's legitimacy. As Alan Fowler has pointed out, there are many groups who exist in the space made by civil society who cannot claim moral legitimacy. He gives the example of the Klu Klux Klan in the USA but there are many other civil society organisations around the world who are distinctly "uncivil" in their mission and values and cannot claim moral legitimacy.²⁰

TANGIBLE AND INTANGIBLE SOURCES OF LEGITIMACY

27. If legitimacy is thus *derived* legally and morally from first principles, it is also actively *generated* tangibly and intangibly in practice.

Tangible Support

28. An organisation's most tangible form of legitimacy probably comes in the form of direct support from the people it seeks to help, its members, its supporters and its admirers. Perhaps the most powerful form of tangible support for a human rights organisation comes if it has the strong support of the people whose rights it is trying to protect and to realise. The fact that an organisation has their consent and they feel that it is working with them in pursuit of their interests is a strong source of legitimacy. Similarly, if an NGO has an extensive and representative membership, their legitimacy is enhanced considerably because they can show the precise extent of their support and identify it as essentially democratic.
29. But most NGOs are non-membership organisations. Yet they can still make a strong case around the tangible support they receive – albeit in a way that it is not explicitly democratic and vote-based. For example, the financial support that Oxfam receives from the public from 600,000 committed monthly givers, thousands of other additional occasional givers and from governments gives it a large claim to both popular and official legitimacy. In the UK, Oxfam gets massive voluntary support from around 20,000 volunteers. Such contributions in time and in kind are another hugely important element of support. So too is the kind of support that can come from the media, from opinion-formers and academics who support Oxfam's arguments or disagree with them from a position of recognition and respect. This kind of tangible support that is made manifest in money, time, intellectual agreement and shared conviction has to be actively generated by NGOs and human rights groups. It can reveal that a broad base of people and governments back an organisation as a morally important and practically effective operation, and one with which they actively seek to ally themselves. In Oxfam's case, such support generates a very tangible asset in Oxfam's legitimacy.
30. But such support must be linked to real and transparent accountability mechanisms. If Oxfam's publicity material and supporters' briefings give a completely different view of Oxfam's programmes to that which actually exists on the ground, then their legitimacy on this score would be fraudulent. Direct support does not of itself create legitimacy but only when the supporters are properly informed about what they are actually supporting. Popular consent for Oxfam's activities, therefore, must be "informed consent" if Oxfam is to be truly legitimate on this count.

Tangible Relationships, Knowledge and Expertise

31. An organisation's legitimacy is also generated from its knowledge and its relationships. What an organisation knows and whom it knows is a major source of its legitimacy. That a human rights

²⁰ Alan Fowler (2000) Civil Society, NGOs and Social Development, UNRISD.

group knows certain facts about human rights law and patterns of human rights violation is extremely important, giving it a legitimate expertise. Because NGOs know people who experience human rights violation, poverty and extreme suffering (like IDPs in protracted war), or people who are in a position to do something about it (like politicians, military leaders and TNCs) also gives these organisations legitimate contacts. The fact that an NGO has relationships with people at some or all levels of a problem of human rights violation means that it generates legitimacy from knowing such people directly. In this way, precise knowledge and the right relationships are an important and quite tangible source of legitimacy. These legitimacy assets might be summed up as valuable expertise and connections.

Tangible Performance

32. As discussed above, legitimacy is also generated by good performance. An NGO is more legitimate the more it can show that its actual performance positively effects human rights, poverty and suffering. Effective performance gives added value to a group's legitimacy because it means that it not only knows about human rights violations and oppression but can really do something about them. Tangible action by an NGO which delivers a good performance and enables real benefits to people is thus a major source of legitimacy. It means that an NGO does not just care about human rights violations, know about human rights, know both victims and powerful people, raise money for the cause but also actually achieves things. Proven good performance can transform an NGO from being a morally good idea to being a very practical moral pursuit. The fact that it works in practice makes it a more legitimate enterprise.
33. As a tangible asset of organisational legitimacy, performance and impact are extremely significant. Come the crunch, they may act as something like the asset of last resort in any contest over an organisation's legitimacy. However, results are not everything. In any performance, the means to the end are vitally important when it comes to generating legitimacy. Notions of NGO performance and impact must be properly nuanced and take full account of human rights in their means as well as their ends. A good performance is not simply one that gets the obvious result. For example, an all-male team of surgeons and nurses may well conduct a successful operation on a woman that saves her life. But they may do so in such a way that they fail to discuss her illness with her, make sexist remarks about her body, give precedence to male patients who turn up after her, operate without administering an anaesthetic and send her home immediately. This is a result but it is not a good performance. So it is with human rights work, NGOs must be able to show evidence of a well-rounded performance that resonates with the values of human rights, not simply a result.

Intangible Sources of Trust, Integrity and Reputation

34. But there are also more intangible aspects of an NGO's legitimacy. Qualities such as credibility, reputation, trust and integrity are critical to an organisation's legitimacy. Although they are closely dependent on the tangible sources of legitimacy - support, knowledge and performance - they are unusual because they can take on a life of their own. They thrive on perception to function more like belief than fact. They can rely on image rather than reality and may not require any empirical experience to influence people one way or the other. For example, I might easily have a strong sense that Organisation X is a really good thing even though I have never given it my money, seen its work, read its books or met anyone that works for it. But I feel that it is good and legitimate because I have a sense of its credibility, its integrity and its reputation. And so, I feel able to trust it and regard it as highly legitimate.
35. These intangible qualities generate what an accountant might call "goodwill" on her balance sheet. Classicists might describe them as determining an organisation's "aura" (literally its breeze or breath)

or establishing the particular “kudos” of an agency (its glory or renown). Whatever we call it, these more intangible assets of legitimacy are hugely important because they are the basis on which most people perceive and value an organisation of which they have little or no direct experience.

LEGITIMACY WITHOUT DEMOCRACY?

36. The question asked of Oxfam by *The Economist* – “Who elected Oxfam?” – implies an assumption that only democratically elected organisations are truly accountable and legitimate. The easy retort to such a question is obviously “Who elected *The Economist*?” But the democracy issue requires more thought than this because it will be a determining point for NGO legitimacy and requires NGOs to have a solid answer to it. There are perhaps two possible answers. Either NGOs could agree that only democratic structures are truly accountable and legitimate. This would require them all to transform themselves into democratic organisations. Or, NGOs could make a strong case for non-democratic accountability. This will require them to shape the case and prove it.

37. Either answer requires some pretty massive change in the NGO sector. Opting for democracy would require major reorganisation. Opting for the second position would require the elaboration of some very considered argument alongside some accountability mechanisms to prove it. Alan Fowler has observed that:

“Most NGOs do not have a civic constituency of governing members. The Greenbelt Movement in Kenya and the Landless Rural Workers Movement in Brazil – NGOs with mass membership – are not typical. More usual is a self-perpetuating, self-selected set of directors or trustees.”²¹

38. This is obviously the case in the great majority of human rights organisations and NGOs and the onus on such organisations is to show that they can still be legitimate without being democratic. A key part of this argument will be determined by the claims they make for themselves as to whether they speak as, with, for or about oppressed people. Different claims will require different accountability hurdles to be jumped to claim their legitimacy. Alan Whites of World Vision feels strongly that most NGOs of the kind described by Fowler can be most legitimate if they specifically position themselves as critics and experts:

“The special contribution of civil society has often been the art of critique or the negative campaign rather than the promotion of a real vision for change. Landmines, debt, slavery... civil society, particularly in the rich world, usually knows more clearly what it wishes to abolish than to build.”²²

39. He concludes that real change will and must really be brought about by political society, its parties and its politicians but that as a key part of this process “civil society has a real and legitimate role in the education of political society on issues in which it has expertise”. This expert and educational role may be enough for some NGOs. But it may not be enough for some human rights groups and NGOs who want to be a specific part of political society and to be as one with some of the parties and politicians within it. As part of their efforts to argue their legitimacy, all NGOs will have to be transparent about the precise nature of their activism. Yet, the idea of activism still remains strangely unexplored in development circles.

²¹ Alan Fowler (2000) *Civil Society, NGOs and Social Development*, UNRISD, Geneva, p36.

²² Alan Whites (forthcoming 2002) *NGOs: Facing Dilemmas and Answering Critics*, in *Development Dilemmas*, World Vision.

METHODS OF ACCOUNTABILITY

40. If these are some of the main sources of an NGO's legitimacy, they are intricately connected to specific mechanisms of accountability. If performance is critical to an NGO's legitimacy, it must then find convincing and transparent ways of proving the quality of its performance. If goodwill and trust are critical, the same NGO must find ways to gauge such intangibles. If an NGO claims that it gains part of its mandate from the people that support it and work with it, then it must be able to show that it is engaged in a meaningful relationship with these people which ensures they are informed about the organisation and influential in its operations. And beyond just proving and gauging these things, an NGO must also be able to show that it is acting on them. In other words, that it is acting positively on what it learns about its performance and the levels of trust in which it is held – then reporting its new actions back to its supporters.²³
41. A working definition of NGO accountability has, therefore, to involve the three aspects of reporting, involving and responding. In this way, we might define NGO accountability as: “*the process by which an NGO holds itself openly responsible for what it believes, what it does and what it does not do in a way which shows it involving all concerned parties and actively responding to what it learns.*” The fact that accountability is primarily a process means that applying it is all about designing and operating practical mechanisms to make it a reality. NGO thinking and experience on accountability to date suggests a number of key factors that are critical to designing the right kind of mechanisms.

RECOGNISING A VARIETY OF STAKEHOLDERS

42. The great thrust of evolving thinking on accountability has centred on the need to recognise a much broader range of people (living and not yet born) to whom any human organisation must be accountable. In order to identify these people, the methodology of stakeholder analysis has become one of the key tools of NGO and other organisations' accountability. The first step in any accountability process is to map and analyse an NGO's various stakeholders in a given situation. Even an initial mapping usually reveals certain conflicting interests between stakeholders. An NGO must then find ways to prioritise these stakeholders in some way as primary, secondary etc. This stakeholder analysis then becomes the key document with which to design the right accountability mechanisms – whether they be social audits, evaluations, external regulation, complaints procedures, membership systems, environmental impact assessments, specific stakeholder surveys etc.

CONTEXTUALISING ACCOUNTABILITY

43. A key part of the process of tailoring the right accountability mechanism to the right stakeholders is a recognition of context. The context in which human rights organisations and NGOs operate is by no means uniform. For example, the right accountability mechanism for a human rights organisation working on labour rights in a European country with high levels of literacy and well developed unions is not likely to be appropriate for one working on labour rights with working children in South Asia where literacy rates are low, child labour remains non-unionised and where obvious activism may carry extreme personal risks. In other words, accountability procedures cannot be realistically expected to be uniform across a wide range of NGO activity. Accountability methodology will have to be developed imaginatively in any many contexts where “off the shelf” mechanisms may be unworkable.

²³ Peter Raynard (2000) ALNAP Paper on Mapping Accountability in Humanitarian Assistance, p7, describes the “accountability cycle” as progressing from responsibility, to action, to reporting, to responsiveness and back to responsibility.

TRANSPARENCY

44. Accountability mechanisms must be open for all to see. While this is a given in current accountability doctrine, it may pose certain problems for human rights organisations who may not always be in a position to reveal their sources and contacts - some of the “how” of their operations. Nevertheless, any accountability system must recognise transparency as primary and identify specific (and transparent!) criteria for reserving certain information on occasion.

A BASIC FRAMEWORK

45. Several people in the NGO world have produced simple accountability frameworks.²⁴ For most NGOs, only a small part of this accountability is legally required but increasingly the bulk of it is more professionally, commercially, politically and morally demanded. Although the predominant metaphor of accountability is financial, the actual demands of NGO accountability today are much wider than a financial procedure that ensures that figures tally. Accountability is much more about reporting on relationships, intent, objectives, method and impact. As such, it deals in information which is quantitative and qualitative, hard and soft, empirical and speculative. It records facts and makes judgements. Also, current orthodoxy in accountability is as keen to “embrace failure” and so learn from it, as it would be to celebrate success and repeat it. The simple frameworks to date might be summarised as having four main dimensions to them.

Accountability for What?

46. An accountability process should start by identifying the rights involved in any NGO programme, the relevant rights-holders and duty-bearers related to that right and the content of the duty in the situation. From this rights-duties analysis, an NGO can then identify its own specific duty and set out to account for it, while making clear the responsibilities of others. It can then account for what it does by being able to tell as true a story as possible about the piece of work that it did in a given situation. This story will involve an angle on all the different people involved, their experience of the work, the relationships that emerged, the quality and standards expected, the money that was spent, the things that it was spent on. From these perspectives, it should then be able to report on the overall impact that this combination of people, relationships, money, things and time had on the rights concerned.

Accountability to Whom?

47. In any piece of work, an NGO will need to account to different groups of people as stakeholders. These will be the targeted rights-holders, the various duty-bearers and those secondary and tertiary stakeholders beyond the primary stakeholders who operate as interested or critical observers.

Accountability How?

48. Different stakeholders will require accounting to in different ways. Some people will require figures alone. Others will require figures and impact. Some will be literate, others will not. Some will want to know a lot of detail. Others will want to know the main points. So accountability will require

²⁴ This summary draws particularly on Raynard op cit and The Humanitarian Accountability Project (2001) Briefing 3, Humanitarian Action and Accountability: Why is it an Issue?, Geneva. It also draws on Hugo Slim (2002) Not Philanthropy But Rights, International Journal of Human Rights.

diverse media. Accountability processes must also involve key stakeholders through representative meetings, research, representative assemblies or voting systems. But virtues common to all NGO accountability mechanisms must be veracity and transparency. What an NGO is saying about itself, or what it reports others as saying about it, must be reasonably true, easily available and accessible to all.

Accountability to Improve

49. NGO accountability mechanisms must show clearly how the agency is responding to what it has learnt and what its stakeholders are telling it. The mechanisms chosen must demand and show responsiveness by informing people about, and involving people in, new action taken.

CONCLUSION

50. This paper has tried to give an overview of some of the key themes in the current discussion of NGO legitimacy and accountability. At the end of the day, questions of NGO legitimacy and accountability can only really be answered by an organisation once it has decided what kind of organisation it wants to be. In other words, once it has defined the exact nature of its activism. Some will opt to become democratic social movements. Others will remain as accountable expert organisations. Ironically, those NGOs who choose the latter course might then do well to adopt the Bayer Group's strap line "*Expertise with Responsibility*"! Or, more ironic still, both expert groups and social movements could agree to come under the joint banner of Price Waterhouse Cooper's global strapline "*Together We Can Change the World*"! Such is the mad rush for respectable global citizenship.