

## **NGOs, DEMOCRATISATION AND THE REGULATORY STATE**

**Record of Meeting  
125 Pall Mall, London, Tuesday 29<sup>th</sup> April 2003**

*The following is a summary of the roundtable arranged thematically. Papers written by the participants, as well as the background paper will be published over the summer.*

The purpose of the meeting was to evaluate the need for a framework which encourages a higher degree of congruence between democratic principles and practice on the one hand with the contemporary activities of non-governmental organizations (NGOs) on the other. Although NGOs are assumed to be a social virtue, it is also true that they represent factional interests, do not necessarily observe conventions of civility, can undermine democratic institutions and extend the regulatory role of governments into undesirable areas.

Frank Vibert first introduced his draft background paper and invited comment. His principal concerns were the relationship between NGOs and democratic theory as well as their internal governance structure. Moreover, the options for rendering them more accountable in their dealings with government – for example, introducing new standards of internal governance, or a new statutory duty of care or imposing standards of ‘due process’ or ‘procedural fairness’ – were open for assessment. The roundtable was accordingly divided into four sessions : NGOs and democratic theory, the empirical features of the NGO environment, NGO internal governance and the legal framework within which they operate.

### **(i) NGOs and democratic theory.**

NGOs act within both the public and private spheres. In their private role the relationship between NGOs and their constituent members was different in nature from the notion of representative democracy. At the same time private citizens are prepared to fund specific organisations to push particular political issues. To this extent the relationship between NGOs and their members is ‘clean’ democratic participation. However, a distinction can be made between single interest groups and general political interests. The principles espoused by NGOs are not compromised by the political negotiations commonly associated with parliamentary democracy and a bipartite or multi-party political party system. At the same time, NGOs pursue a specialist agenda which frequently renders them blind to the larger picture. A balance needed to be struck by governments between the narrow political activism pursued by NGOs and the wider issues. How to encourage this balance warranted reflection. There is no automatic correspondence between NGOs and democracy and there is a tradition which points to their drawbacks - from Madison warning against ‘faction’ to Bentham warning against ‘sinister interests’.

### **(ii) Empirical Features of NGOs.**

NGOs are engaged in a variety of fields including sustainable development, debt relief and environmental protection. Since the term ‘NGO’ covers a broad range of organizations, there was consensus that they, like corporations, should not be treated homogenously. NGOs can promote important public issues, but although they can contribute valuable information to contemporary debates, there is a concern that the arguments which they assert need not be accurate or factually substantiated. NGOs frequently target institutional elites -for example, the Organisation for Economic Cooperation and Development which can in turn promote regulation. . NGOs also spread national standards transnationally. Although NGOs can be hampered by the transactional costs of organising their ability to attract dedicated and experienced professionals can afford them considerable advantages.

NGOs presently enjoy close relationships with governments and can be involved in policy-making, standard-setting, regulatory implementation and oversight. However, in a crowded regulatory environment involving various actors, the benefits of engagement – for example, more accurate decisionmaking and popular

support - have to be tempered by a risk that relationships could be exploited to their own ends. In this situation governments can be co-opted by NGOs and vice versa. Governments can put NGOs onto advisory bodies where they act in a quasi-representative capacity. Their designated role is to provide a cloak of public legitimacy to governmental decision-making where in reality the NGOs role may be largely nominal. On the other hand, the EU environment illustrates that NGO-government relationships can be preconditioned by definitions of what constitutes an NGO (eg represented in all Member States and pursuing European interests) and where NGOs are accredited to participate within some organs but not others.

### **(iii) NGOs and Internal governance.**

Turning to the framework under which NGOs organize themselves, there was a discussion of the extent to which a 'read-across' from the debate on standards of corporate governance was appropriate. In the case of business, given the separation of ownership from control, corporations confront the agency problem whereby self-interested managers may not be acting in the best interests of all the company stakeholders. Although corporations possess considerable financial resources for which they are accountable to shareholders, there is an issue as to who makes the important strategic decisions and how that process occurs. Various techniques have been developed to protect shareholder value: formulating directors duties, the market for managerial expertise, independent auditing and enhanced disclosure through reporting. In addition to their external assurance purposes, each mechanism is also designed to improve internal governance and enhance performance. Aside from internal mechanisms of restraint, managing an organisation under strict conditions of transparency is another route to greater accountability. However, it is uncertain whether these tools can be directly applied to NGOs and their adaptation to the world of NGO governance requires further debate.

### **(iv) The Legal Framework.**

Self regulation along the lines practiced by some trade associations was suggested as one model for improving NGO standards of governance and accountability. In this context it was noted that there is no equivalent overarching umbrella organisation or voluntary self-regulatory agency for NGOs. AccountAbility was in the early stages of developing an accreditation system whereby NGOs would be ranked pursuant to a rating system according to yet to be determined criteria. However, in order to ensure minimum standards some enforcement effort was still warranted against the laggards or recalcitrant organisations.

The organisational form of the charity was also considered. The legal obligations pertaining to trustees were believed to be less onerous than the duties applicable to company directors. However, the regulatory situation is possibly evolving in light of the use of charitable foundations as fronts for illicit purposes such as money laundering and terrorism. In this context there is a need to consider international accounting standards to apply to NGOs. However, at the moment there is no international mechanism to provide and enforce such standards.

Finally the media was mentioned as another way in which in theory NGOs could be held to account. In practice however, NGOs exploit the interest of the media in reporting business failure and in turn business is driven into a defensive partnership with NGOs in order to protect their image and reputation. Media driven NGOs can become detached from their membership and start inhabiting an unreal world.

For further information, please contact:

Frank Vibert  
Director,  
European Policy Forum  
125 Pall Mall  
London SW1Y 5EA

Professor Bridget Hutter  
Co-Director, Centre for Analysis of Risk  
and Regulation (CARR)  
London School of Economics  
Houghton Street  
London WC2 2AE

Professor Ed Page  
Director, ESRC Future Governance  
Programme  
London School of Economics  
Houghton Street  
London WC2 2AE



## NGOs, Democratisation, and the Regulatory State

**Tuesday 29<sup>th</sup> April 2003**  
**125 Pall Mall, London SW1Y 5EA**

**Chair: Lord Plant of Highfield,**  
**Professor of Legal Philosophy, King's College Law School, London**

- 3.30 – 4.00**      **Tea**
- 4.00 – 4.10**      **Opening Remarks: Key Issues for the workshop**  
Frank Vibert, Director, European Policy Forum  
Professor Ed Page, Director, ESRC Future Governance Programme
- 4.10 – 4.45**      **Session 1. NGOs and Democratic Theory**  
  
Professor Albert Weale, Dept of Government, University of Essex  
*NGOs, Civility, Participation and Social Capital.*  
  
Comment: Professor Colin Hay, Chairman Dept of Politics & International  
Studies, University of Birmingham
- 4.45 – 5.30**      **Session 2. The World of NGOs and Interest Representation**  
  
Justin Greenwood, Professor of Public Policy, Aberdeen Business School  
*NGOs and Interest Groups in EU Decision-making. Definitions,  
Representation and Accreditation.*
- 5.30 – 6.15**      **Session 3. The Governance of NGOs**  
  
Dr John Roberts, Director of the Centre for Corporate Leadership and  
Accountability, Judge Institute of Management, University of Cambridge  
*NGOs and Corporate Governance.*  
  
Comment: Jonathan Cohen, Programme Manager, AccountAbility
- 6.15- 7.00**      **Session 4. Framing NGO Regulatory Powers**  
  
Rosie Chapman, Director of Policy & Strategy, Charity Commission  
*NGOs - a regulatory continuum within an international perspective.*  
  
Comment. Anthony Barnett, Director, Open Democracy
- 7.00**              **Concluding remarks**  
Professor Bridget Hutter, Co-Director, Centre for the Analysis of Risk and  
Regulation (CARR)