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Abstract

In what is likely the first systematic attempt to analyze the nonprofit sector's ability to answer accountability questions through self-regulation, editors Mary Kay Gugerty and Aseem Prakash have assembled a fascinating series of case studies, essays, and quantitative studies from around the globe. This volume will be immediately useful for both scholars and teachers as it sets the table for future research and provides material that can be incorporated into existing courses on nonprofit management and governance.

KEYWORDS: nonprofit organizations, federal regulation, accountability clubs, legal standards, accreditation

Voluntary Regulation of NGOs and Nonprofits. 2010. (Mary Kay Gugerty and Aseem Prakash, editors). Cambridge, UK: Cambridge University Press. 305 pages.

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In what is likely the first systematic attempt to analyze the nonprofit sector's ability to answer accountability questions through self-regulation, editors Mary Kay Gugerty and Aseem Prakash have assembled a fascinating series of case studies, essays, and quantitative studies from around the globe. This volume will be immediately useful for both scholars and teachers as it sets the table for future research and provides material that can be incorporated into existing courses on nonprofit management and governance.

What sets this volume off from others is not only its global view but also its application of a theoretical perspective, that of accountability clubs. Well known agency problems that face most nonprofit organizations (for example, information asymmetries and the existence of multiple principals), create troublesome relationships between principals and agents. Accountability clubs are one mechanism through which nonprofit organizations can manage these relationships. Clubs are defined as rule-based institutions that deliver benefits or goods for members that are exclusionary, that is, not available to non-members. One of their most important benefits is their ability to provide reputational signaling to principals that enables principals to distinguish between good and bad apples. In the nonprofit context, this means the ability of accountability clubs to distinguish between those nonprofits that meet and go beyond legal standards of accountability and those that commit egregious and often very public accountability lapses.

In particular, Gugerty and Prakash focus on voluntary accountability clubs that: 1) require members to adopt policies and practices that go beyond minimal legal standards of accountability; 2) impose nontrivial costs on members for compliance; and, 3) deliver benefits in terms of reputational signaling that outweigh the costs. Clubs differ, however, in terms of establishing lenient v. stringent standards and enacting weak v. strong "swords," or penalties for noncompliance.

The book is organized around three key questions:

1. Who establishes clubs and how do they evolve (club emergence and evolution)
2. How does club sponsorship affect club design, strength, and effectiveness (relationship between club design and sponsorship)
3. How do principals reward club participation? (club design and effectiveness)

Part I. Club Emergence

This part of the book focuses on explanations for various attempts to establish voluntary accountability clubs, primarily in the US. In chapter 2, “Filling the gaps in nonprofit accountability: applying the club perspective in the US legal system,” Dana Brakman Reiser usefully delineates three kinds of accountability – financial, organizational (governance), and mission accountability – and argues that clubs can fill the most important gap in mission accountability where public and private principals have enacted limited standards and enforcement. By focusing here, a potentially large pay-off in reputational effects could exist if clubs set standards even slightly above a minimum, for example by requiring that nonprofits evaluate their mission every year and document that they have done so. This chapter offers a coherent argument that may be quite useful for existing accountability clubs.

Woods Bowman, in chapter 3, “Trends and patterns in third-party accreditation clubs,” focuses on accreditation clubs in higher education and healthcare, both of which exhibit especially strong information asymmetries between principals and agent. Strong clubs (accrediting with verification) address these asymmetries in ways that principals would have a hard time doing, and have established above-the-floor standards and swords that make noncompliance costly to members. He concludes that healthcare and education have strong clubs which are aligned with a dominant principal, the federal government, who can grant significant benefits to accredited institutions and equally significant penalties for those who either do not join or do not meet accreditation standards.

Chapter 4, “Self-regulation at the state level: nonprofit membership associations and club emergence,” by Mary Tschirhart provides an interesting and important contrast to Woods’ examples of strong clubs responding to a dominant principal. Her focus is on statewide associations of nonprofit organizations (35/50 states have such associations) which one might expect to be important sites of accountability club behavior. However, Tschirhart finds only weak (at best) accountability mechanisms and no statewide association that required a nonprofit to abide by a code for membership. While she rules out several explanations for why this might be the case, she maintains that a large potential might exist here but remains untapped. Young’s chapter in the next section provides a more pessimistic perspective.

Part II. Club Sponsorship and Club Design

This section of the book picks up a theme from Tschirhart’s chapter in the previous section on relationships between the sponsors of an accountability club and club design. In general, conflicting or weak incentives to form stronger clubs

emerge from these examples, although an important exception is depicted in chapter 8. In chapter 5. “Nonprofit infrastructure associations as reluctant clubs” Dennis Young examines the evolution of two infrastructure organizations formed to build the field of nonprofit organizations and study, Independent Sector and the Nonprofit Academic Centers Council or NACC. Young usefully states that club theory contains underlying assumptions that are important in this case, including that a club be willing to limit memberships, discipline errant members and reach consensus on a set of standards, practices, or principles. In both of these cases, fulfilling these assumptions was problematic. Young concludes that sector infrastructure organizations are not in a good position to become strong accountability clubs because of their diverse membership, role choices, and incentives to expand membership not restrict it.

As Peter Frumkin states at the beginning of chapter 6, “Foundation Accountability Clubs and the search for philanthropic standards,” foundations often serve in the role of principals; however this chapter examines accountability relationships and issues faced by philanthropic institutions themselves. Frumkin provides an excellent, concise historical overview of the development of foundation associations at national (Council on Foundations) and regional levels (RAGs or Regional Associations of Grantmakers) and among interest areas (affinity groups). Overall foundation associations fit into the weak category with lenient standards and few swords, like Tshirhart’s statewide associations and Young’s national infrastructure groups. Frumkin argues that their weak accountability role is attributable to fact that foundations are resource independent where external pressures are mainly from government and regulatory enactments or threats. Absent more intense government intervention efforts, Frumkin concludes that there is little pressure to ramp up accountability systems.

We move from the US context in chapter 7 to the Czech Republic, although the message about weak accountability clubs is similar. “Do self-regulation clubs work? Some evidence from Europe and some caveats from economic theory” by Andreas Ortmann and Katarina Svitkova examines the Czech Donors Forum (CDF), started in 1996 for foundations and donors and whose membership requirements include adherence to an ethical code. In general, Ortmann and Kvitkova argue that weak accountability exists overall in the Czech Republic, in large part because there are no reputational gains to be made from stronger requirements. Ortmann and Kvitkova contend that self-regulation not a top priority for CDF and the self-regulatory function in Czech Republic for nonprofit organizations and foundations is weak and underdeveloped.

Chapter 8, “NGO accountability clubs in the humanitarian sector: social dimensions of club emergence and design,” Maryann Zarnegar Deloffre provides an important counterpoint to overall theoretical argument of the book by adding,

as the chapter's title suggests, the "social dimensions" to how accountability standards develop and evolve. Deloffre examines a major shift in how humanitarian NPOs/NGOs involved in the Rwandan crisis perceived accountability, moving from "good enough" standards that emphasized getting aid for basic needs delivered to a "humanitarianism plus" standard that took into account how aid may inadvertently prolong conflicts and suffering. Deloffre demonstrates convincingly that the rise in accountability clubs after the Rwandan crisis was due to the context of rising awareness of a global accountability culture and a change in performance expectations by the NGOs themselves. In fact, two sets of competing clubs emerged in the humanitarian field, not in response to principal demands but because of deep divisions within the field of NGOs themselves over what defined "moral duty" by the NGOs.

Part III. Club Design and Effectiveness

This section pursues the issue of design and attempts to link design choices to questions of overall effectiveness, although the only chapter to do so clearly is Bekkers' chapter on the Netherlands case. Angela Bies, in chapter 9 "The impact of sponsorship on club standards and design," compares two clubs in Minnesota, the Charities Review Council (CRC) and the Minnesota Council of Nonprofits (MCN), both of which have developed standards of accountability. Bies argues that CRC is a "strong" club with measurable although minimal standards and "swords." In contrast, MCN is a weak club with extensive and expansive principles but no compliance requirements. Bies provides illuminating case histories that help explain why these two clubs do not compete but see their approaches as complementary. Bies concludes with an important question about the ultimate effects of both clubs on nonprofit sector accountability and effectiveness.

We next go beyond the US context to Africa in chapter 10 by Mary Kay Gugerty, "The emergence and design of NGO clubs in Africa" where we see a rapid rise in civil society organizations as countries democratized, the importation of international donors (far away principals), nascent (at best) legal systems, and adverse government-nonprofit relationships. The chapter presents findings from cross-national research of 22 African countries and mini-case studies from seven countries. Initial clubs, formed in the 1990s in response to political liberalization and regulatory reform efforts, were national in scope, developed by large nonprofit membership associations, and relatively weak. Later, stronger certification-oriented clubs formed distinguish higher quality NGOs from lower quality. Sponsors for the latter clubs are primarily donor organizations who value these kinds of reputational signals. Gugerty concludes that changes in regulatory frameworks are important factors but are mediated by perceived repressiveness of

reform activities, donor support, and interactions among existing NGO associations.

In chapter 11, “The benefits of accreditation clubs for fundraising nonprofits” by Rene Bekkers, the setting is the Netherlands where few legal regulations and little government involvement exist. Bekkers focuses on the Central Bureau of Fundraising (CBF), an independent nongovernmental organization without members that establishes stringent standards for fundraising practices for those who apply and issues a revocable public seal of approval. The chapter examines whether awareness of the club increases donations by households and whether participating fundraising organizations get more donations than those who do not participate. Bekker finds increased giving by donors who became aware of CBF, although “awareness” did not work through enhanced confidence in fundraising organizations. This raises an important question of what the effects of accreditation really are.

Conclusion

This book offers an impressive array of examples and data from which to begin an assessment of the nonprofit sector’s responses to questions of accountability. It is clear that the authors communicated with each other in developing the book which enhances its overall impact. However, important themes of the book are not always to be found neatly packaged around the book’s sections but instead across the book in its entirety. For example, questions concerning what stimuli push clubs to form are answered in several chapters. In general, it appears that clubs are most likely to form in response to intensified government regulation or the threat of increased regulation or repression. Examples include Independent Sector, US foundation-related associations and the Council on Foundations in particular, US higher education and health care accreditation clubs, and African clubs. However, this is not always the case as examples from the Czech Donors Forum and Netherland’s Central Bureau of Fundraising demonstrate where government involvement in sector activities is weak. Most of these are weak clubs both in terms of the lenient standards they promulgate as well as the lack of monitoring and enforcement mechanisms. An explanation for their weakness is provided in Ortmann and Svitkova’s chapter where they argue in the case of the Czech Republic that the sector is likely to choose an enforcement policy that is just aggressive enough to pre-empt government from intervening. In the case of a dominant principal with regulatory power and significant swords for noncompliance, such as depicted in Bowman, stronger clubs are more likely.

The Deloffre chapter on the Rwandan crisis (and its comparison to Biafra in the 1960s) should be read carefully because it provides an important counterexample to this theme. As described earlier, this chapter describes the

emergence of accountability clubs among humanitarian nonprofits, not in reaction to demands by principals but as a result of the NGOs themselves realizing their own failures to meet their moral duties. This chapter highlights that clubs emerge not just as a way to manage principal-agent relationships but as a result of processes and relationships among “agents,” that is among the NGOs themselves.

We also catch some glimpses of how and why clubs evolve. Many chapters provide rich histories of clubs (see for example, chapters by Bowman, Young, Frumkin, Bies, Deloffre and Gugerty); however two chapters in particular provide an insight that should be pursued in future research. Bowman’s discussion of historical patterns in higher education and health care is revealing – weak clubs with passive standards were earlier forms that gave way mid-20th century to strong clubs as the presence of the federal government in these two industries grew. This theme is later pursued by Gugerty in the context of Africa where initially weak but inclusive national clubs gave way to stronger, more narrowly defined membership clubs. These cases suggest, as Gugerty states, that early albeit weak club formation may provide a platform from which stronger clubs may later emerge in response to shifting political and regulatory pressures.

Sponsorship does seem to matter in terms of the strength of clubs. In fact, in the case of statewide associations of nonprofits described by Tschirhart where one might anticipate accountability club formation, few clubs have emerged at all. In general, Young, Frumkin and others argue persuasively, that weak club formation among membership and infrastructure associations is due to a variety of factors, including: 1) diversity of membership that makes agreement on anything but weak standards difficult and enforcement unlikely; 2) conflicting incentives to increase memberships while also establishing exclusionary standards; and 3) lack of dependence on external resources. It is not clear whether a rapid shift toward increased regulatory burden would change these patterns for some types of membership associations.

Strongest sponsors appear to be independent, third-party nonprofits, as is the case with the Joint Commission in health care detailed by Bowman, the Charities Review Council depicted by Bies, and the Netherland’s Central Bureau of Fundraising described by Bekkers. Aside from their independence, it is difficult to find common themes in terms of their contexts and histories. This deserves further research to determine key characteristics of these third-party clubs in comparison to more membership “owned” clubs and infrastructure organizations.

The weakest part of the book lies in its ability to answer questions of club effectiveness and this aspect should be a high priority in future research. The only chapter that begins to address this question is the last one by Bekkers through his examination of the impact of the Central Bureau of Fundraising on household giving. Questions of effectiveness, of course, enter into the morass of

all research on effectiveness but two questions seem especially in need of attention. The first concerns whether clubs are effective in curtailing or reducing government intervention into the sector (regardless of one's views of whether such intervention is either warranted or needed) and the second, perhaps more important question, is whether nonprofit practices actually change as a result of voluntarily club participation. Both are researchable, although drawing clear causal connections is problematic. From my own participation on the committee to revise the Minnesota Charities Review Council's standards, we heard many anecdotes from nonprofit executives about the impact of CRC standards on their organizational and governance practices. A more systematic gathering of evidence regarding impact on nonprofit behavior is in order.

In the concluding chapter, Prakash and Gugerty raise important issues for future work, two of which I want to emphasize here -- continued attention to comparative work across fields and continents and, importantly, attention to alternative explanations for why clubs emerge beyond principal-agent theoretical perspectives. This book lays a very important foundation for that and other future work, and I highly recommend it to scholars in the field.