

Проблема суспільного інтересу в діяльності некомерційного сектора: концептуальні засади

У всіх частинах світу, некомерційні організації відчувають дедалі більший тиск, пов'язаний з суспільним інтересом до них за рахунок використання ефективних механізмів підзвітності. У статті з'ясовується природа некомерційної підзвітності через дослідження відмінностей між субстантивним та процесуальним розумінням суспільного інтересу. Основні теорії некомерційного сектора показують, що діяльність цього сектора відповідає суспільному інтересу в його процесуальному, але не субстантивному розумінні. Висунутий автором аргумент пояснює, чому некомерційна підзвітність має у великій мірі ситуативний характер і чому є необхідність у тому, щоб вона охоплювала більше, ніж просто результати, пов'язані з метою діяльності організації. Практичні наслідки цього аргументу носять двоякий характер. По-перше, некомерційні організації не повинні піддаватися критиці за те, що цілі їх діяльності носять партикуляристський характер. Легітимність суспільного інтересу до некомерційних місій вимагає лише, щоб вони здійснювалися згідно чинного законодавства і на запити зацікавлених сторін. По-друге, було заявлено, що розвиток механізмів некомерційної підзвітності в значній мірі обумовлений необхідністю повідомляти в процесуальному вимірі про діяльність некомерційних організацій, тобто необхідністю кристалізації вкладу некомерційної організації у побудову демократії, громадянське життя і соціальний капітал.

Ключові слова: підзвітність, суспільний інтерес, некомерційна організація.

Проблема общественного интереса в деятельности некоммерческого сектора: концептуальные основы

Во всех частях мира, некоммерческие организации испытывают все большее давление, связанное с общественным интересом к ним за счет использования эффективных механизмов подотчетности. В статье выясняется природа некоммерческой подотчетности через исследование различий между субстантивным и процессуальным пониманием общественного интереса. Основные теории некоммерческого сектора показывают, что деятельность этого сектора соответствует общественному интересу в его процессуальном, но не субстантивном понимании. Предложенный автором аргумент объясняют, почему некоммерческая подотчетность имеет в большей мере ситуативный характер и почему есть необходимость в том, чтобы она охватывала больше, чем просто результаты, связанные с целью деятельности организации. Практические последствия этого аргумента носят двоякий характер. Во-первых, некоммерческие организации не должны подвергаться критике за то, что цели их деятельности носят партикуляристский характер. Легитимность общественного интереса к некоммерческим миссиям требуется лишь, чтобы они осуществлялись согласно действующему законодательству и на запросы заинтересованных сторон. Во-вторых, было заявлено, что развитие механизмов некоммерческой подотчетности в значительной мере обусловлено необходимостью уведомлять в процессуальном измерении о деятельности некоммерческих организаций, то есть необходимостью кристаллизации вклада некоммерческой организации в построение демократии, гражданскую жизнь и социальный капитал.

Ключевые слова: подотчетность, общественный интерес, некоммерческая организация.

Accountability and the Public Interest in the Nonprofit Sector: A Conceptual Framework¹

In all parts of the world, nonprofit organizations are under increasing pressure to demonstrate their congruence with the public interest through the use of effective accountability mechanisms. The paper clarifies the nature of nonprofit accountability by distinguishing between the substantive and processual understandings of the public interest. The major theories of the nonprofit sector are shown to imply that this sector's activities correspond to the public interest only in its processual understanding, but not in the substantive one. The proposed argument explains why nonprofit accountability has highly contingent nature and why it is increasingly required to embrace more than merely mission outcome-related measures. The practical implications of this argument are twofold. First, nonprofits should not be criticized for pursuing particularistic missions. The public interest legitimacy of nonprofit missions merely requires these to be legal and responsive to their stakeholders. Second, it has been argued that the development of nonprofit accountability mechanisms is importantly driven by the need to communicate the processual dimension of nonprofits' activities, in the sense of crystallizing nonprofits' contributions to democracy building, civic participation, and social capital.

Keywords: *accountability, public interest, nonprofit organization.*

Introduction. In all parts of the world, nonprofit organizations are under increasing pressure to demonstrate their congruence with the public interest. Even though the nonprofit sector's operation has been traditionally associated with public virtues such as social capital, democracy, civic culture, and social integration, in recent years nonprofit organizations are required to prove that their public interest orientation still remains the case. As stated by Brody (2002, p. 472), 'the nonprofit sector's claims to exist for the public good are no longer taken on faith'. Hence, nonprofit managers are increasingly required to credibly demonstrate their commitment to the public good through the use of effective accountability mechanisms.

However, designing effective mechanisms of nonprofit accountability requires addressing two fundamental questions, 'accountability to whom?' and 'accountability for what?' (Stone et al., 2007, p. 423). Lack of clarity on both of these questions highlights the absence of blueprints or even general guidelines on how nonprofit accountability mechanisms should be designed and implemented. Indeed, the relevant literature emphasizes the highly political and contingent nature of accountability. The 'accountability to whom?' question implies the need for reconciling the expectations of multiple stakeholders, such as regulators, donors, managers, clients (e.g., Brown et al., 2009). Brown et al. (2001) recommend that the managerial implementation of accountability should depend on specific stakeholder constellations of various nonprofits, rather than on any universal definition of the public interest. The contingent nature of accountability is paralleled by the absence of any objective measure of nonprofit organizational

effectiveness, as emphasized by scholars arguing from the multiple constituency perspective (Herman et al., 1999). Both nonprofit organizational effectiveness and public interest orientation thus appear to be social and political constructions.

The 'accountability for what?' question becomes particularly challenging in view of the recent calls for nonprofit accountability to be 'broadened', i.e., to 'include measures of how well the organization is upholding its mission and how responsive it is to its multiple stakeholders' (Morrison et al., 2007, p. 196). The case for broadened accountability has been justified by traditional accountability definitions' lack of consideration for its contingent and interactional nature (see also Behn, 2001; Kearns, 1996). Along the same lines, Ospina et al. (2002) argue that the traditional measures of accountability do not provide sufficient information on how well nonprofits actually perform, and Herman et al. (1999) warn of the dangers associated with using program outcome indicators as measures of nonprofit organizational effectiveness. The focus on broadened accountability must though not conceal the fact that even the traditional performance-based accountability still poses significant challenges of implementation (see e.g., Connolly et al., 2003, for a related argument on the UK charity sector).

This paper contends that the difficulties associated with the above questions of nonprofit accountability are rooted in the uncertainty surrounding the concept of the public interest, the congruence with which is to be demonstrated by nonprofits. The concept of the public interest, while itself notoriously contested, acquires particular ambiguity in the nonprofit context.

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Specifically, as mentioned above, nonprofits have traditionally been presumed to act in accordance with the public interest. This presumption has been most importantly reflected in favorable taxation regimes adopted for the nonprofit sector in many countries. On the other hand, nonprofits have been recognized as minority-serving (Weisbrod, 1988; Steinberg, 2006; Jegers, 2008). Indeed, responsiveness to the needs of minorities is considered to be their major strength (Clemens, 2006; Douglas, 1987). Here lies the essential ambiguity of the public interest orientation of the nonprofit sector: even though nonprofits are generally expected to act in the public interest, their minority-serving nature is difficult to reconcile with the majoritarian definition of the public interest in democratic societies (cf. Simon et al., 2006, p. 271). This ambiguity engenders conflicting expectations associated with nonprofit accountability.

The objective of this paper is to clarify the conceptual relationship between the nonprofit sector's operation and the public interest. By doing so, it is hoped to identify those aspects of organizational operation for which nonprofits can be reasonably expected to be accountable, as well as other aspects for which this expectation cannot be reasonably sustained. To this end, this paper will revisit the concept of the public interest and, on this basis, analyze the meaning of nonprofit accountability in the context of the above mentioned 'to whom?' and 'for what?' questions. This framework will be then used to derive managerial and policy implications.

Defining the public interest. The concept of public interest has attracted much attention from scholars of public administration and public policy (e.g., Schubert, 1957; Flathman, 1966; Goodsell, 1990). The public interest debate has been primarily focused on determining whether 'the public interest is simply a colloquial, subjective, commendatory term used freely by individuals to promote a program or policy or whether the concept carries a more specific, objective meaning that can be examined with some degree of intellectual rigor' (Barth, 1992, p. 290). One strand of literature emphasized the problems inherent to this concept, such as highly contested nature, the danger inherent in the emotional bases of the appeals to the public interest, and the potential for demagoguery (Mansbridge, 1998). Writers like Schubert (1957), Mitnick (1976), and Sorauf (1962) expressly stated their disappointment with this concept on the grounds that it cannot be defined in a way that would be precise and universally accepted.

Another strand of research emphasized the important positive functions of the public interest concept, even if its precise meaning remains unclear. Barth (1992, p. 289) argues that 'the concept has powerful symbolic and instrumental value for guiding the principled exercise of administrative discretion' by public officials. In the same line, at the level of individual citizens, 'the choice to take a lower salary for a job that has a greater chance of helping others ... does not require absolute certainty about the nature of the public good to produce either internal satisfaction or justifiable social approbation' (Mansbridge, 1998, p. 5). These arguments suggest that the public interest concept, despite its ambiguous nature,

may still be useful for framing the debates on the societal impact of the nonprofit sector, at least so long as these debates are based on common, if implicit, understandings of the public interest.

Specifically, two common understandings of the public interest can be crystallized from the relevant literature (Goodsell, 1990; Barth, 1992; Mansbridge, 1998; Box, 2007). On the one side, there is a substantive understanding, which in turn can be defined in the functional and aggregative way. The functional substantive definition of the public interest relates to 'a higher good', i.e., to 'what would be good for the enterprise to which a group of individuals belong, rather than what would be good for the individuals in that enterprise' (Mansbridge, 1998, p. 10). The functional substantive definition is criticized by many scholars in view of its subjectivist, normative, and dictatorial connotations (Box, 2007). In contrast, the aggregative substantive definition of the public interest refers to it as an aggregate of individual preferences, i.e., means 'whatever the majority of the people want at a given time, a utilitarian calculation of measurable and additive individual 'positions' (Box, 2007, p. 587). Since the substantive-aggregative understanding of the public interest is most appropriate for the context of a democratic society, it is this understanding that will be used in this paper for analyzing the substantive public interest orientation of the nonprofit sector.

On the other side, there is a processual understanding of the public interest. It refers to the public interest 'as the product of a particular process, such as a democratic process' (Mansbridge, 1998, p. 10). The public interest is thus placed in the realization of legitimate processes and procedures, with no specification of any substantive outcomes of these. The processual public interest is therefore substantively indeterminate in the sense that the specific substantive benefits from maintaining the legitimate procedures are not *a priori* ascertainable to any citizens, regardless of whether they constitute a majority or a minority. The source of legitimation in this case is rationalized within the constitutional economics construct of the 'veil of uncertainty' or the Rawlsian notion of the 'veil of ignorance' (Buchanan, 2000). Furthermore, the processual understanding 'regards individuals as participants in dialogue about what is in the public interest' and implies that, in debating on the nature of public interest, individuals interact, learn, and change their preferences (Box, 2007, p. 588).

Both the substantive aggregative and processual understandings of the public interest can be and have been criticized on their own grounds, yet they constitute the conceptual space within which the public interest orientation of nonprofit can be discussed in a more or less focused way. Both understandings appear to be equally relevant for framing this debate, which, accordingly, would benefit from explicitly differentiating between them. The following sections explore the implications of various theoretical rationales of the nonprofit sector for the sector's public interest orientation separately for the aggregative and the processual understandings of the public interest.

The economic theories and the public interest.

Economists traditionally explain the existence of the nonprofit sector in terms of its ability to correct market failures. In a recent survey, Steinberg (2006) summarized three types of relevant market failures: underprovision of public goods, overexclusion in the provision of excludable public goods, and contract failure (see also Valentinov, 2008). The role of nonprofits in overcoming the first of these failures has been identified by Weisbrod (1988) who considered nonprofits to be extra-governmental providers of public goods. Crucial for the public goods theory of the nonprofit sector is the idea that 'governments meet majority demands, and nonprofits meet those demands that do not yet or will never obtain majority support' (Steinberg, 2006, p. 123). The public goods theory thus sees the role of nonprofits in satisfying the demands of minorities.

The other two market failures, addressed by nonprofits, have been originally emphasized in the classic contributions by Hansmann (1981, 1987) and Ben-Ner (1986). Hansmann (1981) argued that nonprofits solve the for-profit firms' problem of overexclusion in the provision of excludable public goods by enabling voluntary price discrimination by consumers in the form of donations. In a similar vein, Ben-Ner (1986, p. 95) argued that nonprofit organizations enable direct consumer control when for-profit firms incorrectly supply quality and other product characteristics, and when they ration high-demand consumers by quantity rather than by price. Both Hansmann and Ben-Ner emphasized the role of nonprofits in overcoming the contract failure, involving information asymmetry about the quality of products and services between for-profit firms and consumers. Nonprofit organizations address the contract failure problem both through the trustworthiness-enhancing effect of the nondistribution constraint (Hansmann, 1987) and direct consumer control (Ben-Ner, 1986), even though the condition of contract failure itself may be not be thereby eliminated. The theories of Hansmann and Ben-Ner entail no direct implications regarding whether the problems of overexclusion in the provision of excludable public goods and contract failure are characteristic of the majority of transactions occurring in a market economy. It can be conjectured, however, that this is not the case, for otherwise nonprofits would arguably dominate for-profit firms, e.g., in terms of their number, resources, and contribution to GDP. It is likely, therefore, that the nonprofits' ability to correct these two market failures is relevant to consumer minorities (which may of course be shifting overtime).

What do these theoretical justifications for the nonprofit sector imply for the public interest, in its aggregative and processual understandings? In the aggregative understanding, the public interest orientation is determined by the extent to which nonprofits serve the interests of the majority of population (of citizens or consumers). From this perspective, nonprofits operating in the Weisbrod's sense of extra-governmental providers of public goods do not act in the public interest, as they serve the interests of minorities rather than majorities. This conclusion may sound paradoxical, yet it presents a

necessary implication of Weisbrod's theory. It is likely, however, that the necessary incongruence between the public goods-producing nonprofits and the aggregative public interest has not yet been explicitly recognized. This is evident, in particular, from the accusations that nonprofit missions are sometimes particularistic and not corresponding to the public interest (see e.g. Stone et al., 2007). Indeed, to the extent that nonprofits serve minorities, they cannot be reasonably expected to act in the aggregatively understood public interest. Moreover, this fact cannot be presumed to impair the legitimacy of such nonprofits.

Similar considerations apply also to other economic theories of the nonprofit sector. As shown above, none of these theories implies any necessity for this sector to serve majority interests (even though the majority orientation of nonprofits providing excludable public goods on the basis of voluntary price discrimination or solving the contract failure problem remains a theoretical possibility). Hence, as a main case, nonprofits resolving the above failures do not act in the aggregative public interest as well.

One possible objection to this argument could be that nonprofit missions may be formulated in such a general way that their realization would most likely correspond to majority interests. Missions like providing overseas food aid or struggling with AIDS could be relevant examples. Yet, a consistent application of Weisbrod's theory would require recognizing that these missions are supported by high-demand consumers who represent minorities. The majority of citizens may be interested in carrying out the relevant activities, but still be satisfied with the level of their governmental provision. The broad nature of many mission statements must thus not conceal the fact that these missions are pursued by minorities.

In the processual understanding of the public interest, the role of nonprofits is defined not in terms of their substantive missions but merely in terms of their participation in the operation of a market economy. As suggested by the economic theories, this participation is likely to result in addressing specific market failures and in serving the interests of minorities. From this perspective, nonprofits act very likely in accordance with the processual public interest that might be validated by the Pareto criterion of welfare economics or the consensus criterion of constitutional economics (e.g., Buchanan, 2000). In this line, Simon et al. (2006, p. 275) argue that 'a system that provides for diverse, decentralized decision making about which visions of public benefit merit support is well suited to a heterogeneous society, where many citizens prefer a supply of public goods ... that exceeds what majoritarian political processes will provide'.

The political theories and the public interest. With respect to the public interest issue, the political theories of the nonprofit sector encompass two broad arguments. One of these, proposed by Douglas (1987), basically supports Weisbrod's emphasis on the nonprofits' role in providing public goods in order to meet the demands of minorities. Douglas additionally substantiates the importance of meeting minority demands in terms of their

embodying societal diversity, space for experimentation and innovation, and flexibility resulting from the relative freedom from bureaucratic constraints.

In contrast, the other broad argument holds that nonprofit organizations 'are foundational to democracy insofar as they are sites for the cultivation of democratic values and skills' and in this sense may be designated as 'schools of citizenship' (Clemens, 2006, p. 208). Crucially, this argument does not necessarily apply to the whole nonprofit sector, but is rather focused on political organizations and associations. It has also been challenged by studies demonstrating that nonprofits do not always make a positive contribution to democracy and some may pursue even anti-social goals (e.g., Chambers et al., 2001).

Interestingly, an additional rationale for questioning the public interest orientation of nonprofits (in the processual understanding) can be indirectly inferred from Salamon's (1987) theory of voluntary failure, even if he might not have intended such an interpretation. Salamon argued that nonprofit organizations have several inherent shortcomings preventing them from delivering their missions. The primary voluntary failure is philanthropic insufficiency, i.e., 'inability to generate resources on a scale that is both adequate enough and reliable enough to cope with the human service problems' (ibid, p. 111). Others include philanthropic particularism, philanthropic paternalism, and philanthropic amateurism. All of these shortcomings evidently constrain the ability of nonprofits to act in the public interest even in its processual understanding (indeed, in the interest of any stakeholders concerned with nonprofits' performance).

The political theories of the nonprofit sector thus suggest the expediency of differentiating between the direct and indirect outcomes of nonprofits' activities. The direct outcomes relate to the realization of missions which, according to the economic theories, cannot correspond to the aggregative public interest. The indirect outcomes include nonprofits' effects on democracy, civic participation, and social capital. While the positive effect on democracy cannot be a priori assumed for any specific nonprofit, it is conceivable that the activities of many nonprofits do correspond to the processual public interest. This correspondence has to be demonstrated in every specific case through nonprofit accountability mechanisms. Thus, the overall relationship between nonprofits' operation and the public interest from the political theory perspective is mixed and resembles the pattern emerging from the economic theories of nonprofits.

Examining the political aspect of the public interest orientation of nonprofits would be incomplete without taking into account the changing nature of government-nonprofit relations (Young, 2006). Writing more than a decade ago, Smith et al. (1993) identified a fundamental change in nonprofit service delivery, involving the transformation of nonprofits into 'vendors' and 'agents of the state'. Recent studies fully confirm the relevance of their penetrating analysis for the present conditions, in the United States and other industrial countries (e.g., Luksetich 2008; Clemens 2006). The trend toward

governmental contracting with nonprofits arguably has distinct implications for the aggregative and processual public interest.

Since the government-nonprofit partnership entails a better alignment between the nonprofits' operation and the public authorities' interests (that are subject to the 'categorical constraint' (Douglas, 1987)), the operation of governmentally funded nonprofits can be expected to show better congruence with the aggregative public interest. At the same time, the gain in the aggregative public interest is accompanied by trends such as nonprofit bureaucratization, professionalization, politicization, and loss of autonomy. These trends deprive nonprofits of their traditional roles as sites for civic participation and inculcation of democratic values. As argued by Clemens (2006, p. 210), 'the larger and richer and more formalized the organization, the fewer the opportunities for participatory governance and democratic socialization of members (to the extent that they exist at all)'. Hence, governmental contracting likely causes a loss in the processual public interest orientation of nonprofits, thus suggesting a trade-off between the aggregative and processual public interests. Given this trade-off, one may consider whether the trend toward governmental contracting detracts more from nonprofits' overall public interest orientation in processual terms than enhances it in aggregative terms.

Managerial and policy implications. The distinction between the substantive-aggregative and processual public interest implies a paradox in the relationship between nonprofits' activities and the public interest. The congruence of nonprofits' activities with the public interest makes sense only in the processual understanding of the latter. Yet, the processual understanding of the public interest refers only to the by-product of nonprofits' activities. As the direct product involves the realization of substantive missions, it is appropriately evaluated in terms of substantive public interest, with which it is necessarily incongruent due to the minority-serving nature of nonprofits. Thus, nonprofits' activities are consistent with the public interest only in terms of their by-products, but not in terms of their direct or immediate products. This paradox contains several implications both for the managerial implementation of nonprofit accountability and for public policy stance toward the nonprofit sector.

The management implication of this argument is related to the ongoing debating on what the appropriate boundaries of accountability should be. The argument suggests that nonprofit managers should broaden their accountability mechanisms in such a way as to include reporting about how their nonprofits contribute to democracy building, civic participation, social capital and other constituents of the processual public interest. While nonprofit accountability exhibits a shift from substantive to processual criteria, its effectiveness can be arguably further enhanced by emphasizing not only the organizational processes, but also their relationship to the societal processes of democracy building. Needless to say, this change of emphasis must be pursued only to the extent that it does not contradict the basic accountability

imperatives of maintaining clarity, avoiding ritualism, and being meaningful (Connolly et al., 2004).

The policy implication is that policy makers and other relevant stakeholders should recognize the minority-oriented and hence necessarily particularistic nature of specific nonprofit missions. While nonprofits may have broadly defined and vague goals in order to 'appeal to a range of constituencies whose support is necessary for survival' (Stone et al., 1996, p. 634), this survival strategy may undermine nonprofits' 'historical image of delivering services in a trustworthy and reliable manner' (Schlesinger et al., 2004, p. 674). Given that the genuine public interest legitimation of nonprofits can occur only with the respect to the processual public interest, there seem to be no grounds to judge the legitimacy of nonprofits in terms of the correspondence of their missions to the substantive public interest, which could be e.g. the interest of public authorities (see Stone et al., 2007).

Conclusions and research implications. This paper has developed a conceptual framework explaining why nonprofit accountability has highly contingent nature and why it is increasingly required to embrace more than merely mission outcome-related measures. Both of these modern attributes of nonprofit accountability are explained by the proposed argument that the public interest orientation of nonprofits, to the extent that it is the case at all, is processual rather than substantive. By its very nature, the processual public interest cannot be defined in substantive terms and is constituted through the contingent interactions of multiple stakeholders. The move toward broadened accountability can be also justified by the processual nature of the public interest legitimizing nonprofit activities. Information on the processual dimension of these activities is necessarily more concerned with how the mission outcomes are being achieved than with what these mission outcomes precisely are. Thus, while there may be numerous specific reasons for practicing and expecting broadened accountability, most of these are likely subsumed by the need to communicate the processual dimension of nonprofit activities and by the implicit recognition of inappropriateness of judging nonprofit public interest orientation in terms of the substantive public interest.

The practical implications of this argument are twofold. First, nonprofits should not be criticized for pursuing particularistic missions. The public interest legitimacy of nonprofit missions merely requires these to be legal and responsive to their stakeholders. Nonprofit managers may be reasonably expected to meet this minimalist requirement rather than to demonstrate the congruence of their firms' missions with the substantive public interest. Second, it has been argued that the development of nonprofit accountability mechanisms is importantly driven by the need to communicate the processual dimension of nonprofits' activities, in the sense of crystallizing nonprofits' contributions to democracy building, civic participation, and social capital. This is a major innovation in accountability mechanisms that nonprofit managers are advised to introduce. At the same time, emphasizing the processual

dimension of nonprofits' activities must not occur at the cost of ignoring the more traditional forms of performance-based accountability that may be of interest to the 'interested public' that may not necessarily embody the substantive public interest.

To be sure, the contribution of nonprofits to the processual aspects of societal civic culture may be very hard to operationalize, and this is where more research is urgently needed. Nonprofit managers may need, though, not so much precise indicators as convincing stories about the ways their organizations facilitate and mediate social democratic discourse on issues relevant to their missions. Further research on accountability may encompass developing effective mechanisms of communicating this processual dimension to the relevant stakeholders of nonprofits. Yet another research implication emerges from the complex relationship between the public interest legitimation of nonprofits and the role of nonprofit management in securing the support of stakeholders. Are better managers always attracted to more 'legitimate' nonprofits? Can greater donor and volunteer support to nonprofits be interpreted as the evidence of better compliance with the public interest? Is it possible to differentiate between and compare the relative role of managerial talent and public legitimation of nonprofits in securing their long-term survival? Answering these questions is crucial to ascertaining the extent to which the public interest legitimation of nonprofits actually affects their structures and operations.

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