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Impact of Corporate Accountability on Public Governance in India

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ABSTRACT

Government and society cannot promote and put into effect ethical behaviour solely through the utilization of ethical codes of conduct or through the promulgation of a plethora of legislation. Communities tend to equate moral values and moral norms with values and norms, which apply only to personal relations. Under this new global approach based on neoliberal reforms, public governance has undergone significant changes in terms of its objectives, norms, structures, roles, and service recipients. These contemporary changes in governance toward efficiency, outcome, competition, value-for-money, catalytic role, autonomy, partnership, and customer orientation have critical implications for its public accountability.

At a time when our economy is navigating a catastrophe and public trust of business activity is in petite supply, the traffic circle of concerns about corporate sustainability, accountability, transparency, and ethics with the proliferation of public governance offers an opportunity for new forms of collaborative leadership and participation, and for shaping a new agenda.

Keywords: Corporate Accountability, Public Governance, Corporate Social Responsibility, Public Service Delivery.

Introduction

Accountability is as old as society itself. Without it, normal life would break down – the modern credit-based economy would disappear. We would eat only the food we had produced and prepared ourselves. We would carry guns in the streets. The breakdown of effective and legitimate accountability leads ultimately to one thing: a society where the only effective sanction against those who cause harm to others is to harm them in return. Today, there is more 'accountability' than ever before. Accountability is the glue that binds society together. Yet, as we look at global society today, it seems the glue has lost its adhesive properties. Accountability is about holding people to account for their impacts on the lives of people and the planet. When it works, it means those impacted have the right to be heard and their views taken into account. Accountability is a concept in ethics with several meanings, often used synonymously with such concepts as answerability, responsibility, liability and other terms associated with the expectation of account giving.

Dimensions of Accountability

AccountAbility has defined the term as having three dimensions: first, 'compliance', which implies the compliance with rules, norms, regulations etc. agreed or applicable between the agent to whom certain responsibilities or power have been assigned; second, 'transparency', which implies account giving by the agent to the applicable principal(s); and third, 'responsiveness', which implies the agent's willingness and ability to respond to legitimate expectations and rights of the principal(s). As an aspect of governance, accountability, or its lack, has, especially during the last two decades, risen to be one of the central debating points in the political, civil society and corporate arenas.

According to Romzek (2000), some of these current reforms pose formidable political, managerial, and methodological challenges to accountability. With regard to the seriousness of new challenges to accountability, Barberis (1998) mentions that even if the recently emerged 'new public management'

disappears, the accountability gap created by this mode of management will remain. Thus, among the major impacts of contemporary reform initiatives, the main focus is on the issue of public accountability. It explores how the recent changes in public governance have affected its accountability in terms of the following three dimensions: (1) the standards of accountability (accountability for what), (2) the agents of accountability (accountable to whom), and (3) the means of accountability (how accountability is ensured).

Concept of Corporate Accountability

Accountability in international law can be seen as a system of power control which can according to Article 25 International Covenant on civil and political rights be exercised in a democracy via elections. According to its semantic use accountability means 'to furnish substantial reasons or a convincing explanation' or 'explaining one's actions'. This perception was followed in the Corfu-Channel-Case where 'a state on whose territory an act contrary to international law has occurred, may be called upon to give an explanation'. The theoretical background of this notion is that the misuse of transferred, delegated or assumed power will be prevented by accountability within a juridical or quasi-juridical framework. In other words the use of power is justified if it is exercised in accordance with the law.

The term corporate accountability becomes blurred. In order to structure the following considerations, a system of four dimensions or levels of corporate compliance with human right standards should be introduced. The first dimension is legal compliance, e.g. the obedience of existing tax, labour, environmental or human rights law. If a state incorporated human rights into its law on corporate charter and activities, corporations will be accountable at the national level and within domestic jurisdiction. The second dimension can be called strategic corporate responsibility, since its main aim is a modern structure of the corporation and the sustainable presence in the market. Mainly labour relations and security within the production process, as well as risk management

is applied within the second dimension. Thirdly, the dimension of remoulding competitive advantage intends to secure and enlarge market performance via public relations, incorporation of general codes of conduct and institutionalisation of cooperation with states authorities and civil society. In this dimension, consumer interests about production conditions and normative obligations by non-governmental organisations play a major rule. In addition, a fourth dimension of philanthropy can be defined where corporations contribute to a better human rights environment without it having any side effects on its own business. In this context corporate accountability can have the below mentioned definition.

Corporate accountability can be defined as the ability of those affected by a corporation to control that corporation's operations. This concept demands fundamental changes to the legal framework in which companies operate. These include environmental and social duties being placed on directors to counterbalance their existing duties on financial matters and legal rights for local communities to seek compensation when they have suffered as a result of directors failing to uphold those duties.

Dissimilarity of Corporate Accountability and Corporate Social Responsibility
Corporate accountability is seen as being different from corporate social responsibility, though the two are connected. Corporate accountability is directly related to the core tasks and operations of the organisation and is related to its accountability to the people affected by the activities of the corporation. Corporate social responsibility on the other hand is the welfare activity that a corporation takes on voluntarily, and often has philanthropic overtones. In the discourse on corporate accountability, a corporation is bound to respond to the impacts of their activities on communities and address these. Some of the potential impacts of a corporation on communities are land and resource alienation, water and land being polluted by industries set up etc. In these cases, it is the fundamental duty of the corporation to take into consideration potential negative impacts while planning the activities as well as to mitigate any unavoidable losses to the communities. Going by this argument, communities living in the vicinity of the corporate enterprise have a greater right, than what they are currently ascribed, to influence the decisions of corporations.

Need for Corporate Accountability
Focusing mostly on the attack on traditional notions of accountability by corporate social responsibility and sustainable development advocates, the below mentioned interrelated arguments would pave the way for new approach or innovations of accountability.

First, the power and influence of today's business is such that it shows increasingly challenging to hold large corporates to account even on their currently defined legal and fiduciary responsibilities. Witness the recent spectacular corporate governance scandals from the Enrons in the US, to the Parlamats in Europe and Hyundais of Korea, among many others, and the repulsion felt internationally (especially by those pension fund members that many of these scandals have left with an impoverished old age) following the comprehension that very few corporate officials have been held to account for blatant letdowns in basic compliance or stewardship responsibilities.

Globalisation has tremendously amplified corporate power shrinking the state and making the global corporation arguably the most powerful of our modern institutions (according to the World Bank, 95 of the world 's 150 largest economic entities are corporations) and increasing its sway in public policy and law making. Businesses now have a profound impact on elected governments, but are accountable, beyond being obliged to act in accordance with with the laws of the countries in which they operate, only to their shareholders. This, according to critics, is intolerable and has been one of the key causes leading to the birth of the corporate social responsibility movement holding big business to account in the courts of

public opinion, seeking to put pressure and shame on those perceived not to behave according to agreed norms of lawfulness or basic tenets of governance and accountability.

The second concern about the current state of accountability goes beyond the one discussed above in that its advocates don't see the solution lying in 'more compliance' with existing rules, but call for a reinvention and renegotiation of existing accountability boundaries. This faction sees our world full of accountability gaps – issues of global, national and local challenges and concern that no one appears to be responsible for and therefore no one can be held to account for their proper management or otherwise.

Alleyway to Corporate Accountability
Particularly for consumer-facing brands, the business case for shifting from passively defending questionable corporate practices to actively managing these reputational risks by co-creating systematic elucidations gained credence. From the stakeholder activist perspective, Bendell (2004) characterized this shift from "us-versus-them" as a move from "corporate boxing" to "corporate judo," the martial arts dance of redirecting aggression into more benign or even constructive energy. From the business perspective, Simon Zadek (2004) called this transition the "Path to Corporate Responsibility," a five-stage typology of organizational growth toward greater accountability through stakeholder engagement.

Table 1: Path to Corporate Accountability

Defensive	Deny practices, outcomes, or responsibilities ("It's not our job to fix that")
Compliant	Adopt a policy-based compliance approach as a cost of doing business ("We'll do just as much as we have to")
Managerial	Embed the societal issue in their core management processes ("It's the business, stupid")
Strategic	Integrate the societal issue in their core business strategies ("It gives us a competitive edge")
Civil	Promote broad industry participation in corporate responsibility ("We need to make sure everybody does it")

These two perspectives – the stakeholder activist and the corporate – do not, of course, exist in isolated vacuums, but rather in dynamic interrelationship. Stated simply, they are in discourse, or even more simply, accountability is by definition a dialogue. According to Andrea Schedler (1999), accountability "establishes a dialogic relationship" between actors on both sides of the accountability equation – in this case, companies and stakeholders. "It makes both parties speak and engages them both in public debate" (Schedler 1999). Each actor in the accountability equation has a personal version of what specific attributes comprise accountability in a given situation, and the dialogic negotiation between actors determines the commonly agreed terms of accountability. The practice of corporate accountability and stakeholder engagement has evolved into a set of fairly standardized forms initiated by companies and stakeholders.

Table 2: Accountability Forms

Stakeholder- Initiated	Corporate- Initiated
Communications, such as press releases and spokesperson statements	
Activist campaigns and company, brand, or product boycotts	Corporate reputation management, crisis response, and defense against activist campaigns and boycotts
Grievances and legal challenges, such as class action and Alien Tort Claims Act lawsuits	Grievance mechanisms, such as feedback websites and complaint hotlines, ombudsman and legal defense
Analytical reports and quantitative studies	Reporting, such as financial filings and sustainability reports
External verification and assurance statements	Auditing, assurance, and verification of financial and sustainability data

Shareowner resolutions, proxy voting, and statements at Annual General Meetings	Annual General Meetings, including proxy statements
Corporate policies on social and environmental commitments	
Stakeholder engagement and dialogue, including sector-wide and multi-stakeholder initiatives	
Petitions and advocacy for governmental regulation	Advocacy for governmental regulation to level the playing field
Product ratings on social and environmental impacts	Product information on social and environmental impacts
Social and/or environmental sustainability certification standards	

Batho Pele Principles for Service Delivery and Public Governance

The thrust of the Batho Pele Principles is the improvement of public governance through service delivery. Implicit in the eight Batho Pele Principles is an attempt to adapt the norms of service delivery in the private and public sector, such as a focus on customer / client satisfaction, into the public service (Khoza, 2002). While this attempt is a welcome innovation, it is of paramount importance not to lose sight of the fact that (i) Batho Pele is a means to an end in itself and (ii) that there are certain indelible features of the public service which make it discrete from the private sector. The concept Batho Pele was devised by a former Minister for Public Service and Administration in South Africa and is a Sesotho saying meaning: "The people first". It can be argued that all attempts at serving communities should be checked against the principles of Batho Pele, which are:

(1) Consultation: Citizens should be consulted about the quality of the services they receive.

(2) Service standards: Communities should be informed what level and quality of service they will receive so that they know what to expect.

(3) Access: All public should have equal access to the services they are entitled to.

(4) Courtesy: All members of the community should be treated with courtesy and consideration.

(5) Information: Communities should be given full and accurate information about the public services they are entitled to.

(6) Openness and transparency: Citizens should be informed on how local authorities function and the information they are entitled to.

(7) Redress and handling of complaints: If community members do not receive promised services they should be entitled to a full explanation and also to a speedy remedy.

(8) Value for money: Services should be provided economically and efficiently in order to provide citizens with the principle of best value for money.

The success of Batho Pele will be determined by the progress made in efforts to transform the public service as well as transformation occurring in society in general.

Conclusions

A code of conduct should go a long way in providing the suitable climate for an ethical culture to thrive and promote a professional ethos among public officials at all levels. However, the code of conduct only becomes meaningful if there are measures to enforce it in order to provide for sanctions as well as disciplinary activities. It can be foretell that accountability is the fundamental prerequisite for preventing the abuse of power and for ensuring that power is directed towards the achievement of efficiency, effectiveness, responsiveness and transparency. Open, transparent and accountable corporate is an imperative prerequisite for community-oriented public governance because without it covert unethical behaviour will result.

The corporate accountability on public governance will necessitate that the capacity and capability should be made systematically and incrementally. It can be connoted that an ethical code of conduct, the adherence to accountable principles as well as appropriate training can make a difference in the ethical dilemmas of the public officials particularly with regard to effective and efficient public governance. An ethical code of conduct is necessary to guide the public official in his/her public service rendering to the community as well as to safeguard him/her against unfair demands by the community. This can lead to the promotion of a positive image of the public service. Openness with regard to decision-making, participation and a public say is a necessity. An adjustment of attitudes and actions in India lies in contact and communication across cultural, language and geographical boundaries.

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