

Managing Accountability Challenges in Public-Private Partnerships

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***Abstract:** Though both public-private partnerships and accountability are widely discussed and debated, there is lack of adequate research on the accountability challenges in partnerships. Many scholars viewed partnerships as horizontal networks of public and private organizations and attempted to address accountability challenges in partnerships accordingly. In this paper, however, I contend that partnerships are semi-hierarchical networks and argue that neither hierarchical nor horizontal approach of accountability can effectively address the accountability challenges in partnerships. Therefore, a multidimensional, semi-hierarchical model of accountability grounded on the extended models of the principal-agent theory of accountability may better ensure accountability in partnerships. External control mechanisms are necessary, though overdependence on them may overlook other significant dimensions of accountability. To maintain integrity and avoid harmful practices, we need equally emphasise the ethical dimension of accountability.*

Introduction:

Both public-private partnerships (PPPs) and accountability are two highly discussed and debatable issues in public administration. Accountability is a popular topic of research articles, books and discussion. Academics have examined various aspects of accountability such as the meaning of accountability (Bardach & Lesser, 1996; Romzek & Dubnick, 1987), relationships between accountability and performance-based management (Barberis, 1998; Moynihan & Ingraham, 2003), pathologies of accountability (Koppell, 2005), new types of accountability (Roberts, 2002; Whitaker, Altman-Sauer, & Henderson, 2004), and accountability in reinvented governments (Romzek, 2000) and social service contracting (Dicke, 2002; Dicke & Ott, 1999; Romzek & Johnston, 2005).

On the other hand, since they initially became fashionable about 30 years ago, the concept of PPPs has been formidably contested in modern public administration until now though their use are increasing throughout the

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world (Bovaird, 2004). There has been a significant growth in research on various aspects of PPPs such as governance (Klijn & Teisman; Wettenhall & Thynne, 1999), contract negotiations (Ahadzi & Bowles, 2004), finance capital (Asenova & Beck, 2006), risk transfer (Baldwin, 2003; Hood & McGarvey, 2002), accounting systems (Broadbent & Laughlin, 2002; Hodges & Mellett, 1999; Minow, 2002), strengths and weaknesses (Domberger & Fernandez, 1999; Grimsey & Lewis, 2005; Rosenau, 1999), and problems of contractualism (Freedland & King, 2003; Lonsdale, 2005; Zitron, 2006).

However, though many academics noted that partnerships may challenge traditional concept of accountability (e.g. Agranoff & McGuire, 2001; Kenis & Provan, 2006; McGuire, 2006; Milward & Provan, 2000; Page, 2004; Considine, 2002; Mulgan, 2006), there has been lack of adequate research on the topic and the concept still rotates in general around single, sovereign, hierarchical organisations (Acar & Robertson, 2004). In this context Acar and Robertson (2004, p. 331) took 'one of the first attempts to remedy the paucity of research on the topic' by exploring the accountability challenges in partnerships. Sands (2006) examined the significance of public knowledge and enforcement of freedom of information regulations in ensuring accountability in partnerships.

Academics differed on how accountability challenges can be addressed effectively and proposed diverse approaches and frameworks such as dialogue-based accountability (Roberts, 2002), mutual accountability (Whitaker et al., 2004) and multidimensional accountability (Considine, 2002). By reviewing existing theoretical as well as empirical literature in this context, I will examine in this paper how better accountability may be ensured in PPPs. Acar and colleagues (2008, p. 4) viewed partnerships as horizontal networks of public and private organizations 'where one party has no hierarchical authority over its partners and no full control over the performance'. Many other academics (e.g. Whitaker et al., 2004) agreed more or less about this non-hierarchical characteristic of partnerships and examined accountability accordingly. However, I contend that partnerships are semi-hierarchical or more hierarchical networks than generally perceived, and argue that semi-hierarchical model of accountability based on extended models of the principal-agent theory of accountability may better ensure accountability in partnerships.

Accountability in Public-Private Partnerships

Before examining accountability in public-private partnerships, it is required to define public-private partnerships as well as accountability, examine organizational aspects of partnerships with reference to accountability systems, different approaches of accountability with their inherent strengths and weaknesses and accountability challenges in partnerships. By doing so, I will revisit the approaches of accountability to identify which approach better meets accountability challenges in partnerships.

Public-Private Partnerships

Based on the conception of roles and functions of the state in a nation's political economy, the diversity of concept of PPP is so much that the interpretation of role and functions of PPP can differ greatly both in time and place and not only between countries and between public management systems and business systems but also within a single country (Bovaird, 2004; Broadbent & Laughlin, 2002). Although the concept of PPP may be interpreted in a number of ways, it is fundamentally a type of collaboration between public and private sectors (Ahadzi & Bowles, 2004). Baker (2003, p. 462) observed that because of existing tradition of providing public service by private sectors, the US did not need resort to privatisation and hence he defined PPPs as 'contractual arrangements, tax incentives, favorable regulation and regulatory exemptions that favor a particular interest to the detriment of others' and considered utilities companies such as Enron, a regulated private sector provider of gas and electric public service utilities, as the original PPPs in the US. As this definition is broader in perspective than most other definitions, I will adopt it in this paper.

By facing fiscal problems, capital-starved public organisations often resort to PPPs as the last resort of mobilising fund for public services which suggests that partnerships are not 'marriages based on love, or even on respect for the qualities each could bring to the relationship, but rather marriages for money' (Bovaird, 2004, p. 201). Up to now, most PPPs are largely based not on relational contractingⁱ but on transactional contractingⁱⁱ which suggest that, PPPs only partially deserve the partnership label (Bovaird, 2004).

Public-Private Partnerships: Hierarchical or Horizontal?

Acar and colleagues (2008) viewed partnerships as horizontal networks of public and private organizations where no partner possesses hierarchical authority over others and full control over their performance. Many other academics (e.g. Whitaker et al., 2004) agree more or less about this non-hierarchical characteristic of partnerships and examine accountability accordingly. In fact, some scholars (e.g. Bovaird, 2004) suggested that PPPs disintegrate structures and processes which in turn blurs responsibilities and accountability—as each partner sacrifices some of its sovereignty to join the partnership and it can also claim that not itself but the partnership is the accountable body—yet there is no explicit mechanism by which partnerships can be held accountable properly.

However, I contend that partnerships are such networks which are not entirely hierarchical or horizontal but semi-hierarchical. Though apparently it seems that in partnerships, horizontal characteristics dominate the hierarchical characteristics, I contend that it is hierarchical characteristics that dictate partnerships. It may be assumed that a completely horizontal organisation requires level playing fields for all of its actors which are missing in partnerships. Partnerships involve diverse actors of unequal strengths and weaknesses from public and private sectors. It may be argued that only when all partners achieve expertise in collaborative advantage with their partners then partnerships may be truly horizontal. However, as partnerships involve different actors from different public and private organisations with different levels of strengths and weaknesses, they may not be perfectly horizontal though they may possess some other horizontal characteristics. In fact, often public partners, though not with formal hierarchical positions, dominate others in varying degrees in different contexts. However, in-depth analysis of this aspect is beyond the scope of this paper.

Therefore, I consider partnerships as semi-hierarchical networks with public officials contracting out services at the top and private partners providing contracted services at the bottom. In addition, for accountability purposes, instead of the legislature or the chief executive, the citizenry as a whole may be considered as the highest principal in partnerships (1996). The line staff in private partners are not directly accountable to public partners but to their direct authorities in private agencies. However, public officials exercise indirect authority over the

line staff in private service providers. Through their own higher authorities, the ordinary staff in private agencies are accountable to public officials. As opposed to public agencies, to ensure accountability public partners cannot suspend, demote or sack staff in private partner agencies. However, they can compel private partners to account for the failure of their line staff by withholding payments, terminating contracts and blacklisting companies. Different government bodies such as contracting public agencies, parliaments and courts possess the final say in partnerships as they have in traditional bureaucracy. Consequently, neither hierarchical nor horizontal accountability mechanisms are fit for ensuring accountability in partnerships. But as partnerships are semi-hierarchical, therefore it needs semi-hierarchical accountability mechanisms including dynamic features from both hierarchical and horizontal theories of accountability.

Concept of Accountability

Accountability is an old and tricky term which involves much debate (Barberis, 1998). Transparency, liability, controllability, responsibility and responsiveness are some distinct dimensions of accountability (Koppell, 2005). At the core of the accountability system is to give and demand reasons for conduct or in other words 'the capacity and willingness to give explanations for conduct, stating how one has discharged one's responsibility' (Boland & Schultze, 1996, p. 62; as quoted in Broadbent & Laughlin, 2003, p. 24). The concept of accountability 'is steeped in notions of governmental responsibility and popular sovereignty' and 'means more than simply hierarchical, legal, or political answerability' (Dicke & Ott, 1999, p. 504). The public are not content with mere legal accountability but they demand moral, professional and ethical services from governments and their partnerships. Therefore, accountability amounts to a moral and professional value that comes from public officials and their private partners who serve with public service values (Dicke & Ott, 1999).

Costs of Accountability

Accountability has certain costs. The threat of harsh punishment is mitigated by a culture that legitimates a number of excuses including some genuinely well-founded ones for falling short and a culture of civil service protections. Therefore, the main concern of accountability system

is not to inflict punishment but to motivate better performance by presuming that it stimulates a better quality of effort to achieve targeted results (Bardach & Lesser, 1996).

Highly formal accountability systems has opportunity costs by negating the spirit of morality of accountability (Barberis, 1998). But it may be argued that accountability systems do not necessarily replace the ingrained morality of public virtue. However, in cases where common understandings are absent, stronger checks and balances are required. Liberal democracy presumes that irrespective of link with public virtue, checks and balances need be upheld. Morality, virtue and ethical conduct are prerequisites for ensuring accountability; in their absence or diminution, well-conceived accountability mechanisms may fail (Barberis, 1998). However, public virtues such as long-term trust alone cannot ensure accountability in hard and practical real world. Batson (1991) rightly argued that though stirring up empathy may help induce altruistic actions, most persons are not martyrs but rather usually driven by profit-making or some other self-interest.ⁱⁱⁱ

Consequently, there must be some strong formal mechanisms and procedures to ensure accountability of actors in partnerships by making private partners answerable for the quality of their services and public officials responsible for ensuring quality services from the private partners (Dicke & Ott, 1999). Therefore, a formal legal system of accountability based on a democratically conception of responsibility is needed.

Approaches of Accountability

Approaches of accountability are broadly divided into two: more popular hierarchical approach and still nascent horizontal approach. Hierarchical approach may be subdivided into two: accountability as answerability (AA), and accountability as managing expectations (AME) which can be pinned down to the Friedrich-Finer debate in the 1940s (O'Loughlin, 1990), when Finer argued that strong external control is a prerequisite for ensuring accountability, whereas Friedrich viewed that by self-control based on expectations and norms, administrators themselves can ensure accountability (Acar et al., 2008).

Accountability as Answerability: Principal-agent relationships are at the heart of the AA approach where as an agent bureaucracy is accountable to one or multiple principals. For ensuring public goals and

priorities, the traditional AA approach emphasises the external control aspect of accountability, generally referring to the oversight and control of public bureaucracy by making it answerable and responsive to the public and/or their representative institutions (O'Loughlin, 1990). External accountability 'methods give the appearance of upholding accountability in contracting—even when they are ineffective—which, in part, may explain why they are so popular' and hence '[i]t is doubtful that methods derived from the principal-agent perspective will ever be replaced' (Dicke, 2002, p. 468).

The AA approach involves upward mechanisms of accountability to ministers, parliaments and courts (Scott, 2000). In this approach, incentives and sanctions are emphasised to shape bureaucratic accountability (Acar et al., 2008). External accountability systems have a number of limitations: false and inaccurate documentation, inadequate performance measurement, an unwillingness to punish poorly performance providers and insufficient resources to effective monitoring (Dicke, 2002).

Accountability as Managing Expectations: As an umbrella term of mutual exchanges of expectations, AME offers an understanding and recognition of diverse social contexts of humans in organisations (Fry, 1995). This approach emphasises the internal control aspect of accountability, typically referring to the administrative control and management of diverse expectations created within and outside of an organisation (O'Loughlin, 1990). In the principal-agent perspective, as an agent bureaucracy is responsible to itself and its one or multiple principals for managing a range of expectations. This approach provides public managers more discretionary power to predict and define diverse expectations placed by internal and external stakeholders in certain contexts and respond in proactive and/or reactive ways (Kearns, 1994). Romzek and Dubnick (1994) identified four often-competing structural dimensions of the AME approach—hierarchical, legal, professional and political.^{iv} In this approach, the challenge of accountability 'is to select and train public managers so that they adhere to professional ethics and behave responsibly' (Acar et al., 2008, p. 7).

The Horizontal Approach: This approach is still nascent. It has been developed based on the traits of the AME approach. Whitaker et al. (2004) proposed the mutual accountability approach^v while Roberts

(2002) did dialogue-based accountability approach^{vi} to meet accountability challenges in partnerships. By assuming partnerships as horizontal networks, Acar et al. (2008) argued that a horizontal approach is required for ensuring accountability in partnerships. As the AME approach involves some horizontal features such as exchanges of expectations, they considered it to be relevant to partnerships. However, to make it fit network settings precisely they extended the approach by changing the strategic focus of accountability. Instead of focusing on balancing competing expectations in the AME approach, the extended model focuses on facilitating the emergence of mutual expectations. In essence, these three approaches assume mutual trust among partners as given which suggests that conflicts of interests may be avoided by facilitating the development of mutual expectations and dialogues.

The Mixed Approach: To overcome the limitations of the AA and the AME approach there arose some other mixed approaches. By extending the AA model, Spiro (1969, p. 98) advocated for multi-centric accountability 'to different authorities, for different purposes, to different degrees and in terms of different, though mutually complementary standards' (as quoted in Barberis, 1998, p. 464). This argument has been favoured by many though in different dimensions. Horizontal mechanisms such as grievance-handlers and auditors extend the traditional model to the extended model (Scott, 2000). Extended accountability mechanisms has significant 'capacity to hold not only public but also private actors accountable for the exercise of power which is broadly public in character' (Scott, 2000, p. 60).

Dick and Ott (1999) developed a five-dimensional framework of accountability by adding moral and ethical dimension of Dwivedi and Jabbra (1988) to four dimensions—hierarchical, legal, professional and political—of Romzek and Dubnick (1994). Though Romzek and Dubnick provided their framework under the AME approach, Dick and Ott adopted it in the AA approach.

Accountability Challenges in Public-Private Partnerships

PPPs have hollowed the state authority by diminishing its ability in imposing accountability on them (Bardach & Lesser, 1996). Some major accountability challenges are as follows:

Lack of Public Knowledge: Sands (2006) rightly observed that diminishing public knowledge is a major cause of accountability

challenges in PPPs. She argued that commercial confidentiality clauses reduce transparency and thereby adversely affect public accountability. Secondly partnerships often entail legislative changes, including changes to freedom of information legislation that restrict citizens' free access to information (2006).^{vii}

Claimed Efficiency of PPPs: Governments insist that partnerships make available infrastructure and services which may not otherwise be affordable (Debande, 2002), provide better efficiency and strengthen monitoring and accountability by combining the strengths of the public and private sector partners (Nisar, 2007), but that is merely political rhetoric and salesmanship of privatisation (Hodge, 2004; Mulgan, 2006) through the 'faulty economics' of partnerships^{viii} (Broadbent, Gill, & Laughlin, 2003; Froud & Shaoul, 2001; Ruane, 2000) and hiding their adverse impact on the quality of service delivery (Dunnigan & Pollock, 2003; Glaister, 1999; Mayston, 1999).

Voluntary Arrangements of PPPs— Free Exit and Entry: Except some mandated PPPs, partnerships are usually voluntary arrangements where partners enter and exit at their free will. The voluntary partners assume diverse values, beliefs and goals which can create challenges for determining the means of accountability mechanisms (Rosenau, 1999).

Responsibility without Required Formal Authority: Managers in partnerships often face the challenge of governing the behavior and performance of individuals from different partner organizations without having the required formal authority (O'Toole, 1997).

Liabilities for Weaker Partners: Partnerships consist of partners of unequal power, commitments and opinions. Therefore PPPs may be liabilities for weaker partners who cannot direct policies and decisions.

Weakness in Internal Accountability: In partnerships, internal accountability mechanisms have some shortcomings such as once a contract is signed the public sector is not in a position to renegotiate it if parliament or some other authority finds that the contract does not meet present or future public needs or the contract contain some other problems (Elsenaar, 1999).

Contractor Bidding Decision Making: PPPs are competitively tendered but some projects attract very few bidders initially that makes it difficult to show transparency and public value for money (Zitron, 2006).

Analysis of Approaches of Accountability with Reference to Partnerships

Accountability challenges are multi-dimensional—some hierarchical and some horizontal while others are either semi-hierarchical and/or ethical. For instance, the accountability challenge concerning the lack of public knowledge involves several dimensions. Firstly the ethical dimension demands that the taxpaying public have the right to know about activities of partnerships and accordingly, actors in partnerships must provide the public free access to information. This dimension also assumes that persons involved in partnerships would be imbued with ethical standards and will not provide inaccurate or distorted information. Secondly, the hierarchical dimension requires that there should be some hierarchical system of information management so that information may be provided easily. And in the case of failure of some actors in providing information, there should be some hierarchical checks and balances. Thirdly, information should flow both horizontally among actors in partnerships and the public as well as hierarchically from the grassroots in private partner agencies to public officials, political representatives and the public as a whole. Therefore, to meet the challenge of lack of accountability in partnerships there is required a multi-dimensional approach of accountability.

The traditional AA approach may solve the hierarchical problems inherent in the accountability challenge of lack of knowledge. But this approach may not suggest how ethical and horizontal problems may be faced. The AME approach suggests that public and private partners would strategically manage diverse expectations of insiders and outsiders regarding the public knowledge. However, it cannot explain how partners will ensure public knowledge strategically when they withhold information intentionally for their self-interest, or how the public will extract information kept under the veil of secrecy and confidentiality. The mutual accountability approach, the dialogue-based approach and the extended AME approach of Acar et al. (2008) can explain how partners can collaboratively devise mechanisms to provide information or withhold it. But these approaches cannot explain how information may be collected from such partners who withhold it for their vested interest. Multi-centric accountability of Spiro (1969, p. 98) can explain hierarchical aspects of public knowledge but it cannot explain horizontal and ethical aspects.

In the above framework of ethical, hierarchical and horizontal dimensions of accountability challenges the strengths and weaknesses of different accountability approaches may be examined whether they can meet other accountability challenges in partnerships.

Considine (2002) observed that vertical accountability does not fit non-hierarchical partnerships whereas horizontal accountability is largely a problem in partnerships characterized by competition among public and private partners so far, and argued for multidimensional methods of accountability. In this context, "the five-dimensional framework of accountability of Dick and Ott (1999) draws attention. The ethical dimension of this approach can explain the problems concerning the challenge of public knowledge. While hierarchical, legal, professional and political dimensions touch both hierarchical and horizontal aspects. Therefore, it is evident that this approach can address the accountability challenge of public knowledge. Likewise it can also address above mentioned other accountability challenges such as unilateral claim of efficiency and accountability without formal hierarchical authority.

Conclusions:

As capital-starved political governments throughout the world are more inclined to deliver public services through partnerships and hide their shortcomings under the veil of commercial confidentiality and secrecy, accountability of partnerships has been facing serious challenges. Though governments and their partners claim unilateral success largely based on confidential data, many academics revealed poor performance and significant lack of public accountability in partnerships.

As partnerships are not entirely hierarchical, traditional top-down accountability mechanisms cannot address the accountability crisis in partnerships. In addition, patronage of partnerships by political governments also aggravates the capacity of traditional external approach of accountability. To meet the challenge there developed some other accountability approaches in the line of hierarchical, horizontal and even bi-directional approaches. Many scholars viewed partnerships as horizontal networks of public and private organizations and attempted to address accountability challenges in partnerships accordingly. The above discussion reveals, however, that partnerships are semi-hierarchical or more hierarchical networks than generally perceived, and neither hierarchical nor horizontal approach of accountability can face the

accountability challenges in partnerships. The paper finds that a multidimensional, semi-hierarchical model of accountability based on the extended models of the principal-agent theory of accountability may better ensure accountability in partnerships.

External control mechanisms such as legal sanctions are necessary, though overdependence on them may overlook other significant dimensions of accountability. To maintain integrity and avoid harmful practices, we need equally focus on the moral dimension of accountability. It is imperative that commercial confidentiality clauses should be relaxed enough to provide citizens' access to significant information. A stronger and more comprehensive framework for releasing information on partnerships projects would help foster confidence and thereby promote members of the public to participate in what may probably become new democratic arenas (IPPR, 2004; as cited in Flinders, 2005). Finally external public accountability mechanisms for scrutiny should be adequate to disallow opportunities for corruption and patronage (Sands, 2006).

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Notes:

¹ Relational contracting refers to contracts based on relation of mutual trusts.

² Transactional contracting refers to contracts based on business-customer relation.

³ For instance, Baker (2003) explored accountability failure in the US concerning one of the most widely discussed public scandals: Enron. He revealed the dangers that can ensue if the public sector fails to ensure accountability over the public service delivery by PPPs. In the process, another partner of the accountability mechanism, a supposedly respectable firm of accountants, connived in the disaster (Baker, 2003).

⁴ Hierarchical dimension involves hierarchical relationships, direct supervision and compliance with formal directives. Legal dimension refers to compliance with laws, rules and regulations. Professional aspects deal with discretion exercised by the staff in public and private agencies, while political dimension demands responsiveness to the citizenry as a whole.

⁵ This approach emphasises accountability mechanisms based on mutual negotiations among partners.

⁶ This self-evident approach emphasises dialogues among partners as mechanisms for accountability.

⁷ For instance, to provide commercial confidentiality to private prison providers, the Freedom of Information (Amendment) Act 1993 (Victoria, Australia) significantly restricted public access to public documents by widening confidentiality exemptions to more Cabinet documents and charging a considerable application fee (Sands, 2006).

⁸ It is claimed that partnerships transfer risks to the private sector but it is not true. Asenova and Beck (2006) aptly argued that partnerships do not focus on effective procurement by considering a pragmatic choice of procurement mechanisms that can potentially compromise public participation and input; rather they emphasise a process where government creates new profit opportunities for private investors at a time when the international financial system is increasingly short of safe investment opportunities. Secondly, as partnerships focus on investment opportunity primarily, they prioritise the risk-return criteria of private finance over the needs of the public. Private financiers such as banks ensure that risks pass through private contractors to the public sector (Asenova & Beck, 2006). For instance, Edwards and Shaoul (2003) examined how risk transfer, which is at the core of the PPPs, worked in reality. He found that two information technology partnerships in the UK failed to transfer risk in a way that had been expected. It is not the commercial partners but the public agencies that bore the management risk and costs befell the public generally and/or other public agencies. And citizens are becoming objects of a profit-making calculus instead of a public service ethos (Rosenau, 1999).