This is a preview which allows selected pages of this ebook to be viewed without a current Palgrave Connect subscription. If you would like access the full ebook for your institution please contact your librarian or use our Library Recommendation Form (www.palgraveconnect.com/pc/info/recommend.html), or you can use the 'Purchase Copy' button to buy a print copy of the title.

If you believe you should have subscriber access to the full ebook please check you are accessing Palgrave Connect from within your institution's network or you may need to login via our Institution / Athens Login page (www.palgraveconnect.com/pc/foxtrot/svc/institutelogin?target=/index.html).

Leadership Accountability in a Globalizing World

C. Williams
ISBN: 9780230596825
DOI: 10.1057/9780230596825preview
Palgrave Macmillan

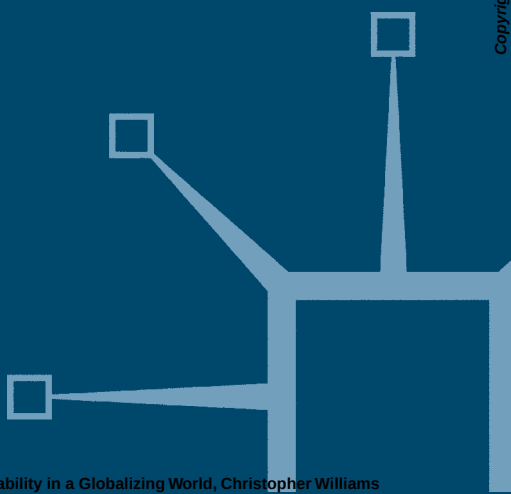
Please respect intellectual property rights

This material is copyright and its use is restricted by our standard site license terms and conditions (see palgraveconnect.com/pc/info/terms_conditions.html). If you plan to copy, distribute or share in any format, including, for the avoidance of doubt, posting on websites, you need the express prior permission of Palgrave Macmillan. To request permission please contact rights@palgrave.com.

palgrave
macmillan

Leadership Accountability in a Globalizing World

Christopher Williams



Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

Leadership Accountability in a Globalizing World

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

Also by Christopher Williams

ENVIRONMENTAL VICTIMS: New Risks, New Injustice

INVISIBLE VICTIMS: Crime and Abuse against People with Learning Difficulties

LEADERS OF INTEGRITY: Ethics and a Code for Global Leadership

TERMINUS BRAIN: The Environmental Threats to Human Intelligence

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

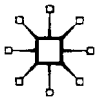
Leadership Accountability in a Globalizing World

Christopher Williams
Centre for International Education and Research (CIER)
University of Birmingham, UK

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

palgrave
macmillan

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams



© Christopher Williams 2006

All rights reserved. No reproduction, copy or transmission of this publication may be made without written permission.

No paragraph of this publication may be reproduced, copied or transmitted save with written permission or in accordance with the provisions of the Copyright, Designs and Patents Act 1988, or under the terms of any licence permitting limited copying issued by the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP.

Any person who does any unauthorized act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

The author has asserted his right to be identified as the author of this work in accordance with the Copyright, Designs and Patents Act 1988.

First published 2006 by
PALGRAVE MACMILLAN
Houndmills, Basingstoke, Hampshire RG21 6XS and
175 Fifth Avenue, New York, N.Y. 10010
Companies and representatives throughout the world.

PALGRAVE MACMILLAN is the global academic imprint of the Palgrave Macmillan division of St. Martin's Press, LLC and of Palgrave Macmillan Ltd. Macmillan® is a registered trademark in the United States, United Kingdom and other countries. Palgrave is a registered trademark in the European Union and other countries.

ISBN-13: 978–1–4039–8696–2
ISBN-10: 1–4039–8696–7

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources.

A catalogue record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication Data
Williams, Christopher, 1952 Sept. 6–
Leadership accountability in a globalizing world / Christopher Williams.
p. cm.
Includes bibliographical references and index.
ISBN 1–4039–8696–7 (cloth)
1. Globalization – Political aspects. 2. Political leadership. I. Title.
JZ1318.W547 2006
327.1—dc22 2005045601

10 9 8 7 6 5 4 3 2 1
15 14 13 12 11 10 09 08 07 06

Printed and bound in Great Britain by
Antony Rowe Ltd, Chippenham and Eastbourne

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

Contents

List of Figures viii

List of Photos ix

List of Abbreviations x

Introduction 1

1 An Era of Accountability 5

Political violence 6
The contemporary international tribunals 8
National accountability 16
Extending jurisdiction 21
Political and economic corruption 25
Good governance – the South 26
Good governance – the North 31
Environmental security 36
A justice framework 37
Personal responsibility 38
Immunity and extradition 43
Creative immunity 47
The pattern of accountability 48
The 'public order of the international community' 55
Implications 56

2 Global Feuding: Regime Change and Retribution 59

The context 60
The public questioning 62
The US 62
Britain and elsewhere 64
Human rights abuses 69
World leaders 71
The media 73
The formal forums 77
The US inquiries 77

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

The British inquiries 78
The Iraq tribunal 84
The International Criminal Court (ICC) and other forums 87
The outcomes 90
The perception of deceit 90
'More inquiring times' 98
The explanations 100
Humanitarian intervention and regime change 101
The legal context 103
Self-interest 108
Cumulative lock-in 110
Retributive accountability 120
Implications 126

3 Social Impetus: Deceit, Evolution and ICT 128

Evolutionary explanations 129
How leaders 'do' harm 131
Deceit and cheating 132
Means and ends 134
Why populations react 136
Why now? The significance of ICT 138
A social impetus–trends theory 144
Global intelligence 147
Implications 148

4 Personalizing Protest: Global Civil Society 150

The accountability NGOs 152
Strategies and social sanctions 157
Questioning and dialogue 158
Evidence-gathering and advocacy 159
Whistle blowing 161
Naming and shaming 163
Public apology 166
Hearings in absentia 169
Hasten slowly 171
Smart accountability 174
Implications 176

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

5 Prognoses: Changing Relationships 178

Future concerns 179
Journalists 179
Historians 183
Leadership integrity and moral authority 187
Causing harm through deceiving a population 192
A global shift in moral authority 196
A Global Leadership Responsibility Index 206
Direct democratic accountability 211
Managerial elites 215
Implications 218

6 Conclusion: The Accountability Webs 220

Personalized up-system accountability 221
The retributive aspect 225
The evolutionary–technology synergy 226
The personalization of protest 227
Changing power relations 228
A global senior citizenry 230

Notes 233

Index 259

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

List of Figures

1.1	Verdict of Pyongyang International Tribunal on US crimes	15
1.2	NAB Pakistan	29
1.3	The pattern of leadership accountability	49
1.4	The extension of national jurisdiction beyond national borders	51
2.1	Cumulative lock-in	112
3.1	A global social impetus–trends theory	146
4.1	Achieving change – dialogue with decision-makers	159
4.2	Indian websites	164
4.3	Wave 21 – 'Expel the Political Misfits', Japan	165
4.4	The fate of the monopolists	167
5.1	Corruption Perceptions Index (CPI) – East Asia 'tiger' countries	201
5.2	Corruption Perceptions Index (CPI) – USA	201
5.3	Corruption Perceptions Index (CPI) – Singapore	202
5.4	Bribe Payers Index (BPI)	203
5.5	*Observer* Human Rights Index 1999	204
5.6	Ecological footprint – East Asia and US	204
5.7	Global Leadership Responsibility Index (GLRI)	207
5.8	Early support for international agreements	212
6.1	The webs of global leadership accountability	221

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

List of Photos

Group I: An era of leadership accountability

1 Headings *in absentia*
2 The anti-corruption 'accountability webs'
3 Global feuding
4 Prime Minister Junichiro Koizumi
5 Changing loyalties
6 Comparative accountability

Group II: Changing power relations

UN 50th anniversary meeting of the General Assembly, 1995

7 Prime Minister PV Narasimha Rao of India
8 President Pasteur Bizimungu of Rwanda
9 President Jean-Bertrand Aristide of Haiti
10 President Jacques Chirac of France
11 Prime Minister Benazir Bhutto of Pakistan
12 Vice-President Taha Marouf of Iraq

UN General Assembly, 1999

13 Alberto Fujimori, President of the Republic of Peru
14 Mohammad Nawaz Sharif, Prime Minister of Pakistan
15 Frederick Chiluba, President of the Republic of Zambia
16 William Jefferson Clinton, President of the United States of America

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

List of Abbreviations

ADB	Asian Development Bank
AIDS	Acquired immunodeficiency syndrome
AU	African Union
BBC	British Broadcasting Corporation
BCCI	Bank of Credit and Commerce International
BPI	Bribe Payers Index (TI)
CEO	Chief executive officer
CIA	Central Intelligence Agency
CPI	Corruption Perceptions Index (TI)
DIS	Defence Intelligence Staff (UK)
EC	European Commission
ECJ	European Court of Justice
Eta	*Euskadi ta askatasuna* (Basque Homeland and Freedom)
EU	European Union
FAO	Food and Agriculture Organization
GM	Genetically modified
GLRI	Global Leadership Responsibility Index
GNP	Gross national product
GNP	Grand National Party (Korea)
HRW	Human Rights Watch
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICT	Information and communications technology
IISS	International Institute for Strategic Studies
ILO	International Labour Organization
IMF	International Monetary Fund
IPCC	International Panel on Climate Change
ISG	Iraq Survey Group
JIC	Joint Intelligence Committee (UK)
LSE	London School of Economic and Social Sciences
NAB	National Accountability Bureau (Pakistan)
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OECD	Organisation for Economic Co-operation and Development
PLO	Palestinian Liberation Organization

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

PPT	Permanent People's Tribunal
RUF	Revolutionary United Front (Sierra Leone)
SCR	Security Council Resolution
TI	Transparency International
TNCs	Transnational companies
TUC	Trades Union Congress
UK	United Kingdom
UNEP	United Nations Environment Programme
US	United States of America
VCAP	UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
VOA	Voice of America
WHO	World Health Organization
WMDs	Weapons of mass destruction
WTO	World Trade Organization

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

This page intentionally left blank

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

Introduction

It is dangerous to be right when those in power are wrong.
Voltaire (1694–1778)

One aspect of globalization has received surprisingly little analytical attention – the globalization of leadership accountability. Interest is evident within the media and civil society and among a few of the more astute political and commercial leaders, but generally the significance of the personalization of up-system challenges has not been fully recognized. The evidence presented in *Leadership accountability in a globalizing world* shows that there is a growing realization that political violence, corruption and environmental harm are caused by powerful individuals who can be identified and challenged. And there is similar 'second track' movement across the world challenging local power elites in the public services, workplace, and religious organizations. In previous eras, leaders were unassailable, but now they are being made to answer for their actions, like anyone else. The globalization of personal accountability is catching up with the globalization of personal power.

In ancient Greece, leaders who declared war were morally required to lead their troops into battle. Hindu *dharma* put everyone beneath the law, including kings, as did Magna Carta. But beyond a few traditions of this nature, leaders have not been inclined to see themselves accountable as individuals. They are either above the law as sovereign[1] – *rex non potest peccare* (the king can do no wrong) or they have immunity just because they are leaders – immunity *rationae materiae*. Alternatively, they are mere representatives of a state or organization which, they believe, carries the responsibility for any wrongdoings. Writing in 1915,

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

historian R. Michels was not optimistic about change:

> Historical evolution mocks all the prophylactic measures that have been adopted for the prevention of oligarchy. If laws are passed to control the dominion of the leaders, it is the laws which gradually weaken, and not the leaders.[2]

But Michels was talking about the era of 'great men' leadership. *Leadership accountability in a globalizing world* argues that the situation is now evolving. This view stems from the development of a proposed 'Code for Global Leadership' at the United Nations University Leadership Academy in 2001,[3] which brought together the ethics and norms that are now being applied to challenge and question powerful individuals. This new book explains a significant era in world history when leaders are becoming more accountable to their populations, to the international community, and to themselves.

The first purpose of the book is to provide the basis for developments within leadership training and education. Future leaders, at all levels, will need to recognize the dynamics of global accountability and learn how to respond. They will need to be persuaded that there are now new and personalized forms of up-system accountability emerging. There is certainly need for concern. A Gallup survey for the World Economic Forum in 2004 found that 52 per cent of those polled believed that political leaders 'behave unethically' and 63 per cent think they are 'dishonest'.[4] Serving and potential leaders need to understand how to avoid 'cumulative lock-in' which can trap them in self-destructive downward spirals of deceit and improper conduct, and the nature and power of contemporary 'social impetus' that may challenge their actions. More broadly, they need to consider the inevitable consequence of leadership that is seen as unaccountable or improper, the loss of moral authority. Leadership training usually focuses on technical matters – 'doing things right'. The purpose of understanding accountability is the ethical side – 'doing the right things'.[5]

The second purpose of the book is the other side of the same coin – to provide the bases for legitimate global civil society movements. The aim is not only to facilitate effective and appropriate action, but also to encourage action that is itself morally defensible and accountable. In the future, civil society organizations and leaders should not be predator and prey. They should be addressing a common problem – the abuse of power by 'any person in any place, anywhere, at any time'.[6] The aim of the book is not to fuel wars for or against accountability. It is to evolve global leadership accountability into a global public good.

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

The chapters in this book address the obvious questions. What has happened so far, and what is happening now? Why is it happening? How is it happening? What are the likely future outcomes? The first chapter considers the three basic sectors of accountability at the present time – political violence, corruption and environmental security – and the significance of immunity. Increasingly, 'dormant precedents' are being applied and extended internationally within and across these sectors. The chapter also proposes that a concept used during the UK House of Lords hearing concerning General Pinochet – the 'public order of the international community' – might provide a broad framework for future developments. Chapter 2 looks especially at the phenomenon of global feuding – 'regime change' and 'retributive accountability' – and events surrounding the attacks of 11 September 2001 provide a case study. The prevailing perception of US and British leaders involved in the invasion of Iraq was that they practised deceit, and this seemed an inevitable consequence of the 'cumulative lock-in' that trapped them into an increasingly problematic situation. One paradoxical outcome is that history may view the 'terrorists' who employ 'instruments of mass effect' as more progressive because their means of retributive accountability caused less harm than those of the national leaders – they moved towards 'de-linking war from violence'.

Chapter 3 proposes an explanation for the current strength of the accountability movement. It addresses the question of why there is now such a concern about the conduct of 'distant others' by 'disinterested others'. The answer is presented in the form of a 'social impetus–trends theory' which builds on the idea of 'cumulative lock-in' and links aspects of leadership, evolutionary and global information theories. This proposes that contemporary social impetus will create a new and forceful global dynamic that will challenge leaders at all levels, particularly those whose decisions appear to be belief-based. Chapter 4 considers the role of global civil society, and how the new accountability non-governmental organizations (NGOs) use social strategies and sanctions to personalize protest. They are constructing challenges on a case-by-case basis, and reflecting the multiple loyalties of the actors. But the chapter concludes on a cautionary note about the danger of creating scapegoats and collateral damage, and the need for 'smart accountability'.

Chapter 5 considers future developments and the probable changes in power relationships between leaders and those they have traditionally seen as followers. What are the issues that will concern the accountability movement in the near future, and who is identifying them? Journalists and historians are closing the 'time gap' through which

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

despots often evade identification. Deceit will remain central in the future, as it has in the past, but it seems probable that laws will evolve to address 'causing harm by deceiving a population'. The discussion then considers the possible shifts in relative moral authority between nations – might the East take on the moral authority claimed by the West for the past half-century? It also proposes a Global Leadership Responsibility Index to track future change, and this seems to present American leadership in a very poor light, below China, Japan and South Korea. Then on an institutional level, what are the probable influences of the accountability movement on democratic processes? It seems likely that 'direct democratic accountability' will be seen as more important than voting systems, particularly within emergent forms of global governance. The conclusions summarize how the world community is constructing 'accountability webs' that may not be knowingly linked but which share common aims and are therefore mutually reinforcing. It also provides a vision of how a global senior citizenry may become a significant part of leadership accountability in the future.

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

An Era of Leadership Accountability

The Nuremberg and Tokyo war crimes trials marked the start of an era of leadership accountability, which has addressed abuses of power for political violence, corruption, and environmental victimization. Because these three sectors have not been viewed together, the significance of this global trend has not been fully appreciated. If the tradition of 'one law for the rich and another law for the poor' is redressed, the legitimacy of justice systems generally will be greatly enhanced.

1

Hearings *in absentia* – Sam Hinga Norman at the Special Court for Sierra Leone

Sam Hinga Norman was one of the first defendants to appear at the Special Court for Sierra Leone, but he refused to attend further and the trial continued without him. Because of the unwillingness of powerful people to appear in court, trials *in absentia* are likely to gain legitimacy. The European Court of Human Rights and the International Criminal Tribunal for Rwanda (Arusha) have also upheld this principle (Chapter 1).

Photo by permission of the Sierra Leone Special Court, press room.

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

2
The anti-corruption 'accountability webs'

Cooperation between the OECD, the International Chamber of Commerce (ICC) and Transparency International (TI) is an example of how 'accountability webs' are created between governmental, commercial and civil society organizations (Chapters 1, 4 and 6). The OECD's Bribery Convention (1999) has been paralleled by the ICC's Commission on Anti-Corruption, TI's Corruption Perceptions Index and the UN Convention against Corruption.

Left to right: **Donald J. Johnston**, OECD Secretary-General, **Caroline Newton**, International Chamber of Commerce (ICC), **François Vincke**, President, Anti-Corruption Commission, ICC, **Fritz Heimann**, Director, Transparency International.

Photo © OECD

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

3
Global feuding – the bombed United Nations headquarters in Baghdad

On 19 August 2003, an effective and popular UN leader, Sergio Viera de Mello, and other UN staff were killed in this attack. Those responsible did not seem to acknowledge the distinction between the US and the UN, just as the US had not acknowledged the distinction between the Iraqi population and the al-Qaida operatives responsible for the 9/11 attacks. Traditional feuding has a retributive 'eye-for-an-eye' logic and operates within rational codes, but the rationale of global feuding is often distorted by all parties (Chapter 2).

UN Photo UNE 3749

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

4

Prime Minister Junichiro Koizumi

In 2004, a Japanese court found Prime Minister Junichiro Koizumi's visits to the Yasukuni shrine unconstitutional. This resulted from a case brought by 211 private citizens who were relatives of war victims. It is unprecedented for the Japanese public to bring a prime minister to account in this way. Koizumi did not make a customary visit to the shrine on the 60th anniversary of the end of the Second World War, in 2005.

UN photo 91882/Joshua Kristal

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

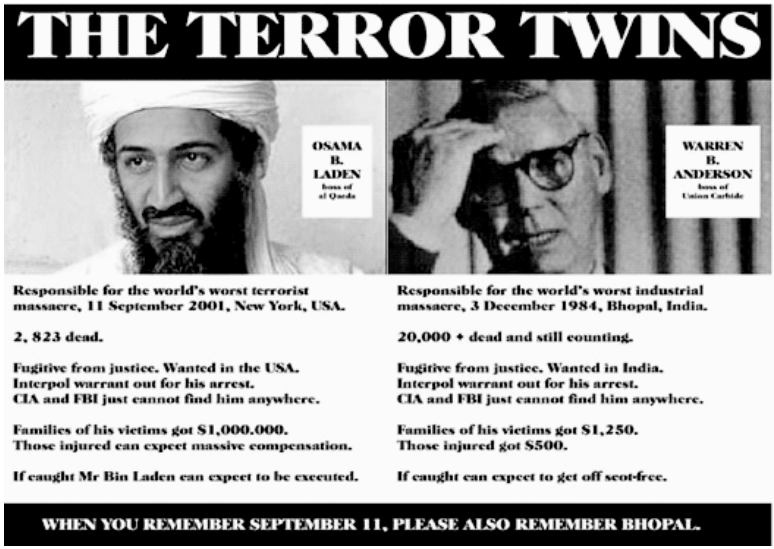
5
Changing loyalties

Accountability challenges are now being made on a case-by-case basis about specific conduct, and reflect multiple, not traditional, loyalties. The leaders involved in the events surrounding 9/11 were all trying to hold each other to account, and were all challenged. This was denied by political leaders, but the paradox was not missed by civil society organizations such as Gathered Images, which produced this postcard (Chapters 1, 2 and 4).

Postcard reproduced by permission of Gathered Images – www.gatheredimages.com

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

6
Comparative accountability



Future historians may conclude that the 'instruments of mass effect' used by current 'terrorists' were more progressive than the military violence used by state leaders, because this fitted a trend of 'de-linking war and violence' (Chapters 1 and 2). Comparisons are being made between the 3,000 American deaths on 9/11 and the 100,000 who may have died as a result of retaliatory action in Iraq, and with responses to other abuses of power including environmental victimization. The International Campaign for Justice in Bhopal used this image to campaign outside the Indian High Commission in London, in 2002.

Picture credit: http://www.bhopal.net

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

1
An Era of Accountability

> It seems more natural in a globally framed world than it did in a statist world to posit accountability of leaders as an essential attribute of a more globalised world order.
>
> Richard Falk[1]

The start of the twenty-first century marked a period of significant questioning of leadership practice and privilege from the international community, civil society and leaders themselves. This has been most apparent in three sectors – political violence, political and economic corruption, and environmental security – but there has also been a significant 'second track' movement, for instance within public services and the workplace. The question of immunity and extradition is relevant across these three sectors and the role of civil society organizations, discussed in Chapter 4, has been central. This is distinct from related concerns. It is not issue-based accountability, for example about poverty or ecological degradation. It is not the down-system accountability of subordinates by superiors within a line-management system. Nor is it purely about political judgement and decision-making. The focus is now about specific wrongdoing for which specific powerful individuals are being brought to account by their peers and populations – personalized up-system leadership accountability.

The change has been noted in many ways. For example, in the UK, Peter Hain, then minister of state at the UK Foreign Office, identified the trend in 2001 when he talked of a new 'globalisation of responsibility'.[2] An opposition counterpart, Lord Howell of Guildford, claimed, 'While in the past, political leaders could get away with [bad] behaviour, we have now moved into a revolutionary new world … Voters want service and ongoing accountability, not dictation and top down arrogance'.[3] From a

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

journalist's perspective Ed Vulliamy, known for his reporting of the conflicts in Central and Southern Europe, chose the word 'reckoning'.[4] Fergal Keane talks of 'something very profound [that] will register among the greatest achievements in the history of humanity' – events 'have forced the world to accept that leaders should be made accountable for the orders they give'.[5] During the 2002 BBC Reith Lectures, philosopher Onora O'Neill talked of 'a revolution in accountability' affecting the public services.[6] As a member of the UN High Level Panel on Threats, Challenges and Change, former Australian foreign minister Gareth Evans mentioned in 2005 the need for a 'serious impunity exercise' against violent leaders in Sudan.[7] It is not just that such phrases have been given substance by the very many instances and wide variety of leadership accountability in a short space of time. There were three other striking features. Many of the reports also embody a 'first' of some sort, there has been an astonishing domino effect and, judging by the advanced age of many of those being challenged, accountability processes can no longer simply be timed out by powerful people.

Political violence

> We must make clear to the Germans that the wrong for which their leaders are on trial is not that they lost the war, but that they started it. And we must not allow ourselves to be drawn into a trial of the causes of war, for our position is that no grievances or policies will justify resort to aggressive war. It is renounced and condemned as an instrument of policy.
>
> Supreme Court Justice Robert H. Jackson, USA Senior Representative at the 1945 Nuremberg War Crimes Trials, and Chief Prosecutor[8]

Following the Second World War, the Nuremberg and Tokyo war crimes trials provided the foundations for an international ethos within which leaders were to be made more accountable to their peers and their public for political violence. They affirmed the early Geneva Conventions and other proto-international law such as the Lieber Code of 1863,[9] and reflected conclusions such as this from the Carnegie inquiry into the Causes and Conduct of the Balkan Wars in 1912–13 (note the date) which concluded:

> The real culprits … are not, we repeat, the Balkan peoples … The true culprits are those who mislead public opinion and take advantage of

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

> the people's ignorance to raise disquieting rumours … inciting their country and consequently other countries into enmity. The real culprits are those who by interest or inclination, declaring constantly that war is inevitable, end by making it so, asserting that they are powerless to prevent it. The real culprits are those who sacrifice the general interest to their own personal interest.[10]

Geoffrey Robertson's *Crimes against humanity* provides a comprehensive discussion of subsequent developments. The main criticism of the Second World War trials was that they amounted to victors' justice. They ignored American and British *prima facie* war crimes such as the fire-bombing of Dresden, and of Japanese cities in which nearly two million civilians died. And there was no chance to question the use of A-bombs which were exploded over Hiroshima and Nagasaki. Although less publicized, North Korea also took firm action against its power elites who had collaborated with Japan during the war. Judicial process may also have been questionable, but the notion that power does not mitigate wrong-doing was similar. It was probably only the Cold War that prevented the impetus of these innovations bringing about a proper international criminal court much earlier. Not least was the problem that many despots were created and supported by the US during this time, including General Pinochet, Saddam Hussein and many of Africa's regimes.

Despite this delay, there were three latent but lasting outcomes from these post-war initiatives. The first was that the new ethic went beyond the idea that holders of high office were to be equally accountable and created a new norm – the abuse of power and trust could now make leaders *more* culpable than others. The second implication stems paradoxically from the fact that the trials were one-sided. Because of this, the new standards set for leadership accountability were ground-breaking and unambiguous. Had the trials been set up to try US, British and other allied crimes, it is unlikely that the standards would have been so progressive. The tribunals created 'dormant precedents' that would resurface after the end of the Cold War. The third and less obvious outcome was that 'the West', in the form of American and British leaders, could claim moral authority on an international level. This was furthered through influence within the new UN, and became an assumed right in the minds of many Western leaders. After the invasion of Iraq, George Bush claimed in 2004: 'America has a responsibility to take a lead in the world, to help people be free.'[11] British prime minister Tony Blair asserted, 'This is literally a fight between the forces of good and the forces of evil.'[12] The possibility that there is now a potential shift in

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

global moral authority away from the Western nations, because of the dynamics of global leadership accountability, is one of the main conclusions from this book.

The contemporary international tribunals

> Specific individuals bear the major share of the responsibility, and it is they, not the group as a whole, who need to be held to account, through fair and meticulously detailed presentation and evaluation of evidence, precisely so that the next time round no one will be able to claim that all the Serbs did this, or all the Croats or all the Tutsis – so that people are able to see how it is specific individuals who are continually endeavouring to manipulate them in that fashion.
>
> Justice Richard Goldstone, South African Chief Prosecutor, Arusha Tribunal[13]

The eventual *ad hoc* war tribunals concerning Yugoslavia in The Hague,[14] Rwanda in Arusha and the treaty-based Special Court for Sierra Leone reinstated this post-Second World War ethos. In August 2001, after twenty years' delay, the Cambodian Constitutional Council approved the creation of 'Extraordinary Chambers for the investigation and prosecution of senior Khmer Rouge leaders and others implicated in the atrocities committed between 1975–79', with local and international judges.[15] Also in August 2002, the East Timor war crimes court, operating under UN administration, started work. The Iraq Tribunal was presented to the world as being in the same tradition but it was different in significant ways, as described in the next chapter. But these forums have not created entirely new laws. Acts such as murder, rape, assault and incitement have been criminal in almost every country for centuries. The innovation is that the statutes and structures of the forums can address the nature of these crimes when perpetrated on a massive scale by powerful people. They take account, for example, of chains of command, misuse of public media and power over agents.[16]

Alternative international strategies have reinforced the endeavours of the formal courts and included international sanctions, aid conditionality, suspending relations or quarantining a post, country confinement, travel bans and exile. Sometimes these approaches caused more harm to populations than to despots, but soon the international community was creating 'smart sanctions' that targeted their prey more cleverly.[17]

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

> … most of the sanctioned countries are authoritarian regimes that don't give a damn about what the people think … The whole notion of sanctions affecting the people in order to affect the leadership is invalidated. So, we must make a distinction between generalized sanctions that affect the people more than the leadership and targeted sanctions that affect the leadership more than the people … sanctions must be efficient … they must affect the conduct of those who took the decisions which led to condemnation by the international community, not the conduct of those who had no part in it … *targeting the leadership is crucial, because the leaders do not care about the fate of their own people.*
>
> Juan Somavia, Director General, ILO[18]

The idea of providing remedy to victims was less problematic and reflected little-known standards in the UN Victims of Crime and Abuse of Power Declaration (1985) which requires that 'the victim should receive restitution from the state whose officials or agents were responsible for the harm inflicted'.[19] The European Convention on Human Rights also expects that those who have suffered in relation to a contravention of the Convention 'shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in official capacity'.[20] The International Covenant is similar.[21]

These initiatives framed the creation of the permanent International Criminal Court (ICC) in April 2002, when the number of states ratifying the treaty reached 60. Under the new US president, George Bush, America then withdrew its support, although the agreement had been signed under President Bill Clinton. This was in contrast to the enthusiastic US engagement with the *ad hoc* tribunals, which included using the threat of withdrawing aid to Yugoslavia to get compliance with court orders. And from a historical perspective, the withdrawal was also in contrast with the fact that the US had to persuade Winston Churchill to set up the Nuremberg court instead of engaging in summary executions of Nazi leaders. The US then blocked aid to 35 countries that had refused to give US personnel immunity from prosecution at the ICC. The chief prosecutor of the Hague Tribunal, Judge Richard Goldstone, commented that the US decision was 'pettiness' as it was 'not going to affect in any way the establishment of the International Criminal Court'.[22] The US found itself in the company of other countries that had not signed – including China,

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams

Yemen, India, Pakistan, Indonesia, Iraq and Turkey – and those that did not ratify – such as Iran, Israel and Russia. One year after its inception in July 2002, 500 cases from 66 countries had been put before the court, although for technical reasons many of these could not be heard. By 2005, the Security Council had asked the court to consider human rights abuses in Dafur, Sudan, the first such decision by the council, and 55 political and other leaders were investigated. This event created an interesting double standard. The US government wanted to respond to the problems in Dafur, yet it did not support the ICC, but it did not veto the Security Council resolution calling for ICC action. By October the ICC had issued its first arrest warrants, for leaders of the Lord's Resistance Army in Uganda.

> The adoption of the [ICC] Statute was a giant step towards universalising the fight against impunity to include every country, every leader, and every militia guilty of crimes against our common humanity.
>
> Kofi Annan, Secretary General of the United Nations, 1999[23]
>
> This is about globalized justice … We are going to fill the impunity gap.
>
> Bruno Cathala, the French judge with responsibility for the ICC, at its inception[24]

The *ad hoc* international tribunals achieved landmark decisions in a short space of time, but it would be wrong to assess success only in terms of convictions. These will probably always be a matter of circumstance rather than pure judgement. Ken Roth, the director of Human Rights Watch, makes the point that indictments themselves have a significant effect:

> The experiences of former Yugoslav President Slobodan Milosevic and former Liberian President Charles Taylor suggest that international indictment profoundly discredits even a ruthless, dictatorial leader. That enormous stigma tends to undermine support for a leader, both at home and abroad, often in unexpected ways.[25]

The effect of the courts also went beyond a simple extension of national standards to an international level. They set new standards for the accountability of powerful people, which many nations had not achieved, particularly in relation to the abuse of women. In February 2001, three Bosnian Serbs were convicted of systematic rape and sexual slavery. This was the first conviction for sexual offences as crimes against

Copyright material from www.palgraveconnect.com - licensed to npg - PalgraveConnect - 2012-12-14

10.1057/9780230596825preview - Leadership Accountability in a Globalizing World, Christopher Williams