

The Contested Competence of NGOs and Business in Public Life

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Introduction

On 15 October 1999, the Nobel Prize for Peace was awarded to the medical relief organization, Médecins sans Frontières (Doctors without Borders).¹ The award of what is perhaps the world's most prestigious peace prize to a non-governmental organization (NGO) was the second time in recent years that an NGO was acknowledged for its contribution to the ultimate of public goods: peace and security.² While the Nobel Peace Prize has acknowledged the work of the NGO community in the past,³ these recent awards have generated a wealth of attention to the increasing role of NGOs and NGO issues in global public affairs. Given the Nobel award and many other signs, it is possible to conclude that today's public policy now involves new actors and new agendas, both of which bring renewed interest in the concept of the public domain.

This chapter addresses actors, or agents, and their particular contribution to the public domain. It focuses above all on new economic and political actors. Just as the awarding of the Nobel Peace Prize reflects the significance of non-state, private actors in public life, this chapter suggests a stronger role for these same actors in the public domain. The public domain, it argues, not only requires the capacity of human vision – whether generated by the public or private sector – in order to realize innovation and

ideas in public policy, but it draws on a variety of agents, some of them relatively new and untested in their public roles.

This chapter begins by defining the public domain. It then argues that incorporating the position of actors or agents into the public domain concept is a critical step toward making it more useful to the exploration of present day public policy dilemmas. Actors force us to consider, not only, structures and interests but also norms, ideas, and capacities, all of which include expertise, authority, and the ability to execute policy and practices. The major actors in the public domain, both state (public) and non-state (private) are reviewed, with the strengths and weaknesses of both assessed. The chapter focuses on selected “new” private agents, whose actions and innovations in the public domain have arguably forced a recasting of responsibility and accountability in the public domain. Finally, the chapter suggests that elite and public expectations, particularly with regard to governance and the kinds of public policy solutions appropriate in the context of globalization, may have changed as a result of the increased involvement of new private, non-governmental actors in the public domain.

The Public Domain Defined

In his chapter (this volume), Drache paints a complex picture of the term, “public domain”, drawing on literature in economics, political science, and sociology and including such overlapping concepts as public goods, public services, public space, public discourse, public culture, and social capital. Drache locates the public domain amidst the state, the market, and civil society. Yet it is important to note that the vitality

and quality of the public domain are influenced by the interplay and competition of both public and private interests, and not merely by the “public” identities that Drache employs in his definition of the concept.

The public domain is most usefully conceived of as a space for public policy-making and public discourse by both private and public agents. Defined in this way, the public domain aligns most closely with two of Drache’s selected components: public goods and public debate. These two components serve as catch-alls for the other areas Drache is interested in, by attending to policy areas and policy debates, respectively, in the public realm. Thus defined, the public domain is well-suited to examining agency, since it privileges the norms and values that shape policy and policy debate.

Public goods, which have a long history in the study of economics, include both pure (non-rivalrous in consumption and non-excludable, with peace the ultimate example) and impure (partly rivalrous and/or excludable, such as public investment in the preservation of art) varieties, and stand in contrast to private goods, characterized by markets, exchange, and the price mechanism (Kaul, Grunberg, and Stern 1999: 4-5; See Kaul chapter, this volume for a more detailed discussion). The condition of public goods is determined by public policy choices. As such, they are a logical part of the public domain, reflecting and contributing to the societies in which they are developed. In addition, the policy providing for public goods is guided by rules and norms that promote standards and expectations in many of the “non-market” areas of public life, such as education, health, pension, and infrastructure.

Public discourse, or debate, is crucial to the vitality of the public domain concept. The ideal-type for public discourse is taken from Habermas’s idea of the public sphere,

“...the sphere of private people come together as a public; ...[who engage]... in a debate over the general rules governing relations in the basically privatized but publicly relevant sphere of commodity exchange and social labor” (Habermas 1993: 27). Paraphrased, the public sphere (like the public domain) is a realm for the evolution of public ideas and opinions apart from but relevant to state authority, with implications for both the rule of law and the functioning of markets. The public sphere’s provision of public discourse is significant, as it makes the competition of ideas by a variety of actors (both public and private) a vital public activity. Indeed, according to Habermas, critical public debate is a key element in dispensing with state domination and establishing the bourgeois (liberal) constitutional state.

Which Public Domain? Assessing Levels of Analysis

In this volume, Drache argues that states have not forfeited to markets in the battle over the public domain, but that the (state’s position in the) public domain has re-emerged “after the apparent triumph of markets,” due in some way to the forces of globalization. It makes sense that globalization would have consequences for (state) policy and capacity in the public domain. However, this assessment leads us directly to a level of analysis problem. After all, is the primary concern the *global* public domain, with its (nascent and sometimes unrecognized) global public goods and global public discourse? Or is the public domain concept more relevant at other (regional, national, local) levels? Does the issue of the public domain represent the same *problematique* at each level?

It may be necessary to consider whether the impact of globalization is greatest at the nexus of state, market and civil society – the public domain –beyond the nation-state. If so, globalization would necessarily influence such global public domain issues as the nature of global governance, including global commons such as the environment, health and population crises, etc. It would do so via policy debates at established international institutions (the UN and other IGOs) or in new channels of global discourse, such as the Internet, policy networks, etc. Because of considerable policy and academic attention to globalization, it is tempting to isolate change in the global public domain and ignore the impact of globalization at other levels of governance and polity (For an examination of new public goods see Grayson, this volume).

Moreover, it is difficult to generalize about the public domain across the heterogeneity of political systems, economies, and social/cultural traditions that exist at all levels of analysis. It may be too simplistic to consider the public domain - at whatever level - as a uniform entity across all areas of public policy. Instead, it is more likely that the public domain itself contains many models of actor involvement in idea generation, policy negotiation, and action, and that some of these models change over time; recent work by Wolfgang Reinicke (1999) suggests that this is the case with what he calls “global public policy networks”.

Bearing in mind these concerns, this chapter takes as its conceptual starting point two levels/sites of the public domain: the global public domain and the public domain of advanced industrialized states, and it considers the importance of actors therein. To a certain extent, agents at both of these levels reflect the considerable changes within the public domain that led Drache (this volume) to conclude that the

effects of globalization have ushered in a rediscovery of the non-market dimensions of public policy. And while unexplored in this chapter, the public domain at other sites/levels may well reveal similar trends.

Old Actors, New Actors, More Actors

Given a definition of the public domain that explicitly focuses on public policy and public sphere debate, the link to agency is logical. The aim to define, understand, and evaluate the public domain needs to account for the beliefs, priorities, and activities that characterize it. And those beliefs, priorities, and activities stem from the actors who participate in the public domain. Therefore, a focus on agency, or actors, is analytically useful as it privileges normative concerns, which are central to the “market-state” debates that influence public policy and dominate this volume. In addition, the analysis of actors adds a necessary complexity to our understanding of the public domain, since activity in the public domain is often characterized by the combination, or cooperation, of actors, their values, and their respective bases of knowledge, power, and legitimacy.

Like other sites of politics and policy, the public domain is a constructed institution; one embedded in a system of values. The public domain may be changing as a result of the introduction of different values and goals by the actors who comprise it. This change suggests that new policy agendas and concerns may be moving from being exclusively those of “market” or “state” and toward the “hybrid” of today’s public domain. Interestingly, actors in the public domain may be compared to agents in the private sector, where, according to stakeholder theory, corporate management takes into

account various stakeholders (Donaldson and Preston 1995). The public domain is also comprised of various stakeholders, governmental and non-governmental, public and private, all of whom are engaged in the determination of public discourse and public policy.⁴

Old Actors

The traditional or “old” actor responsible for shaping the public debate and public policy in the public domain is government. In conceptualizing “government”, it is easy to assume many things: that government is *national* government; that government is the actor responsible for providing public goods, as a compensatory measure for markets failures and externalities; that government implies a link to territoriality and established social bonds (Devetak and Higgott 1999). Putting the level of analysis issue raised above aside, it is clear that these assumptions remain at least in part valid in the analysis of the public domain, and that government at any number of levels continues to have a critical function in the public domain.⁵

To clarify the continued importance of “old” actors, it is worth restating why government has been central and successful in the public domain, both in setting terms of debate and exercising public policy. Democratically elected governments, of course, have a legitimate function as the representatives of public will and opinion. National (and local) government, therefore, reflect an electoral process, while regional and international governmental bodies constitute delegated, representational authorities also based on the electoral process, although at a greater distance from constituencies. With

these clear lines of accountability comes the expectation that government develops and implements appropriate public policy, giving government actors a privileged and authoritative position as key public domain stakeholder. While this status may seem obvious, the very lack of similar legitimacy by other stakeholders puts them in marked contrast to government. The accountability of government in no way guarantees equity, justice, freedom, or any other sort of socially or culturally-demanded outcomes; it does, however, underline government's position as an "actor of last resort" in many public policy issues, indicating that moral hazard need not be a concern.

Given this status, why have states, as old actors, declined in stature and faced increased competition as the principle authorities in the public domain? Rosenau (1990) attributes this to a global crisis of authority, one related to a generalized crisis of legitimization (see below). Another factor is the force of globalization, which many scholars and practitioners claim has either weakened or at least altered the ability of nation-states to achieve their policy goals. As Slaughter (1997: 184) has argued, "The state is not disappearing, it is disaggregating into its separate functionally distinct parts." Technology and the declining relevance of geography and territory to the exercise of power - both related to the global imperative - also contribute to the reduced dominance of state authorities in developing public policy and responding to societal demands in the public sphere (Sassen 1999). In terms of international organizations, another "old" actor group linked but not limited to national government representation, Weber (2000) argues that they too are less capable of responding to public needs in an era of globalization, with the Bretton Woods institutions in particular having outlived the conditions of their original mandates.

Whether the changes taking place among “old” governmental actors are linked to issues that are internal (legitimacy, backlash) or external (globalization, technology), the resulting evolution of the public domain is not a purely zero-sum game for state authority. Rather, these changes in the public domain have resulted in a greater degree of power sharing among a larger pool of actors. Newer actors create potential tension with state actors, in that they often purport to redress weaknesses in the government sector. Private actors operating in public roles, whether market oriented (such as business) or drawn from civil society, such as NGOs, often represent solutions to “old actor” incapacity and/or failure to provide voice for distinct segments of society.

New Actors – Business and NGOs

Business and NGOs are the two new actors critical in the analysis of the changing public domain. By evaluating the impact of business and NGOs on the public domain, it is possible to make a prognosis about “new” norms in public debate and public policy making.

Exercising market rules in the public sector: business actors

The first of these new actors is private sector actors: the business community. In the global and national public domain, business actors are those multinational corporations whose scope of operations and access to capital provide them the resources and, as some would argue, the obligation to extend beyond traditional profit-oriented, market-driven activities into socially-oriented, publicly beneficial tasks.

The notion that business is engaged in public life, or that it should be, might seem noncontentious. Under societies that subscribe to market capitalism, the role and action of the private sector influences the very fabric of society and social relations.

Nevertheless, the expansionist interpretation of business's role and purpose as a social or societal or even public domain actor is far from the pure capitalist model of business as purely rent-seeking and profit-maximizing – where “the business of business is business.”

There are hundreds of examples today of corporate involvement beyond this classically defined role and outside the strictly defined marketplace, suggesting that some segments of the business community have established themselves as societally focused and socially aware actors (Zadek and Weiser forthcoming). In addition, numerous initiatives from the traditional public domain actors encourage business in this direction: for example, Kofi Annan's call for a global compact between the UN and the business community (see Ruggie and Kell, this volume).

In her work on *Building Competitiveness and Communities*, Jane Nelson (1998), of the Prince of Wales Business Leaders Forum in the UK, makes the case that there are three main areas for business to create value-added in society: in their core business activities (generating investment, income, jobs, products, business infrastructure, standards and best practices); in their engagement in policy and institutional development (interaction with other actors, creating an enabling environment, promoting ethics and good governance); and in their social investment and philanthropy (contributing to the wider community in a strategic fashion over time). While the first of these could loosely be considered business's traditional means of adding

value, the latter two may be becoming more prevalent and to a certain extent, more in demand.

The call for greater business involvement in public life is in part a response to global economic integration and the notion that government and other “old” actors can not design and execute public policy in an economic and financial vacuum, irrespective of trade and investment. At the same time, old actors can not always compete with the skills, breadth, and wealth of the multinational corporation – and therefore may themselves encourage business to take on new, public domain interests. As a result, market realities now increasingly characterize strategies in the public domain. The relationship between the state and market actors is by no means merely purely adversarial, but the demands of governing the public domain in conditions of globalization blur the boundary that once defined their respective functions.

There are numerous examples of business taking an active, interventionist, and non-traditional role in public policy formation and execution. This activity has generally fallen into two categories, one reactive and the other proactive. In the case of reactive involvement, business has generally had to respond to a demand made by other actors in the public domain, such as the 1999 case of Monsanto backing down on its intent to produce and sell infertile crop plants. Calling this involvement “reactive” is not to say that this action is of no consequence; to the contrary, change in business practices do have an impact on public policy issues. In the case of Monsanto, business practices will continue to influence the debates surrounding the ethics of GM food, the control and sale of seeds, etc. However, these reactive engagements in the public domain are not

the result of values, goals, or behavior on the part of business actors that reflect an original intention to engage in public policy or debates.

In contrast, some corporate action in the public domain has been the result of proactive intervention in issues of public concern and public policy. In such cases, a business actor has seized on a particular public domain issue and, in conjunction with others, steered change in policy and practices. Here, examples include: Merck's role in the eradication of River Blindness, a major public health concern in West and Central Africa;⁶ the Apparel Industry Partnership⁷ and its offshoot the Fair Labor Association,⁸ which involve the commitment of major apparel manufacturers to ensure their products are produced under decent and humane labour conditions; the Ethical Trading Initiative in the UK, launched to address labour standards;⁹ and the CEOs of Intellectual Property Committee who achieved a public policy standard for intellectual property, later embodied in the GATT's Trade Related Aspects of Intellectual Property (TRIPs) agreement (Sell 1999).¹⁰

Reactive involvement in the public domain probably continues to be the dominant approach of business to its public and societal role. And while cynics would argue that business involvement of any kind in the public domain is nothing more than an attempt by business actors to conduct good public relations and brand management, this assessment of motives misses the point and impact of such involvement. Rather, the significance of corporate social and public policy engagement is its influence on *expectations* regarding business behavior. Simply put, when business actors show they can have an impact, particularly one desired (and possibly legitimated via its efficacy –

see discussion below) across actor groups and society, they become part of the solution, and part of a more effective public domain.

Indeed, as was indicated above, the public domain stands to benefit from business actor attributes, such as innovation, efficiency, access to capital, and so on. Business actors operate with different incentives from state actors, even when they take on challenges of public policy. They are generally more solutions-oriented than participatory, however, which may explain the widespread dissatisfaction with the privatization of public services in recent decades. In addition, while the management capacity of the private sector is widely esteemed, it does not always translate into the ability to manage public policy and debate, which do not conform to the profit –principles applied to market goods and services. The popularity and fortunes of numerous political stars drawn from the private sector (with the U.S. American Ross Perot and the Italian Silvio Berlusconi to name but a few) attest to some of the difficulties of bridging the private-public divide.

As the expectations for corporate social involvement change, particularly for the largest and most visible global business actors, proactive involvement in the public domain may become the norm for a certain caliber of global private sector players. At the level of small and medium-sized enterprises, however collective action problems will continue to inhibit substantial interest in taking on greater public domain roles.

Giving back? How philanthropic foundations participate in public policy and debate

One particular way that business has involved itself in the public domain in the proactive pattern is via the establishment of foundations. Foundations, which strictly speaking are philanthropic ventures, provide the means for business actors to articulate a clear and systematic programmatic agenda for engagement in the public domain. Foundations are legally independent of the corporations or individuals that endow them. Nevertheless, they reflect the sensibilities and aspirations of their founders, particularly if those endowing the foundation continue to play an active role in the executive board. Foundations have no particular responsibility to address the interests of elected officials, government agencies, civil society actors, or the public at large.¹¹ Arguably, foundations are the ultimate expression of the business world's involvement in the public domain. Nowadays, with corporations implored to think and act with more attention to social responsibility, the establishment of a foundation dedicated to social or societally-relevant causes is one way business involvement in public life has been realized.

While many business actors have been increasingly involved in corporate social responsibility initiatives, only a select few have taken the steps of a Ted Turner in establishing the United Nations Foundation or a Bill Gates in setting up the Bill and Melissa Gates Foundation. Wealth is obviously the primary enabling factor in the ability of business actors to take on this kind of sustained commitment to financing projects in public life, the tax benefits of foundations notwithstanding. However, even a quick assessment shows the extent to which these foundations, born of corporate profits and dedicated to the goals of business actors taking on public challenges, do not have to follow established routes in democratic terms in order to influence public affairs. Via foundations, business interests go beyond considering the micro-level impact of their

own policies on labour, human rights and the environment, to consider macro-level public policy issues - some far removed from the actual business sector or product of the owner (Ted Turner on population growth; Milken Family Foundation on medical research and education), some rather close (Milken Institute exploring economic growth and Gates addressing issues of the digital divide/technology gap).

Moreover, foundations seem to be part of a typically U.S. American philanthropic tradition. Since the U.S. has the world's largest economy and its private sector is habitually referred to as the motor of globalization, there is no small irony in the "redistributive," socio-political aims of philanthropic organizations. Cynics would argue that, like the ability to embrace corporate social responsibility, only the richest owners of the richest companies can afford to be philanthropic, and that, at heart, the philanthropist has interest only in avoiding the tax collector (and perhaps in attracting the historians). It may be true that it takes a wealthy society to produce a business actor who can afford to turn to the needs of the public domain, and that much of the world's wealth is concentrated in a small number of countries and societies, traditions of philanthropy and "giving back" exist in most cultures and religions. This means that the increased role of private sector actors in the public domain is possible beyond the two prominent (global and advanced industrial) public domains examined here.

Philanthropy turned crusade? The case of the Soros foundations

One business actor turned philanthropist who has made a tremendous impact on many public domains is George Soros. By now, the personal story of Soros is fairly well

known: Soros is the Hungarian-born, British educated investor whose Quantum Fund made \$1 billion dollars on the ill fortune of the British pound sterling in 1992. Soros first set up a foundation, the Open Society Fund (the name Open Society is taken from the work of one of his intellectual heroes, Karl Popper) in New York in 1979. Soros foundations in Hungary and the then Soviet Union soon followed this. There are currently more than 30 Soros foundations operating worldwide, although the Open Society Institutes in New York and Budapest provides an umbrella function in terms of administration and focus across this enormous foundational network. Soros foundations spend approximately \$500 million annually on their programmatic activities.

Soros' foundational activities have been concentrated in Central and Eastern Europe. More recently programs in other locations, such as Guatemala, Haiti, South Africa, and even now the United States, have also been the recipient of Soros funding. According to the Soros foundations web site, [T]hese foundations:

share the common mission of supporting the development of open society. To this end, they operate and support an array of initiatives concerned with arts and culture, children and youth, civil society development, economic reform, education, legal reform and public administrations, media and communications, and health care.¹²

While his overarching commitment has been to enable the development of democracy, rule of law, civil society, and respect for minorities in now formerly-communist lands, the progressive or liberal (in a U.S. American sense) nature of Soros' activism has not gone unnoticed (Demko 1996; Morais 1997; Shawcross 1997; O'Brien 1998). Indeed, Soros' largesse has made him a favorite media target in this regard: one

Forbes article even characterized him as a friend of socialists and communists (Morais 1997). Despite these occasional polemics, Soros' political interests form a clear pattern: Soros foundations have supported such issues as the ban on landmines and the call for needle exchange programs. In addition, the President of the Open Society Institute in New York, Aryeh Neier, is former Executive Director of Human Rights Watch and former National Director of the American Civil Liberties Union, both well-known progressive organizations.

Interestingly, one shift in the work of the Soros foundations seems to have put Soros and his public policy projects into a more contentious role in eyes of the West. As long as Soros' money supported greater freedoms in Central and Eastern Europe, there was relatively little ground or reason for West European or North American critique of his programs. However, when Soros began to increase grantmaking to U.S. projects after 1994, the foundation received a flurry of attention and criticism for being soft on crime and too lax on immigrant rights. Undeterred, Soros has himself continued to maintain a high profile for his profits and his projects. Indeed, after the world economic crises in 1997,¹³ Soros embarked on a campaign to promote reform of world financial architecture, suggesting that short-term investors were a grave danger to global economic stability and advocating new international institutions, such as an International Credit Insurance Corporation and other supervisory and regulatory bodies (Soros 1998).

Despite the eyebrows Soros himself has raised over the years, the Soros foundations have provided tremendous resources to many public domains around the world; particularly those in societies engaged in the transformation from planned economies to democracy and free markets. The Soros Foundations Network has

undoubtedly influenced the material conditions and resources available to numerous groups working on issues of human and minority rights in countries with less-established civil society traditions. Soros' money has flown abundantly into education projects as well: examples include the establishment of the Central European University, based in Budapest with a Warsaw campus, providing university training to a new generation of Central and East Europeans, and the International Soros Science Education Program, supporting science education in the Russian Federation (and to a lesser extent in Ukraine and Georgia) by providing money, equipment, and materials to educators and students. Soros gives generously to support activism of a progressive stripe in other fields, as well: criminal justice, immigration, landmines, and economic development in South Africa. Soros sponsors the promotion of these and other issues via grants to documentary filmmakers. And while Soros the investor/philanthropist may be dismissed as odd or hypocritical from time to time, his book on *The Crisis of Global Capitalism* (1998) was a timely diatribe against the dangers of unfettered capitalism. It generated significant media attention and arguably contributed to policy debates then taking place on reform of global financial architecture.

In sum, Soros and his foundations are a good example of a business actor in its new role because of the systematic and clearly programmatic nature of his interventions in public affairs. His actions, however, point out the problems of unaccountability and lack of access that plague all business actors in the public domain. It is necessary to be clear about the consequences and even contradiction of asking business to become more engaged in public debate and public policy formation. Many voices now call on corporations to redistribute their wealth; in so doing; business will play an increasing role

in the agenda setting for and execution of public policy initiatives. Given the traditional role of business as employers and wealth creators and, in the case of corporations, their fiduciary responsibility to shareholders, there are few definitive markers to guide business as they navigate the public domain. What are they required to do (in “justice” terms? Legally?), with what intended outcomes, and how can the impact be assessed? Some of these consequences of business engagement in public life have been overlooked in the zeal to promote business “doing good.”

Non-governmental organizations: another new actor in the public domain

The second of the “new actors” involved in public policy and public debate are non-governmental organizations, whose dramatic growth and more recent demand for a “seat at the political table” have made considerable changes to the public domain landscape (Mathews 1997). Not only do non-governmental organizations influence the themes and focus in the public policy debate; they provide an alternate if contentious (in democratic theory terms) means of representing public interest in the sphere of public policy. There are innumerable instances of NGO influence on the public agenda, whether it be the role of Greenpeace vis-à-vis Shell in the case of Brent Spar, the presence and impact of NGOs in UN world summits in the past decade, or NGO activism at the WTO Seattle ministerial in 1999 and the World Bank/IMF meetings in spring 2000, not to mention the now Nobel-sanctioned work of Médecins sans Frontières.

As an agent of change in the public domain, NGOs have many functional similarities to the news media, perhaps more so than to other public domain actors,

including business. First of all, NGOs have little formalized accountability: the degree to which they do what they promise in mission statements is vastly open to interpretation. (In contrast, corporations, striving to achieve financial gains for shareholders, must report a bottom line.) Like media, if NGOs stray from their stated mandate or prove themselves incompetent, they lose their credibility, the very element that gives them a critical niche in the sphere of public policy. For business brand management matters, and does influence how business behaves in the public domain, but not every business has a brand that is a distinct public face. This limits accountability and credibility issues for business actors in some sectors, due to their (limited) public exposure.

Like media, NGOs can suffer from an “Establishment complex.” They often struggle to decide whether they should remain outsiders to the realm they wish to influence, refusing funding or even dialogue with establishment actors, in a sort of outsider fundamentalism? Or whether their cause is better served by gaining access to the table, by engaging with their opponents and creating potential partners, and by accepting financial support from establishment (foundation, corporate or government) coffers?¹⁴ According to Medea Benjamin, co-founder of Global Exchange, an NGO whose mission is to fight human rights abuses and that has been especially involved in sweat shop issues, this sort of “Establishment complex” has caused a number of major schisms within the NGO community.¹⁵ Arguably, unlike most NGOs and some media organs, business *is* the Establishment.

Finally, as with media, the power of NGOs is in part derived from their access to and dissemination of information. Keck and Sikkink (1998) make this last point succinctly, pointing out that advocacy networks, of which NGOs are a principle player,

are themselves *communicative* structures. While business is also governed and measured by the power of ideas-as-information, these informational innovations by businesses are principally oriented toward profit making rather than intrinsic to business's role in any public domain function. Given this affinity between the function of NGOs and media in the public domain, there is perhaps little surprise at the receptiveness of media to NGO voices and causes, which may serve to the mutual benefit of both agents in achieving their public domain goals.

Distinct from (news) media "neutrality," however, NGOs have clear advocacy aims. Typical goals include the promotion of improved human rights (civil, political, economic, social and cultural), adherence to rule of law, increased social and economic justice, and greater environmental sustainability. Unlike many government actors, NGOs are not bounded by territory (as are nation-states) or by formalized memberships and/or voting rules (as are international organizations). Keck and Sikkink (1998: 30) suggest that advocacy networks, which include NGOs, are motivated not by instrumental goals (such as business might be) or shared causal ideas (as epistemic communities might be), but by *shared principled ideas and values*. Quite simply, a NGOs' rationale for acting in the public domain is different from other actor groups. As NGOs gain in status and power, it is important to consider their normative make-up and their goals for public policy, as well as how these are conferred to the public domain.

Finding the way “inside” public policy and debate: the case of Transparency International

A good example of an NGO that has taken on a significant role in recent years is Transparency International (TI). TI, headquartered in Berlin, Germany, was set up in 1993 to fight corruption, which it views as a principle cause of exploitation around the globe.¹⁶ TI is the very model of a NGOs that seeks to cooperate with a broad spectrum of actors, especially business, other NGOs, and governmental agencies. It does not explicitly pursue headlines or shock tactics to effect its goals, but prefers to build consensus via broad participation on issues of transparency. With more than 70 national chapters, TI believes that mobilizing for its work against corruption is probably most effective at the national level - where it can involve the appropriate agents to encourage reform of corrupt practices but allow them to adapt to specific national institutions and circumstances. It takes on regional and global initiatives on a more limited basis, as it deems appropriate, such as in its contribution to the OECD Convention against Bribery, which came into effect in February 1999.

TI first aimed to change the focus of debate - to open public discussion on corruption. It tackled the issue of bribery, revealing its presence in the economies of both developing *and* advanced industrial societies. TI later targeted international organizations, such as the World Bank, since it felt their involvement was essential to the success of the fight against corruption. TI has developed a number of tools that have helped to spread information about corrupt practices and to engage business in the anti-corruption process, such as the Corruption Perception Index and the TI Integrity Pact.¹⁷

In recent years, as the veil of ideology has been lifted from international politics and the global financial and economic agendas have increasingly taken on board the concerns of human development (and above all poverty alleviation), transparency and

good governance have become buzzwords at the World Bank, UNDP, and in governments the world over. Examples of this new governance-oriented agenda are abundant: from the World Bank's influential 1997 World Development Report, focusing on the changing role of the state and highlighting corruption issues, to the good governance focus brought in by the UNDP's new Administrator, Mark Malloch-Brown, in 1999.

Funding for Transparency International has followed aplenty, with foundations such as Ford, MacArthur, and many others, on the one hand, and governmental institutions, such as national development agencies and UN groups, on the other, providing almost \$1 million each of TI's \$2.7 million dollar budget in 1998. And while TI was set up by a number of former high-ranking World Bank executives, its establishment credentials were further reinforced early in 1999 when its Advisory Council Chairman, General Olusegun Obasanjo, was elected president of Nigeria, promising to re-establish democracy there. TI and its issues have arrived.

TI has gone a long way to placing an old problem, and a new, globalization-relevant issue - the fight against corruption - on global, regional, national, and local agendas. It has brought with it a specific set of objectives regarding government accountability, together with a particular normative view that corruption damages integrity and distorts equitable economic processes. Both its goals and perspective now inform the public domain. In addition, the way TI has gone about its work, involving a wide range of relevant political, business, and societal actors, has set an example for cooperation and consensus building among diverse actors in the public policy sphere. While TI is but one NGO actor, its success is indicative of growing NGO status, agenda-

setting power, informational control, and expertise, all of which have consequences for shaping the public domain.

New Actors, More Actors - What Does it Mean?

New agents in the public domain have clear implications for public debate and policy-making, and therefore for the public domain and democracy. Processes including the legitimization of political action and political accountability, mentioned throughout the chapter, need to be re-evaluated in light of the rise of business and NGOs as public domain actors. Some evidence suggests that new agents bring with them new rules for democratic engagement and foster a great deal of change in the public domain.

First, political legitimacy as was discussed above, old actors (chiefly governments and government agencies) passed the test of “democraticness,” gaining legitimacy via the electoral process. New actors have a harder time justifying the legitimacy of their power and actions. However, it is worth considering whether the legitimacy “bar” has itself begun to move. Stated differently: after decades of public backlash against “politics as usual” and repeated claims of legitimization crises, it may be time to rethink the rules regarding political legitimacy.

James Rosenau (1990: 381) has suggested a new way of evaluating the legitimacy of political actors, writing: “Where legitimacy once derived from habitual and traditional norms perpetuated by macro structures and processes, today the enlarged analytic skills and cathectic capacities of citizens increasingly enable them to ascribe legitimacy on the basis of performance activities that they perceive as appropriate.”

According to Rosenau, ability and efficacy – *appropriate performance* - may be relevant to the attribution of legitimate power to old and new political actors. Cutler, Haufler and Porter (1999: 18) don't go as far as Rosenau, but they do argue that the growth of private authority (chiefly among corporate actors) can be explicitly undemocratic and yet, "evoke a sense of legitimacy and achieve a high degree of acceptance through recognition by others of specific knowledge, expertise, and representational skills." In other words, states may still be legitimate in electoral terms and therefore, "rightful" actors in the public domain, but it may now be appropriate to explore new ways and means to ascribe legitimacy in order to reflect the complexity of politics in the public domain. As a result, and by new standards, new actors such as business and NGOs may be considered legitimate after all.

Next, accountability; the higher profile of the foundation-as-actor and the now insatiable growth of NGOs raise critical issues of access and responsibility, both of which are key components of accountability. Who controls the way they spend their money or how they prioritize their social objectives? Who manages the impact of their interventions? Here, it should be stressed that even if a business or an NGO support the most consensual of societal goals, such as peace and security, there is no formal, legal way (beyond the rule of law) to ensure that these "good intentions" result in processes that can be influenced by state and society. A good example is Ted Turner's \$1 billion commitment to the United Nations Foundation, which is dedicated to promote the goals of the United Nations and its charter, but which of course is not accountable to the UN in its selection of issues, in its grant-making, or in its advocacy.¹⁸ The lack of accountability of most business and NGO initiatives in the public domain may be problematic, but is

tempered by the role that public censure can play in the public domain in question. However, it also points up the problems that lack of access (influence, information, etc.) can present in the case of both business and NGO activities.

Despite these areas of caution, the presence, involvement, and growing status in the public domain of business actors such as the Soros foundations and NGOs such as Transparency International have resulted in a number of changes that could broadly be considered positive for the public domain and for its distinction from purely market-driven processes. The evolution of new actors and new modes of interaction between new and old actors have affected governance in the public domain in the “post neo-liberal” era. Four changes stand out.

First, new actors have successfully thematized and prioritized new issues in the public domain. Public goods still include peace and security, health care and education, as they always have, but they also include human rights, protection of minorities, economic justice, fair trade and trading conditions, good governance, and more. The expansion of public domain issues owes much to the rise of new economic and political actors. TI's promotion of corruption is just such an example of new issues entering into the public domain as a result of the norms held by a new agent, an NGO. Other examples of NGO values and priorities making their mark on the public agenda are repeated activism of (mostly North American) NGOs opposed to globalization (viz. The WTO in Seattle, November 1999, “A16” in Washington, and Prague 2000) and the Jubilee 2000 movement, which has thematized debt-relief as the major priority of the international community.

Second, new actors may have unleashed new expectations at all levels of society, including public expectations of who will participate in and determine the balance of means and ends in the public domain. For instance, citizens have come to expect NGOs to have a say on child labor and to demand best practices and environmental sustainability from corporations. In other words, while many economic and political experts assumed that the neo-liberalism of the early 1990s validated market solutions for public policy puzzles, the emergence of new *public* agents (even business in wearing a public domain hat!) may reinvigorate expectations of what can and should be achieved in the public sphere, beyond mere market driven calculations. NGOs and businesses acting in and influencing the public domain have raised the expectations, of citizens and consumers' regarding the way public policy is pursued, in terms of process and goals.

Third, and closely related to the second change, there may be developing a new attribution of authority in the public domain. As legitimization becomes more and more de facto de-coupled from electoral processes (and based on other factors, such as performance), new actors may take on the responsibility and assume the accountability - both key elements of authority - previously assigned to the state with regard to public domain activities. This change has profound consequences for the problems of the democratic deficit that have plagued certain levels of governance. At a minimum it promotes new ways and opportunities for private, non-governmental actors to take on legitimized roles and thereby reinvigorate governance.

Finally, new actors mean new values for the public domain. If business interests and NGOs are active in setting agendas, building capacity and cooperation, and

carrying out public policy initiatives that shape the public domain, they do so in a fashion that is consistent with their “core values” and principles. This means they participate in the construction of public domain values, whether at the global, regional, national, or local levels. As the discussion above showed, this contribution may tend toward creating support for the goals of social equity and economic justice, but these new values do not come with any guarantees or any hard and fast definitions. No public authority can label them as definitively good or bad; rather it seems, public domains will necessarily now engage in a process of fleshing out what norms from what agents will adhere and make possible new rules for governing public life.

Conclusion

In order to give potency to the concept of the public domain, it is necessary to examine the normative input of economic and political actors. Both old and new actors now constitute the public domain, contributing to policy outcomes in terms of process and content. Indeed, it now seems necessary and desirable to widen the spectrum of actors in the policy arena, thereby making the public domain a product of more capacity building and consensus building across actor groups, this despite some of the attendant dangers for democracy. This is not to say that corporations or their foundational offshoots are now the panacea to solving public policy dilemmas or that NGOs can provide solutions to social injustice, nor does it suggest that government is devoid of innovation and ability to manage public domain concerns. But it does imply that new

actors such as business and NGOs bring a wealth of new resources, ideas, methods, and so on, to the public policy table.

There are downsides and risks to this new and changing public domain, however. Even if elevating the status of profit and market solutions in the public domain proves itself a temporary trend, societies have been exposed to new norms for public policy action. Some of these values may threaten to transform market economies into market societies - a fear very much on the minds of several European political leaders by the end of the 1990s. By turning to NGOs for answers and activism where the state fails, the values of political participation associated with representative democracy are undermined. Working together with state actors, business and NGO goals are moderated. It is possibly that these myriad actors can achieve a societally acceptable balance in public policy, and can aspire to the social innovation (Mathews 1997) necessary for the political and economic challenges that now face the sphere of public policy. Ultimately, it is possible to be optimistic about the way the involvement of new public domain stakeholders reinvigorates democratic processes, if not along traditional electoral lines.

It is time to think and act creatively in the attribution of legitimacy and power, and to generate appropriate rules of the game to serve the broadest possible interests

Endnotes

¹Of course, there is a degree of irony in the fact that this preeminent prize for peace was originally funded by a wealthy industrialist, Dr. Alfred Bernard Nobel, who made his

fortune in the production of dynamite. For more on Nobel and the dichotomies of his work and legacy, see www.nobel.se.

²In 1997, Jody Williams and the British based International Campaign to Ban Landmines were awarded the Nobel Prize for Peace. Generally, Nobel Peace Prize recipients have been individuals, such as Theodore Roosevelt (1906), Woodrow Wilson (1919), Dag Hammarskjöld (1961), Martin Luther King, Jr. (1964), and Mikhail Gorbachev (1990). However, they have also included a number of international organizations, these largely created and funded by national governments, such as the Institute of International Law (1904), International Committee of the Red Cross (1919 and 1944), Office of the United Nations High Commissioner for Refugees (1954), UNICEF (1965), and the ILO (1969).

³It awarded Nobel prizes to the Friends Service Council - the Quakers (1947), Amnesty International (1977), and International Physicians for the Prevention of Nuclear War (1985).

⁴In addition to the management sphere, the stakeholders approach also derives from the examination of policy networks, which has been tremendously useful in the analysis of public policy development in the European Union setting (Richardson 1996).

⁵ For the purposes of this discussion, “state” and “government” are used interchangeably. In other words, use of “government” here refers generically to a publicly legitimated apparatus that governs, rather than any particular government of the day.

⁶For more on this endeavor, see <http://www.merck.com/philanthropy/9.htm>.

⁷For the US Department of Labor reports on this partnership, see
<http://www.dol.gov/dol/esa/public/nosweat/partnership/report.htm>. For the members,
see <http://www.dol.gov/dol/esa/public/nosweat/partnership/members.htm>.

⁸See <http://www.dol.gov/dol/esa/public/nosweat/partnership/aip.htm>

⁹For more on this initiative, see <http://www.ethicaltrade.org>.

¹⁰As Sell (1999: 172) has written: “In effect, twelve corporations made public law for the world.”

¹¹For a very critical analysis of foundation’s agendas - above all the excess of funding for progressive causes, see MacDonald (1996).

¹²Taken from the foundation’s “about the network” web site description, www.soros.org.

¹³Soros was especially involved in the Russian crisis, taking on the role of an activist investor, which immediately raised conflict-of-interest concerns. See O’Brien (1998).

¹⁴For the canonical work on normative press (media) theory, evaluating media’s role in politics, see Siebert, Peterson and Schramm (1956). Donohue, Tichenor, and Olien (1995) offer one interesting update.

¹⁵Conversation with Medea Benjamin, June 1999.

¹⁶According to TI, corruption "...undermines good government, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector and private sector development and particularly hurts the poor." See Transparency International (1998).

¹⁷The Corruption Perception Index is a country index based on survey data that serves as a tool for investors assessing risk and for economists assessing the impact of corruption of economic growth, trade, and so on. By signing up for TI's Integrity Pact, companies bidding for public procurement projects are compelled to refrain from making bribes, and are threatened with sanctions if they engage in bribery.

¹⁸As the United Nations Foundation web site points out, the foundation promotes the UN but also public outreach and education and the encouragement of private-public partnerships in supporting UN activities. The web site description of the foundation also makes mention of Turner's own particular interest in encouraging philanthropy to help create "a better world." See www.unfoundation.org.

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