

NGO WAY TO GO

Political Accountability of Non-government Organizations in a Democratic Society

BY GARY JOHNS

The growth of NGOs in the last three decades has been a significant feature of political life. Few matters of public policy pass without an NGO spokesperson advocating a position. They have, in some regards, become the official opposition.

Historically, associations of private individuals have gathered for public purposes, usually to provide a service not available from the state, well before the establishment of democratic government. They have preceded, and now complement, the growth of services available from the welfare state. Many are Church-based and concentrate on the needs of individuals for assistance, typically in welfare, health and education.

In more recent times, a new class of NGOs has arisen which focuses directly on changing public policy. Though membership-based, they are unlike the representative interest groups of employers and employees, which provide both service to membership and public advocacy on behalf of their members. The new NGOs consist, typically, of middle-class activists who want government to reallocate resources or change laws according to activists' view of the good society.

In some respects, the phenomenal growth of civil activism as represented by NGOs reflects restlessness with the inadequacies of government to remake the world in a way acceptable to the activists. In this regard, NGO activism is a challenge to representative democracy; it regards itself as a new form of democracy.

If NGO activism is to take its place within democratic society, it presumably has to be accountable for its actions. How this is to be achieved, and the nature of the relationship between government and civil society as represented by NGOs, is the subject of this Backgrounder.

INTRODUCTION

Non-government organizations (NGOs) provide citizens with vehicles for the exercise of 'private initiative in pursuit of public purposes'. Their growth in recent times has been such as to constitute a 'global associational revolution', reflecting 'new enthusiasms on the part of citizens to engage more directly in public problem-solving'.¹ So, are NGOs good for democracy or bad? This may seem a harsh question, but the prominence of NGOs in public policy suggests that they are a serious challenge to representative democracy. If they are, what is the proper relationship between

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NGOs and democratic government? The answer depends very much on the outcome of two debates. First, whether a strong civil society—a measure of which is the number and range of civil associations such as NGOs—is 'necessary for effective

democratic government'.² Second, whether democracy is in need of renewal. An observation common in most Western democracies over the past 25 years is that there has been a decline in public trust in government.³ In these two debates, the NGO sector asserts, in rather contradictory terms, that it is both a fundamental component of democracy and also its saviour.⁴

It is possible, however, that a strong civil society is not essential for an effective democracy, indeed that an active citizenry may, in some circumstances, produce a less effective democracy. It is possible that the strength of liberal democracies lies in institutions and habits formed over a century or more, and which pre-date the associational revolution now in progress. Whichever view is right, it is probable that if NGOs continue to press their claim to a form of democratic legitimacy, they are more liable to become

politically accountable for their actions, and more liable to be subject to some form of regulation by the state.

From the point of view of traditional liberal democratic thinking, the preferred outcome is to have each NGO claim no more than to represent a view and to acknowledge and assist the legitimacy of the formal representative institutions. The collective of NGOs does not literally represent civil society. Each time that NGOs or any other interests seek to belittle the authority of representative democracy they invite the question: Whose authority should be substituted for that of government? If it is to be the self-appointed representatives of civil society, that is, NGOs, the result will be less democratic. Far better to maintain the authority of the present representative structures and encourage the free flow of ideas. In that way, the political accountability of NGOs can remain at the level of the scrutiny of ideas. Such scrutiny has as its object the open marketplace of ideas that is the lifeblood of democracy. If NGOs seek a more formal and representational legitimacy, then the inevitable consequence is a more formal scrutiny of their organizational form. Their legitimacy will be seen to be in parallel with the representational form of the parliament and they will come to be scrutinized as other than private associations. They will come to be scrutinized as public property and will have to abide by public rules. This is a wholly undesirable path from a liberal perspective.

The surest way to maintain an open contest for influence on collective decision-making is for government never to confer the mantle of public authority on non-government organizations. Governments are guilty of this when they anoint favoured groups as spokespersons, when they provide ready access to committees, including the Cabinet, when they provide resources and, in extremes, when they anoint them judges of policy outcomes. This is not to argue that the open government that comes with 'community consultation' is bad, but that it can 'privilege' some citizens at the expense of others. The political influence of NGOs and the consequence for their political accountability lie, principally, in the access to authority that they are given by government. Political parties no longer provide rich and concrete links between the community and gov-

ernment. This state of affairs makes it more likely that governments will renew those links by furnishing access and resources to NGOs. In so doing, governments lend NGOs an authority beyond their actual legitimate claim. Challenging the authority of government is a treasured part of democracy, but when it reaches a point where the authority of the entire mechanism of representative democracy is challenged, it is fair to question the motives, the source and the consequences of the challenge.

NGOs enhance the tendency to wrest authority from its representative moorings when they make claims to represent civil society—for example, by establishing parliament-like structures to mimic the formal mechanism. The challenge which such activity presents to representative democracy is considerable, no more acutely than at the international level. Within states, governments are clearly in charge of the machinery of government, and the electorate can constrain a government that hands out its favours too readily. At international forums, however, governments are one step removed. Discussions take place between representatives of governments (bureaucrats) in the absence of review by electorates. NGOs in conjunction with international bureaucrats are likely to seek out each other and create a politics that is wholly removed from electors.

species, see themselves as purely advocacy organizations, sometimes without a specific membership but seeking to change some condition in society. The most commonly used term to describe organizations in the third sector is NGOs, and for the purpose of this discussion that will be the preferred term.

The right of civil association is a fundamental element of a liberal democracy. It should be cherished and protected. However, where NGOs of whatever origins, aims or orientation make claims on public policy, such claims should be the subject of scrutiny. Their objectives, motives and organizational form are of no concern *per se*, except where these affect public policy. At that point, the private association enters the public arena; at that point, the desire to influence public power for particular ends brings with it the scrutiny that all others who similarly seek to influence public policy would have to bear. The form of such scrutiny is of great interest and importance. No useful purpose can be served if the result of the scrutiny of NGOs were a policy of heavy-handed regulation of private associations.

Private associations are regulated in those societies where only the state is assumed to act for the common good. In such cases, private associations that seek to act in a public capacity have to apply for the right to do so. This occurs in some democratic states, for example France, where the state is regarded as the highest expression of the ‘solidarity’ of the society and a civil-law system presumes against private associations acting in a public capacity.⁵ In non-democratic countries, private associations may be banned or simply not exist because of the assumption of state munificence. For example, ‘civil society’ is typically weak in communist regimes. In democratic countries with common-law systems, there is a presumption, regardless of the strength of the state sector, that private organizations can claim the privilege of operating in the public interest as a matter of right.⁶ This is clearly the case in Australia.

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WHAT TYPE OF ACCOUNTABILITY FOR WHAT TYPE OF ORGANIZATION?

In some schemas, NGOs are part of the ‘third’ sector; the first is government and the second is business. The third sector suffers a plethora of definitions. Each definition, though, provides some clue as to the origins or orientation of the organization. For example, ‘non-profits’ tend to be service organizations run along business lines with motives other than profit. ‘Non-governments’ may be service or advocacy organizations which, from time to time, may see themselves as an opposition to government. ‘Civil associations’ tend to incorporate the concept of civil society pre-dating the modern state, and ‘social movement organizations’, the most modern incarnation of the

Collectively, NGOs have become prominent in public policy. Democratic governments in Australia and elsewhere have come to rely on the advice of the sector, at times to collaborate with the sector in finding solutions to a nation's problems. At times, governments have feared the political strength of the sector, sometimes doing their bidding. In some non-democratic states, the sector is seen as the embodiment of the democratic opposition; it has begun to take on the mantle of legitimacy. This tendency to assume the mantle of representation is also obvious in supranational forums, such as the United Nations. Where elements of civil society seek to have their views heard, to voice their concerns and opinions, they, as with any interest group representing any sector of society and seeking to influence public policy, must subject their claims to public scrutiny.

The object of the discussion of the political accountability of NGOs, therefore, is not to disturb the presumption of the privilege of operating in the public interest, but to question the particular claims made from time to time about the public interest. Indeed, to distinguish particular interests and claims from the public interest is an essential part of the dialogue of democracy. For example, a very large part of NGO energy has been devoted to social movements on behalf of previously ignored and/or minority interests—interests built around identity or presence, such as women, indigenes, ethnicities, sexual orientation and so on. Such claims have been made against democracy

on the basis that democracy may be no more than a crude tyranny by the majority. At times it may well be. Democracy may also be a crude tyranny by the minorities, where the public

interest is reduced to being no more than the sum of the particular interests that have been given voice. The sum of these interests, however, may be irrational. What the public chooses may not be in the public interest.⁷

Not only is the concept of the public interest contested, so is democracy itself. In some views,⁸

the essence of democracy is solely the manner in which authority is structured. The idea of collective judgements about the concept of well-being or justice, much less a democratic way of life, is held to be somewhat fanciful. In others, the essence of democracy lies in the nature of the participation of the citizens; that is, that democracy lies in an active citizenry coming together for collective causes and to contest different ideas and interests.⁹ More recently, the challenge to democracy has come in the form of identifying not only the interests of those who are excluded from participation, but in suggesting their physical presence is as important as the ideas which are contested on their behalf. Such a phenomenon is labelled the 'politics of presence'.¹⁰

These strands suggest that there is a challenge to democracy from the third sector. The challenge is from NGOs not satisfied that their concept of the common good is dominant or even recognized, or that they are not involved in decisions about either common interests or their own, or that, regardless of interests and ideas, every type of person should have a formal presence in the machinery of democracy. A simple parliamentary democracy seems ill-equipped to cope with such pressures. Hence, as a response to the so-called loss of trust in governments, we have seen the call on the part of the proponents of the 'Third Way' to 'democratize democracy'.¹¹ 'Civil society, rather than the state, supplies the grounding of citizenship, and is hence crucial to sustaining an open public sphere'.¹² This sort of thinking is a major challenge to the concept of representative and responsible government. It begins to deny legitimacy to the formal elements of democracy, that is, the way in which authority is carefully divided and offset to deny too great a concentration of power. It begins to claim political legitimacy for the citizen more directly, in an apparently less elite manner.

But who represents civil society? Is it a govern-

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ment formed in the parliament following a formal, regular and scrutinized election, canvassing the full range of public issues and the credentials of the participants, all in the full scrutiny of the free press? Alternatively, is it the haphazard accumulation of activists in a myriad of privately-formed groups known as NGOs? If the claims made on behalf of civil society to a political legitimacy equal to that of the formal democratic process are to be believed, it follows that the representatives of civil society must be as scrutinized as the elected representatives. This leads to a highly complex and regulatory scrutiny.

A more productive and positive route is for governments, where duly elected, never to cede public authority or policy legitimacy to any group. NGOs may lobby, comment, criticize and assist in the formulation of policy. They may even deliver policy on behalf of government. But they can never assume, collectively or individually, the mantle of government, *even in the policy area that they claim to represent*. The only scrutiny of NGOs that need take place is the ordinary scrutiny of any group or person who seeks to make claims on the public. While all have the right to a voice, each has to prove its particular standing in order to furnish advice or develop policy for government. Such standing should be based on the proof of any claims to represent interests, or a particular knowledge or expertise. In either case a claim must be based on the integrity and truth of the proposal. The policy objective is an open market in political influence. By contrast, formalizing the status of civil society and its representatives, which is different to accepting a professional approach to public advocacy 'in order to be credible members of the policy community,¹³ comes dangerously close to denying the validity of responsible government.

lic affairs. For example, the NGO Millennium Forum, a meeting of all major NGOs 'representing' international civil society in the lead-up to the United Nations General Assembly Millennium noted that 'the United Nations and its Member States had failed to fulfill their primary responsibility of maintaining peace and preserving human life'. The Declaration accordingly urged the 'Organization to undertake a number of measures to reduce the level of armed violence throughout the world, including the establishment of a corps of at least 50 professionally trained mediators for more effective conflict prevention'.¹⁵ This is the major contribution of civil society to the Summit! Such a statement, made to the governments of all member nations and the enormous power exercised by them, is a reminder not only of the idealistic nature of the NGO community, but of its limitations in actually representing anyone other than its own members. Free of the responsibility for the care and order of the nations entrusted to the member governments, the NGOs have shown themselves to be dangerously flippant. In this regard, the most important first lesson to learn in the discussion of the political accountability of NGOs is the modesty of their contribution to the resolution of political issues.

Within nations, matters may be considerably different. In Australia, non-profit organizations (ABS definition)¹⁶ provided employment for almost 600,000 people and spent over \$26 billion in 1996. Interest groups (ABS definition) are the most commonly recognized 'advocacy' NGOs in that they mainly serve the interests of their members. They employed 47,000 people and they spent a little over \$3 billion in 1995/96. Included are political parties and trade unions; professional associations, such as medical colleges, bar associations, institutes of architects or chartered accountants; and business, trade or industry associations. Many other interest organizations, such as the

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HOW SERIOUS IS THE CHALLENGE TO DEMOCRACY?

The NGO sector has grown enormously in recent years: there are over 44,000 international NGOs,¹⁴ almost double the number just 25 years ago, up from just over 1,000 in 1956. Such figures, however, may exaggerate the impact of NGOs on pub-

Combined Pensioners' Association or the Federation of Parents and Citizens Associations, are formed to advance the interests of their members who might be individuals or other non-profit organizations. Many other non-profit organizations are formed to advance the interests of other people or causes. These include Amnesty International, the Australian Council of Social Service, the World Wide Fund for Nature and the Australian Conservation Foundation.

Interest groups, however, are not the sole subject of civil society or the sole group with an interest in public advocacy. Non-profit organizations in the educational field, typically the Church-run private schools and research hospitals, and in the community services field, such as The Smith Family, Mission Australia, the St Vincent de Paul Society, World Vision and the Red Cross, are also clearly in the business of public advocacy.

Public-serving non-profits can be contrasted with member-serving organizations, established primarily to serve the interests of their members, commonly social or registered clubs. They include non-profit organizations such as Returned Services League sub-branches and sporting clubs such as bowls, golf and football clubs. In culture and

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the arts, non-profit organizations are a mixture of member- and public-serving. The economic impact of non-profit arts organizations comes mainly from the large performing arts companies such as the

Australian Ballet or the Sydney Theatre Company. In addition, there are over 150 small non-profit organizations running community radio and television stations and a few non-profit libraries and museums. The interest of these latter categories in public advocacy is of a far more limited nature.

The size of this sector, the breadth of its interests, and the depth and history of its organization and its impact on Australian life are considerable. The question is: what is the sector's relationship to the broader political structure and does it have a political legitimacy beyond that of interest groups?

A RENEWED INTEREST IN CIVIL SOCIETY

Unless the reasons for the growth of NGOs and the renewed interest in civil society are well understood, a policy of political accountability for NGOs will be misconceived. There appear to be two main rationales for the 'associational revolution' of the last two or three decades. Each has implications for understanding the relationship between civil society and democracy, the relationship between civil society and government and the question of the political accountability of NGOs.

That civil society is a foundation of democracy: The collapse of the former Soviet Union and the emergence of democracy in Central Europe have highlighted the ways in which civil associations were sources of resistance to oppressive governments. It also raises the possibility that the weakness of civil associations in the new democracies is an impediment to the growth of democracy. This observation has intensified the perception of a decline in 'social capital' in the Western democracies,¹⁷ and has produced the anxiety that the traditional sources of citizen solidarity, socialization and activity are becoming dangerously weak. The issue of the centrality of civil society to the health of democracy thus becomes central to a discussion of the relationship between NGOs and government.

That civil society could save democracy: It is often suggested that there has been a decline in the last 25 years in the trust shown by the electorate in their democratically elected governments. This may create a vacuum that private activism can fill or it may reflect the power of private activism to unseat legitimate forms of democracy. For example, NGOs have emerged to voice concerns at world forums addressing transnational issues such as the environment, population, human rights, the status of women, disarmament and so on. Civil society provides a basis for criticizing the failures of both the state and the market. Those of the political left turned to civil society as a means of a new legitimacy once they began to observe

the limitations of the welfare state, or were disappointed that no government would continue their endless desire for social experiment. The political right, 'troubled by the amorality of the market and by its corrosive effects on social institutions, turned to voluntary associations as a source of stability and virtue'.¹⁸

CIVIL SOCIETY AND DEMOCRACY

At the heart of the debate over the importance of civil society to democracy is the so-called 'social capital' thesis of political scientist Robert Putnam.¹⁹ It is important because of the belief that 'the quality of governance [is] determined by longstanding traditions of civic engagement (or its absence)'. It suggests that social capital—'networks, norms and social trust that facilitate coordination and cooperation for mutual benefit'²⁰—are the product of a healthy civil society and a healthy civil society creates a healthy democracy. Putnam further suggests that there has been a decline in social capital and civic engagement in the USA. The link is then made to a loss of civic trust, meaning a loss of faith in government.

How much weight can be placed on the social capital basis to democracy thesis? It seems very little, and for the following reasons. First, it as-

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sume a link between social capital and political trust that probably does not exist; and second, there is abundant evidence of a decline in trust in government, with no decline in social capital.²¹ Indeed, there are those who argue that the decline in social capital has not even occurred in the USA. Rather, some associations 'have simply failed to meet the needs of a better-educated, more discriminating public and have

paid the price'.²² Other forms of activity are beginning to take the place of the old. This appears true when considering the popularity of NGOs over political parties as vehicles for political activity. Levels of trust in a society may have little to do with civic engagement or the density of the network of civil associations. Take Mar-

tin Krygier's²³ observation of Poland and the sources of civil society. He suggested that civility—civilizing conflict and difference—is a kind of trust among non-intimates. Rather, the law and institutions safeguard the trust. 'Civil society is buttressed by impersonal institutions of many kinds, particularly impersonal legal institutions'.²⁴ Civil associations like Solidarność, the Polish trade union movement, may have won democracy for Poland by defeating the communist state. The preservation of democracy in Poland will depend, however, not on the skills learned in a partisan association but in the institution of opposition through the parliament and the rule of law.

At the very least, the link between trust between individuals and trust in government seems unclear. The Putnam thesis, that local association encourages trust in democratic government, seems not to be sustainable. Indeed, 'both social trust and political trust seem to be only weakly related to membership in social organizations'.²⁵ While there is no doubt that trust of some sort is crucial to many social relations, there is little evidence that greater or lesser proportions of a population expressing themselves as trustful of others has any bearing on the health of democracy. 'Trust is not the universal lubricant that oils the wheels of cooperation wherever it is applied. Rather, cooperation is achieved through a variety of mechanisms, not the least important of which is effective government regulation'.²⁶ Participation in civil society may be a school for democracy in as much as participants learn how to work together in groups. Putnam²⁷ observes how mutual trust and rules are developed in a competitive and even poisonous atmosphere in political parties. However, many such schools may teach bad habits as well as good.

THE ARGUMENT THAT CIVIL SOCIETY IS THE BEDROCK OF DEMOCRACY IS FLAWED

A favourite story of democracy at work in a civil association was the members of a sporting club scrambling over the body of the club treasurer to get to the books, moments after he suffered a heart attack!²⁸ The experience of participation does not ‘civilize’ everyone.

The argument that civil society is the bedrock of democracy is flawed. The weight and legitimacy that should be accorded the organized parts

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of civil society—NGOs—must therefore be strictly limited. Civil society is as likely to oppose a democratic government as an authoritarian one. It is as likely to split ‘into warring factions ... or degenerat[e] into a congeries of rent-seeking “special interests”’.²⁹ Those in the civil society ‘utopia’ camp³⁰ who see civil society as a counterweight to the state must concede that it can be a counterweight to a good state as well as a bad one. Civil society and its activists may simply monopolize public resources, they may spend all their time battling one another for control, they may polarize society. The key missing variable in the civil society argument, and indeed the claim of NGOs to political legitimacy, is politics itself. Who is to play the important role of political compromise and restraint, accommodation and reconciliation in an orderly and peaceful way? Ultimately this is the role of the political parties or the parliamentary representatives and, of course, the most powerful of interests who hold sway in the electorate.

Most important are the institutions that govern the means by which settlements are reached, the important and hard-won rules of play, the determination of what are acceptable and what are not acceptable outcomes. ‘A democratic civil society seems to require a democratic state, and a strong civil society seems to require a strong and responsive state. The strength and responsiveness of a democracy may depend upon the character of its civil society ... reinforcing both the democratic

functioning and strength of the state. But such effects depend on the prior achievement of both democracy and a strong state’.³¹ The strength and role of NGOs may give the appearance of an active democracy, indeed, it may be an active democracy, but it is primarily a sign of an active citizenship. The quality of the democracy will be measured by the ability to incorporate and resolve issues, not just voice them. A parallel argument can be made as to whether the presence of a large NGO (particularly non-profit or charity) sector in a society is a sign of a ‘caring’ tradition in a society. ‘There is no obvious relationship between the degree of caring in a society and NGOs’.³² If the state has the primary role, the absence of NGOs is not a measure of a lack of caring. It is important not to be too readily recruited to the ranks of those who would concede power to the activists.

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DEMOCRATIZING DEMOCRACY

If civil society is not foundational to democracy, could it be its saviour? Bearing this in mind, what is the nature of the loss of confidence in democratic government and what are its sources? There is evidence of a decline in the public trust and political support of democratic governments in three areas: ‘disillusionment with politicians, with political parties, and with political institutions’.³³ However, the apparent erosion in popular confidence in government and the institutions of representative democracy may not be cause for concern. A more educated and prosperous citizenry is bound to be a more discerning citizenry, and more likely to say so. It may also reflect the desire for more direct forms of participation in public

functioning and strength of the state. But such effects depend on the prior achievement of both democracy and a strong state’.³¹ The strength and role of NGOs may give the appearance of an active democracy, indeed, it may be an active democracy, but it is primarily a sign of an active citizenship. The quality of the democracy will be measured by the ability to incorporate and resolve issues, not just voice them. A parallel argument can be made as to whether the presence of a large NGO (particularly non-profit or charity) sector in a society is a sign of a ‘caring’ tradition in a society. ‘There is no obvious relationship between the degree of caring in a society and NGOs’.³² If the state has the primary role, the absence of NGOs is not a measure of a lack of caring. It is important not to be too readily recruited to the ranks of those who would concede power to the activists.

NGO PARTICIPATION WILL MAKE LIFE HARDER FOR GOVERNMENTS BECAUSE OF THE CONSTANT ARTICULATION OF DISSATISFACTION

life. In other words, NGO participation will make life harder for governments because of the constant articulation of dissatisfaction. That is a consequence of enhanced participation; the issue of whether it weakens those elements of democracy that allow for consensus is a different matter. Indeed, in the face of a particularly boisterous and highly organized civil society, can the state possibly resist? Then the question arises as to whether the accumulation of the interests of NGOs is the same as the interest of civil society or indeed the electorate. At that point, there is a clash between the associational democracy and the representative democracy. At that point, those who see the role of government as delivering what people need, rather than what they say they want, comes to pass. Government is more than a populist instrument; it requires somewhat more finesse than access and voice, it requires accommodation and common sense.

Nevertheless, if the decline thesis is of concern, what are its causes? There are two major sets of explanation for the decline-of-confidence thesis. The first concentrates on information and expectation. It is clear that voters have, over time, become better informed about their governments' performance, good or bad. Voters expect more of government and their expectations are more divergent, consequently it becomes more difficult for government to 'identify any feasible set of policies that would satisfy its constituents'.³⁴

The second relies on changes in the economy and in social attitudes. The third industrial revolution—the information revolution—has caused 'creative destruction ... disrupt[ing] existing social patterns. This in turn creates anxiety and dissatisfaction in large parts of the public'. Changes in social and cultural attitudes have caused a 'change in the balance between the individual and the community', which has led to a long-term trend toward the individual, a trend which 'undercuts the authority of institutions'.³⁵ At the same time, government is now seen as an arbiter of social relations: gender, race, family and so on. Expectations of government, once confined to safety and the administration of justice, have risen to include 'prosperity and various norms of social stability'.³⁶

The danger in these trends is that it is simply not popular to believe in government. Certainly,

the press covers politics in a highly intrusive and negative way, which reinforces the popular belief. This is the context in which NGOs, in increasing numbers, and in a more professional and organized manner, approach government. However, whether they are the solution to the desire for a more participative democracy, or the reflection of the problems which cause governments to fail in the eyes of the public, is highly contested.

At the heart of the desire to democratize democracy as a means of restoring faith in the institutions of government is the desire by citizens to take a greater role in determining their future. That is an entirely laudable desire. The question is: what sort of access and on what basis should

some be given access to the public power of the state in order to assist that desire? If the view prevails that civil society lies at the heart of democracy, and that there is a need to democratize democracy, then the policy implication is to take the high regulation option

to the political accountability of NGOs. If the view prevails that the claims made on behalf of civil society and NGOs are false or at least greatly overstated, and that one of the causes of the loss of confidence in government is because of NGOs, then a route to low regulation is advisable. What would each option look like?

GOVERNMENT IS MORE THAN A POPULIST INSTRUMENT; IT REQUIRES SOMETHING MORE FINESSE THAN ACCESS AND VOICE, IT REQUIRES ACCOMMODATION AND COMMON SENSE

ACCOUNTABILITY OPTIONS

The high regulation option is set out in great detail for international NGOs by Michael Edwards,³⁷ Director of the Ford Foundation's Governance and Civil Society Unit, and formerly of the World Bank and Save The Children. Edwards proposes a 'new deal' between government and non-government organizations in global governance. The deal is a

parallel parliament of ‘civil society chambers’ standing alongside the UN General Assembly, the World Trade Organization and the boards of the

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World Bank and the International Monetary Fund. He asserts, ‘while NGOs cannot and should not be expected to take the place of governments, they *will* have a voice in world affairs’.³⁸ The chambers are to be their voice.

Edwards observes that NGOs are increasingly under attack as being ‘self-se-

lected, unaccountable and poorly rooted in society’.³⁹ Governments and corporations question their legitimacy in debates on global development. Within the sector, Third World NGOs are at times highly critical of their Western big brothers. He notes that the criticism is a considerable challenge to NGOs because, ‘humility doesn’t come easy to organizations that have been used to occupying the moral high ground’.⁴⁰

Further fault lies in their tendency to be ruled by fashion and sensation and, in campaigns, to ‘trade off rigour for speed and profile’.⁴¹ He is also aware that ‘although civil society is often seen as the key to future progressive politics, the civic arena contains many different interests and agendas, some of which are decidedly non-progressive’.⁴² The US National Rifle Association has consultative status with the UN!

These honest admissions are an important start to a new deal. Edwards argues that the increased prominence of NGOs in world affairs has occurred because the ‘Washington Consensus’—the belief that free markets and liberal democracy provide a universal recipe for growth and poverty-reduction—has declined. He also notes that governments and international institutions involve NGOs because it is cost-effective public relations and that ‘few people now trust governments alone to represent the views of every interest in society’.⁴³

While the rise of NGO strength and the decline in public confidence in the democratic process are real, the assumption that trust now resides in NGOs is highly questionable and decidedly self-serving. It is just as valid to argue that the decline in public trust in democratic and international institutions alike is a result of criticism from NGOs. Institutions do not open their doors to NGOs, *ergo* the institutions lack accountability.

Excusing the circuitous rationale for NGO growth, Edwards’ new deal is based on two assumptions. First, the world is not headed for global government, but rather a patchwork of agreements between governments, corporations and citizens’ groups at different levels. Second, there should be a way to harness the NGO voice in more responsible and constructive ways. These are an admission that NGOs are suffering a crisis of legitimacy in international governance. Edwards is aware of the tenuous rationale for the involvement of NGOs in global governance, so he sets out to find something a little stronger.

He suggests three grounds for legitimacy:

- A voice, not a vote.
- Minimum standards for NGO integrity and performance.
- A level playing field for NGO involvement.

Edwards recognizes that NGOs cannot claim to represent the whole of civil society, but they can give voice to a wide range of opinion. He observes that ‘there is no such thing as a common set of civic interests that cross national borders, still less a global civil society with uniform goals and values’. In the second, he proposes a trade-off: NGO participation in return for transparency and accountability of NGOs. In the third, NGOs from developing countries are to be given a helping hand so that their voices may be heard.

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The essence of Edwards' position is for NGOs to gain democratic legitimacy through a 'structured voice' and that this requires a set of selection criteria and a mechanism for their enforcement. The selection criteria inevitably will become a substitute plebiscite; it will be used to

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decide who represents a particular view or a particular group. He insists, for example, that there will have to be a demonstration of internal democracy. While this is a reasonable idea in any association, in Edwards' schema of a ghost parliament of NGOs to parallel the parliament of nations,

internal democracy will not be a stand-alone criterion. It will ultimately mean to imply that the combination of democratic NGOs will truly represent civil society. This is a recipe for pitting representative democracy against associational democracy. Only associational democracy will have no pretence to be other than an accumulation of different interests. The essence of cross-dealing under the confines of the real responsibilities of office will be absent, as will the actual sanction of direct elections. The ghost parliament is ultimately either a move to supplant electorates with activists, which is entirely undemocratic, or it is a forlorn attempt to breathe legitimacy into a sector that Edwards admits lacks any.

A recent example of the 'structured voice' approach to democracy was the International Youth Parliament 2000 held in October, in Sydney. The 'parliament' was 'an international youth declaration of the need to act together under the banner of equality and democracy'.⁴⁴ The 'parliament' was sponsored by Community Aid Abroad, which invited young community activists from 162 countries. These activists discussed the problems of the world and sought to generate solutions. Nothing wrong in that, except the pretence that it was any more than a meeting of 300-or-so individu-

als. Community Aid Abroad indicated that the delegates 'would speak as advocates for significant issues, rather than as ambassadors for their own countries or peoples'.⁴⁵ Nevertheless, the meeting sought to appropriate the mechanisms of representative democracy while heralding a new form of democracy, an associational one. It was not a parliament in the sense of a representative or responsible mechanism. It should not have pretended to be one.

NGO STRATEGIES FOR POLITICAL LEGITIMACY

The Edwards new deal is on safer ground when he refers to the other criteria for NGOs, for example, the degree of expertise that an NGO brings to the table. This suggestion suits a low regulation route and regards NGOs as interest groups. It maintains the primacy of that concept of democracy that relies on the proper distribution of authority. The legitimacy of any lobby or interest group thus depends not on some universal appeal to represent civil society or a superior moral worldview but on particular credentials and characteristics. These are exhibited in different ways by different NGOs, and expertise is one such basis of legitimacy.

In fact, the one thing that NGOs produce in the advocacy arena is public information. The only measure of their performance and of their legitimacy is whether the information is true and accurate. The

amount of expertise and/or experience of the matters under debate will be directly related to the truth and accuracy of their information. In addition to the veracity of their views is the crucial issue of their standing. The concept of standing

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means that only those with a direct interest in an action will be heard. The idea that any NGO should insist on standing, that is, the right to be heard in a government forum, is nonsense. A vast

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array of opportunities is available for views to be expressed in the general machinery and committees of parliament. For example, the open process of enquiry is common and welcome. The insistence of standing in dealings between governments or between governments and

a given constituency is not acceptable. It is a presumption on a democratic government to do as it judges fair within the constraints of the law and the review at the ballot.

Such a presumption is made by some NGOs in dealings with the private sector as well. In such cases, the NGO seeks to act as the government. For example, a memorandum prepared by NGOs for the conduct of company operations within the mineral industries, not only establishes codes of conduct for companies, but makes NGOs the judge of the principles and of compliance. At numerous points in the exercise, the NGOs assert that they are stakeholders in the mineral industry. They assert that, as a stakeholder, they should have standing to contest any action of a company. The stakeholder NGOs will be 'local, regional and international not-for-profit, non-governmental organizations working for human rights, education, welfare, economic or cultural development, environmental protection, and various other humane objectives'.⁴⁶ The only standing that NGOs have is that of any other interested bystander. They may insist on being heard but there is not a *right* to be heard. No amount of formality in process or professionalism in lobbying can change that. They may be of great assistance in the development of policy, but only if they add value, and only governments in our first example, or a company and

its shareholders in our second, can be the judges of that.

A more productive strategy for NGOs than the pretence at being an alternative democracy is to continue to serve their members or pursue their interests as they see fit. It is most important that NGOs base their advocacy on experience in the field. There is a real potential, especially with advocacy NGOs, for a conflict of interest in their advocacy mission, in upholding a public image and maximizing fundraising.⁴⁷ These conflicts become apparent when, for example, Amnesty International begins to investigate alleged human rights breaches in its own base, especially in democratic countries, or, say, where an aid agency begins to service the poor of a wealthy nation as for example when Oxfam began working at home in the UK in the mid 1990s.⁴⁸ The idea has been taken up in a recent report⁴⁹ to the Commonwealth Government, which suggests that Community Aid Abroad (Oxfam) should assist Aborigines in Australia. In these cases, the claim for the universality of the appeal to human rights begins to lose its appeal as the blunt instrument is applied to the much more subtle study of poverty in a wealthy society. It becomes obvious to national backers that the organization is not the keeper of the ultimate truth at all, but just a collection of people with a particular political bias and a desire to maintain funding for the promotion of their views.

The transformation of NGOs from the early phase of universal appeal and apparent universal truth to self-promoting political outfit has been observed by Patrick Moore, co-founder of Greenpeace. 'It's easy to see that the mainstream of the environmental movement has fallen prey to misguided priorities, misinformation, dogmatism, and self-interest. Soon after I left Greenpeace in 1986, I found out that they had initiated a pension plan. I knew I had got out just

THE AUSTRALIAN MEDICAL ASSOCIATION IS A TRADE UNION, AND YET IT SEEKS TO PASS ITSELF OFF AS A HEALTH ADVOCACY ORGANIZATION

in time. In the early days many of us realized that our job was to work ourselves out of the job, not to give ourselves jobs for life'.⁵⁰

One of the most respected NGOs in its field, for example, is the Brotherhood of St Lawrence. The Brotherhood has become a virtual social policy

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think-tank, producing knowledge and expertise. 'Empirical evidence ... has given the Brotherhood ... its special credibility'.⁵¹ That is not to say that the Brotherhood does not

seek to keep itself in business by the use of a relative measure of poverty. Their measure is one that is regularly updated to keep the appearance of ever-present poverty. At least it adds some value to the debate on equality and maintains its close contact with its constituency. In other words, it is serious about its integrity, not about winning power.

A more subtle form of maintaining a public profile is for an interest group to market itself as an advocacy NGO. The Australian Medical Association is a trade union, and yet it seeks to pass itself off as a health advocacy organization. The various colleges of the profession, GPs, surgeons and so on are the professional arms of the medical profession. They deal in the maintenance of professional standards and the dialogue of medical science. However, because the profession comes under serious public scrutiny due to its receipt of public funds through the Medicare subsidy to medical services, it seeks to reposition itself as public friend through its various statements about its political solutions to the nation's health problems. It is a prominent advocate for the taxation regime on low-alcohol beer and tobacco and so on, and for further spending on indigenous health. It is arguable that, although there are health outcomes of lifestyle choices that many Australians make, it is not at all obvious that the medical profession has any role other than as professionals dealing with their patients. Their penchant for, indeed promotion of, the whole concept of 'public health' issues takes them well beyond their pro-

fessional brief and into the area of public actor. At that point, it is difficult to separate the professional from the self-interested.

The same is beginning to be true of the legal profession. No longer content to administer the law, they seek to become a public profession trying to save the world in their own special way. Their own special way, of course, is to turn many issues into ones where the measure of right and wrong is that which would apply in a court of law. The entire 'rights' revolution ensures that the profession becomes ever more in demand. The rights revolution means that everyone has a right to be heard on every matter, and that every claim is, if not valid, at least to be heard and tested in a legal forum. Further, the claim is to be tested under an ever-broadening concept of the liability of any organization for the life of any other person, however remotely connected.⁵² Again, the claim for public advocacy is difficult to separate from self-interest.

NGOs' credibility rests in the value they add to public debate. Where they use misleading statistics, which have become their stock in trade—'one in four Australians will at some stage in their lifetime ...'—they damage their claim to contribute to debate. To promote World Mental Health Day, the Mental Health Foundation of Australia⁵³ used a tried and untrue formula, to promote their cause. 'One in four women and one in

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six men will experience depression at some time in their life'. In this instance, a relatively common problem, 'a mild depressive episode'⁵⁴ is lumped in with depressive and other disorders of a far more serious nature, some of which are deadly, but very rare. To boost the numbers, the real problems are combined with the everyday and relabelled mental health. Experiencing a mild depressive episode at some point in a person's life

does not seem at all unlikely, but to lump this mild condition with the serious is a deliberate exaggeration. In the feminist advocacy area, the

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equivalent is rape and murder being lumped in with bad language in front of women: all are labelled sexual harassment! The NGO desire to be heard in an otherwise crowded marketplace by the use of exaggeration and sensation will in the end bring them into disrepute. It has done so with the apocalyptic scenarios of the environment

movement, the protectionist claims of the manufacturing employers and employees, the gross claims of the stolen generations to the status of victims of genocide, and on and on.

The ‘Best Companies Guide’⁵⁵ published by *The Sydney Morning Herald* and *The Age* newspapers was promoted as the first comprehensive study of corporate reputation in Australia. The reputation of Australian companies was measured by the ‘informed views’ of a range of NGOs. On the environmental performance section of the index, Australia’s top 100 companies were judged by Greenpeace, the Australian Conservation Foundation and The Wilderness Society. The three ranked Visy Industries number one. Why? Because it is a recycler. They ranked IBM Australia number two. Why? Because it only produces (non-polluting) computers. They ranked Queensland Rail three. Why? Because it is a public transport company. By and large, companies—Wesfarmers, BHP, North—that actually made things, including the hardware that Visy, IBM and QR use, were marked down. Producers of resources are bad, consumers are good. The Reputation Guide had more to do with setting up the NGOs as opinion-makers on the basis of their reputation as environmental activists. It had pre-

vious little to do with actual performance of tasks that the companies need to undertake in order to fulfil their obligations to their customers, their shareholders, their workforce and society through their legal obligations, imposed by the representative of the people, the parliament. The business of placing reputations of companies or governments in the hands of opinion-makers who are not representative, nor expert, nor indeed have any standing as a stakeholder—consumer, regulator, shareholder, employee—is a recipe for destroying valuable systems of formal scrutiny and ignoring the credibility that comes from verifiable facts. The post-modern penchant to regard stories in the hands of the less privileged as facts and facts in the hands of the most privileged as stories, is a recipe for a less democratic society, not a liberated one.

CONCLUSION

The associational revolution of the past several decades may reflect a desire on the part of a class of people who, freed from the constraints of having to struggle for an existence, have set out to make a better world. The real danger of such enthusiasm is that if it becomes unconstrained by those who do not share such enthusiasms, or indeed whose own enthusiasms are for solutions that are diametrically opposed, a surfeit of political activism will arise. Such a surfeit places a considerable strain on those institutions that are meant to resolve the claims on society, not promote them. The NGO movement may think that it is the greatest expression of democracy. It is not. The greatest expression of democracy lies in those institutions which give expression and due weight to the opinion of *all* the people, organized and unorganized. The central institution is the parliament, itself constrained by the electorate, by the constitution and by the courts.

The challenge for governments is not to allow the mantle of political legitimacy to slip from the premier democratic institutions into the more apparently popular one of civil society. That way lies a less accountable democracy.

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ABOUT THE AUTHOR

The Hon. Gary Johns is a Senior Fellow at the IPA and leader of the NGO Project. Before joining the IPA, he was a Member of the House of Representatives from 1987 to 1996 and a minister in the Keating Government from 1993 to 1996.