The Concept(s) of Accountability: Form in Search of Substance

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Abstract

Accountability has become a cornerstone of current discussion on the prospects of legitimate and effective global governance. In spite of its rather high currency, accountability does not partake in the select group of first-order political ideals: democracy, human rights, constitutionalism and rule of law have all been historically uttered in much more vocal tones and still remain at the forefront of public demands for legitimate authority. Rather than radiating a comprehensive legal or political vision, accountability supplies a power-constraining toolbox that allows for a variety of more or less attractive permutations. This rather commonplace story, though, tells very little about the concrete configurations, underlying values and ends of accountability. The concept of accountability remains unstable because, among other things, its descriptive and normative aspects lack a clearer articulation; traditional taxonomies fail to precisely illuminate its political and extra-political instantiations, and their respective connection with law; the relevant descriptive variables that shape accountability arrangements are not yet systematized in a comprehensive way; the specific normative goals that lurk behind the calls for more accountability tend to be taken for granted, and the trade-offs or internal tensions that necessarily occur are usually camouflaged. Conceptual clarification, thus, is indispensable whenever one comes across such multifaceted umbrella terms. The article attempts to diagnose such shortcomings, to elucidate a minimalist concept of accountability and to provide a large analytical map that can aid both the description and the critical assessment of accountability arrangements in light of their potential purposes. This analytical exercise is a pivotal starting point if accountability is to get a better grip on the debates about the improvement of global governance.

Key words

accountability; global governance; legitimacy; co-ordinates of accountability; functions of accountability

‘Every action we take, we take within a set of overlapping accountability regimes’.

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1 J.L. Mashaw, ‘Accountability and institutional design: some thoughts on the grammar of governance’, in M. Dowdie (ed.), Public Accountability: Designs, Dilemmas and Experiences (2006), 115, at 131. In the same vein, he also maintains: ‘We all feel ourselves accountable in one way or another to scores of other people and institutions… The ubiquity of accountability regimes, and our entanglement in scores if not hundreds of them simultaneously, complicates the task of sorting regimes by family, genus and species’ (Ibid., at 118).
I. THE NEW JOURNEY OF AN OLD CONCEPT

Accountability-talk is omnipresent in contemporary law and politics. In spite of its rather high currency, though, accountability does not partake in the select group of first-order political ideals: democracy, human rights, constitutionalism and rule of law have all been historically uttered in much more vocal tones and still remain at the forefront of public demands for legitimate authority. Accountability, in turn, has stayed at the backdoor of our legal or political vocabulary and operates at a lower waveband. It has not exactly been an incendiary enough flag to lead people to the streets, but it still incites reformist initiatives. It somewhat assists and qualifies each of those stand-alone ideals to pursue their respective ends. Rather than radiating a comprehensive legal or political vision, accountability supplies a power-constraining toolbox that allows for a variety of permutations. Each permutation will hinge on the role, place and weight of the entity or actor to be held accountable.

This ability to serve various masters makes accountability all the more intriguing and chameleonic. To hold a powerful individual or an institution accountable is generally presumed to be a good thing. Accountability is announced, in other words, as a praiseworthy goal to be pursued by law and politics no matter where it takes place, be it locally or regionally, nationally or internationally. It would protect the account-holder and, in several ways, perhaps counter-intuitively, it may benefit the accountee as well.

This rather commonplace story, though, tells very little about the concrete configurations of accountability, the specific values and ends, if any, it is supposed to attain, let alone the exact settings in which it should apply or the functions it should fulfil. That resounding catchword, as it turns out, offers neither a straightforward definition nor a clear portrait of its own potential institutional translations. Therefore, it would be methodologically doubtful, if not futile, to start off any investigation about accountability without, first, cleaning up the haphazard rhetoric and, then, openly constructing a firmer conceptual foundation.

2 The literature on accountability is manifold. It ranges from political science to public administration, from administrative law to international law and international relations. A comprehensive sample of this extensive literature will come up along the dissertation. For an overview, see R.G. Mulgan, *Holding Power to Account: Accountability in Modern Democracies* (2003). As Mulgan himself has put it: “Accountability” and “accountable” are buzzwords of our era” (Ibid., at 1). Or Rubenstein: ‘accountability is often treated as a buzzword that is good in and of itself’. J. Rubenstein, ‘Accountability in an Unequal World’, (2007) 69 *The Journal of Politics* 616, at 620.

3 This ‘assistance’ to more salient political ideals is already implied, for example, by the 1789 French Declaration of the Rights of Man and Citizen, Art. 15: ‘Society has the right to require of every public agent an account of his administration’ (‘La société a le droit de demander compte a tout agent public de son administration’).

The concept of accountability is Janus-faced. Its duality is expressed in three distinct ways that are complexly intertwined with each other. The concept can: (i) display a descriptive or normative character; (ii) capture a political or extra-political relationship; and (iii) be shaped by legal or extra-legal properties. In order to get a satisfactory grip on that concept, one should put these three parallel dimensions into an adequate and coherent context. Should any of these three dimensions be left out of the picture, the explanatory capacity or normative appeal of the concept will significantly recede. Should they get inadvertently conflated and their connections obscured, the application of the concept becomes equivocal.

With regards to the first dimension, accountability can be conceived both as a given and as a construct, both as an inevitable ‘social fact’ and as a ‘purposeful enterprise’. Mostly, however, it seems to convey nothing but noble intentions in the ordinary political lexicon. That is to say, its normative side usually overshadows its purely descriptive one. Converted into a ‘feel good’ term, it often ends up working as a verbal weapon for political strategists and rhetoricians, not as a tool for legal and institutional analysis.

Accountability, moreover, is not a solely political concept. A political agent, apart from making and implementing decisions, inevitably carries some burden of accountability for her actions. To some extent, moral agents, in several extra-political domains, also have to discharge a similar duty. The obligation to give an account to someone, somehow, for some particular act and at some point in time, and the expectation that this someone will react, positively or negatively, strongly or weakly, at some other point in time, cuts across the conventionalized borders between politics and other spheres of social life.

Finally, the concept may get more or less enmeshed with law. First, that might happen when the concept enters the province of institutionalized politics, a province constituted and governed by legal rules and procedures. Second, that might also happen when one confronts social relations that, despite not being purely political, have been densely legalized.

This article clarifies these manifold connections and delineates a framework to inform the analysis of the concept of accountability. To be sure, there is no single way to lay down such theoretical backdrop, no self-evident typology or uncontroversial boundary that the concept of accountability encapsulates. Every attempt of conceptualization passes over diverse aspects of the phenomenon it seeks to make sense of.

5 This dichotomy evokes the basis on which a substantial part of the famous jurisprudential debate between Hart and Fuller was constructed. See H. Hart, ‘Positivism and the Separation of Law and Morals’, (1958) 71 Harvard Law Review 593; L. Fuller, ‘Positivism and Fidelity to Law: A Reply to Professor Hart’, (1958) 71 Harvard Law Review 630.

The varied literature thereon oscillates between more restricted and more expansive concepts of accountability, without incurring, necessarily, analytical inconsistency.\(^7\) The concept of accountability stipulated in this article is a minimalist one, that is, comprehensive enough to grasp different sorts of power relations. I do not claim this is the one and only correct definition of the term, but it nonetheless illuminates accountability facets of a broader spectrum of transnational institutions than a maximalist concept would otherwise do.\(^8\) The more minimalist the definition, the larger its denotative range naturally becomes. At the transnational level, to avoid ‘overloading the definition of accountability’\(^9\) may be cognitively productive to perceive more nuanced interactions that shape accountability relationships, no matter how attractive they may be from the normative point of view.

According to such a minimalist concept, accountability directs itself to the phenomenon of power. It hinges upon the divide between power-holders and subjects to power. It establishes a peculiar and contingent sort of relationship between both sides (by way of converting the latter into an ‘account-holder’).

Basically, this article elucidates what accountable and unaccountable powers essentially are (and the gradual variations between both poles), and why the latter is deemed a rather alarming entity, while the former is quite vehemently cherished. Defining the concept and distinguishing its descriptive and normative, political and extra-political, legal and extra-legal aspects are major analytical steps undertaken by the accountability literature.\(^10\) This article aims to make sense of these various facets in a more systematic fashion. Let me briefly explain how.

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7 Ferejohn and Keohane have, respectively, furnished a minimalist and a maximalist concept of accountability. For Ferejohn, there are two basic archetypes of accountability: political and legal. The former is practiced through silent and arbitrary voting, a crude choice that does not need to be publicly justified. Election is the main example of such a mechanism. Legal accountability, in turn, consists in a constraint of public reason-giving based on general norms that judges must discharge (J. Ferejohn, ‘Accountability in a Global Context’, (2007) IILJ Working Paper 2007/5 1). Keohane widens the compass and offers a comprehensive picture of eight accountability types. The first four derive from an act of delegation of powers, on the basis of which the delegator has the authority, through various means, to control the delegate. They can be hierarchical; supervisory; electoral; and fiscal. The remaining four types are imbued with what Keohane calls participation. They assign to different actors the possibility of constraining others’ decisions by having leverage, though sometimes short of formal entitlements, in the activities of others. They can be legal, market, peer, and lastly, public reputational. See R. Keohane, ‘The concept of accountability in world politics and the use of force’, (2002) 24 Michigan Journal of International Law 1121; R. Keohane and R. Grant, ‘Accountability and Abuses of Power in World Politics’, (2005) 99 American Political Science Review 1.

8 For the sake of terminological clarity, it is useful to distinguish between ‘international’ and ‘transnational’ or ‘supra-national’ law even though this distinction is one of degree rather than of kind. Whereas the former captures the traditional horizontal agreements – either bilateral or multilateral – among states, the latter illuminates some thicker modes of regulating states’ behaviour. These terminological choices do not significantly deviate from general usages of the international law literature, despite the linguistic variation that still remain.

9 Philp maintains: ‘avoiding overloading the definition of accountability, should alert us to the multiple ways in which international organisations and their members are, in fact, accountable’ (M. Philp, ‘Delimiting Democratic Accountability’, (2009) 57 Political Studies 28, at 46).

10 See, for example, Bovens and his distinction between accountability as a ‘mechanism’ and as a ‘virtue’ (M. Bovens, ‘Two Concepts of Accountability: Accountability as a Virtue and as a Mechanism’, (2010) 33 West European Politics 946). Philp also claims: ‘we have to be clear about when an accountability relationship exists before we ask whether that relationship satisfies certain other principles or values’ (supra note 9, at 48); Or as Stewart and Kingsbury maintain: ‘demands are made for greater accountability without serious analysis of precisely what it consists in, how it can be achieved, and what its goals are’ (supra note 4, at 10).
The next section (Section 2) characterizes political accountability as opposed to its extra-political forms and advances the basic structure of any accountability relationship. It answers the following two questions: what does it mean to be accountable? What does it mean, in particular, to be politically accountable? Although political and extra-political forms of accountability share a common structure, the article is mainly concerned with the ways in which political authorities, in particular transnational ones, may be held to account.

Section 3 points out the fundamental co-ordinates of political accountability, that is, the descriptive angles that help us to decode and to draw an analytical map of any power relationship that display some accountability nuance. Among other things, this section spells out how law may be present or absent in political accountability, rejecting the ambiguous dichotomy that opposes legal and political accountability.

Finally, Section 4 sets out the key functions political accountability has been expected to play. If one plans to go beyond description, as the political discourse and the literature in law and international relations have actually gone, in the name of what purposes should one couch the demands for accountability? Answering such question calls attention to the normative side of the concept of accountability and, more importantly, the occasional tensions that might arise.

From Section 2 to Section 4, thus, we can see a gradual knitting of distinctions that culminate, hopefully, in a more detailed picture of the concept of accountability. There is a thread that holds these sections together: from the concept of accountability and its descriptive co-ordinates, we realize that accountability is a compounded link between a power-holder and someone else; still, it is only by the elucidation of the functions that we begin to understand when and why accountability is a desirable attribute in the first place and why it should be fostered.

This article, thus, purports to capture the ‘complex dimensionality’ of accountability.\(^\text{11}\) The distinction between the dimensions, co-ordinates and functions, and a clear picture of how they relate, are primary steps for adequate understanding and well thought out institutional reforms.

2. POLITICAL AND EXTRA-POLITICAL ACCOUNTABILITY: SHIFTING AND CONTESTED BOUNDARIES

Accountability is not, by definition, restricted to politics, no matter how politics is conceived.\(^\text{12}\) It transcends the domain of authoritative collective action and pervades social relations more widely and deeply.\(^\text{13}\) One should be attentive to extra-political forms of accountability in order to understand what accountability shares with the political form and what is distinctive of the latter. Rather than a pedantic digression,


\(^\text{12}\) The exception, for sure, would be a dystopian totalitarian regime, where nothing is left out of the sphere of the political, where the ‘extra-political’ is inconceivable because the respective political culture does not have any default criterion to exclude something from the realm of politics.

\(^\text{13}\) See Mashaw, supra note 1, at 118.
this inquiry helps us both to single out, at least approximately, the elementary particle of the concept and to discern the concept itself from its uniquely political manifestation.14

There are several types of extra-political accountability.15 Cultural or social accountability is probably the most difficult to perceive and diagnose. When feminist activists, for example, complain about the ‘failure of the culture to hold men accountable’,16 they do not necessarily ask for legal punishment or for the use of coercion to right the wrongs allegedly committed by men. Their protest runs deeper. It concerns the more diffuse and subtle ways through which a reputedly gender-biased culture curtails the autonomy of women to lead their own lives. The demand for cultural accountability, in this sense, intends to unveil and to challenge the sources of social normativity as well as the informal ways through which standards of behaviour are furtively enacted and enforced in a potentially oppressive fashion. Accountability mechanisms, thus, would be constitutive of a more horizontal social fabric.17

Accountability relations also emerge in a variety of other extra-political settings.18 Professionals, for example, may be called to account in the light of how they exercise their expertise vis-à-vis their peers and laypeople.19 Lawyers, engineers or medical doctors take technical and learned decisions the appropriateness of which their respective clients or patients have limited capacity to judge. Still, this would not necessarily prevent the latter from having a right to demand, from the former, a justification for the choices that were made as well as from taking a stand on such choices’ acceptableness and accuracy. Their reputation towards their peers, moreover, may be a decisive factor for their professional success and self-satisfaction. Corporations may be called to account for how their market actions affect the lives of their clients, employees or society at large; for what their products stand for;

14 Mashaw is also pointing to such structural commonality when he warns, for example, against ‘overselling’ the dissimilarities between different types of accountability (Ibid., at 130). Philp is also concerned with distinguishing the core, definitional or necessary parts of the concept from its contingent and supplementary components (supra note 9, at 48).

15 ‘Extra-political’ should not be equated with ‘non-political’ or ‘anti-political’, as if some issues were always and necessarily outside any allegedly essential boundaries of politics. Because the sphere of politics fluctuates, some will be extra-political today and political tomorrow, and vice-versa. Ian Shapiro advances such insight, by claiming that politics is ‘both nowhere and everywhere’: ‘They are nowhere in that there is no specifiable political realm; … Politics are everywhere, however, because no realm of social life is immune from relations of conflict and power’ (I. Shapiro, ‘Optimal Deliberation?’, (2002) 10 The Journal of Political Philosophy 196, at 206).

16 See G. Dines and W. Murphy, ‘SlutWalk is not sexual liberation’, The Guardian, 8 May 2011. A further example thereof is Stuart Mill’s identification of the lack of sufficient check on the conduct of men towards women: ‘There is no check but that of opinion, and such men are in general within the reach of no opinion but that of men like themselves’ (J.S. Mill, The Subjection of Women (1869), in Collected Works of John Stuart Mill (1984) Vol. XXI, at 323).

17 At the most general normative level, being accountable to others may even be seen as a central feature of a moral life (M. Dubnick, ‘A moral being is an accountable being: Adam Smith and the Ethical Foundations of Accountable Governance’, (2010) Paper for the 68th Annual Meeting of the Midwest Political Science Association, Chicago IL, May 22–25).

18 Schedler also draws the distinction between private and political accountability (supra note 4, at 21).

19 Onora O’Neill raises this question before indicating solutions that combine trust and trustworthiness: ‘In areas of concentrated specialisation and expertise, including medicine, science and biotechnology, how then can inexpert patients, citizens or customers judge the experts’ (O. O’Neill, Autonomy and Trust in Bioethics (2004), 118); Thompson also points, for example, to the role of collegiality in professional accountability (D. Thompson, Restoring Responsibility: Ethics in Government, Business, and Healthcare (2004), 59).
for how these products are made and advertised; for which patterns of consumption are encouraged; for how their employees are treated and how their facilities are constructed or, more broadly, for where their money is spent and investments are addressed. The answers to all these questions impact on different social groups that may wish or reasonably deserve to have an input on decisions that, one way or another, also concern them.  

Cultural, professional or corporate accountability share something in common. In all these cases, there is a split between an agent who takes decisions and another who bears the impact of or has some stake in these decisions. There is, thus, a division of labour between two poles. Accountability is a quality that may or may not permeate the relationship between both groups. It exists where the decision-maker has the obligation or is factually impelled to account, and where the subjects to the decisions are entitled or factually able to demand an account for the actions or inactions of the decision-maker.

Accordingly, accountability monitors or even compensates for that division of labour by constraining, to varying degrees, the autonomy of the decision-maker. Hence, the behaviour of accountable decision-makers is far from unbound. Exogenous considerations will need to be factored into their decisions, which interfere with the decisions themselves. For sure, the force and the kinds of constraints will vary, and the extent to which they can credibly curb one’s actions will also differ across time and space.

Accountability revolves around a power-holder and a ‘significant other’. The ‘other’ is only ‘significant’ as far as she has a credible claim on the power-holder, that is, the ability of demanding the latter to furnish an account for her conduct, of engendering, to use Bovens’ phrase, a ‘reflective discursive encounter’. It is reflective since it lets the agent turn inward and find a justification for her acts; it is discursive because the agent also needs to turn outward and express this justification publicly and intelligibly in order to engage in a back-and-forth conversation; and, furthermore, it instantiates a non-arbitrary encounter inasmuch as there is some sort of link binding the two subjects. This encounter, to sum up, amounts to ‘an ongoing process of account-giving and account-taking’.

However large the diversity of accountability relationships can be, and despite their particularities, there is a core analytical structure that imbues all the examples above and below. Such structure can be enclosed by a set of rudimentary descriptive
questions: Who accounts to whom? For what and on the basis of which standards? How and when? Under pain of what consequences?\textsuperscript{25}

The first question brings forward the subjects of an accountability relation, or who the accountee and the account-holder are.\textsuperscript{26} The second specifies the object and standards of accountability, that is, the acts of power that are exposed to such constraint (after all, power-holders may not be accountable for acts that are not related to the exercise of such power), and also the benchmark of judgment that informs such account. The third settles the procedure and timing of an accountability relation, or the way it is done and the moment it takes place. The fourth, finally, prescribes the consequences that will ensue.

We can also turn this descriptive question into an explanatory one: Why does A account to B for the K acts, on the basis of X standards, through Y procedure and at time Z? The answer would have to spell out what is the causal story that binds A to B and its respective connection with K, X, Y and Z. Such answer would give us a thorough picture of how a definite accountability relationship is conformed. They still do not suffice, however, to grasp the normative dimension that a plea for accountability entails. Bringing a critical grip to the question, then, one could ultimately ask: who \emph{should} be accountable to whom for what, on the basis of which standards, how and when?

The aforementioned \textit{descriptive}, \textit{explanatory} and \textit{prescriptive} variants of this structural question are the key analytical prisms to understand the disputes and arguments about accountability. Accordingly, any attempt to classify an accountability relationship into this or that category will revolve around this fundamental formal pattern. Whether the accountability relationship is political or extra-political will depend on the contingent question of how we feed each of those components – the subjects, the object, the standards and so forth.\textsuperscript{27}

The uniqueness of political accountability relates to the sort of power in play, namely, political power, to the subjects to which the exercise of that power is directed – the members of a political community – and to the issue that is under consideration – the general interest, the common good or the like.\textsuperscript{28} Decisions taken under such

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\item \textsuperscript{25} Stewart (\textit{supra} note 4) and Mashaw (\textit{supra} note 1), among others, resort to fairly similar formulations of such a structural question to explain accountability.
\item \textsuperscript{26} The two poles of an accountability relationship, according to a common terminology, are the ‘power-holder’ and the ‘account-holder’ (see R. Keohane, ‘Global Governance and Democratic Accountability’, in D. Held and M. Koenig-Archibugi (eds.), \textit{Taming Globalization: Frontiers of Governance} (2003), 130). The contrast, however, is somewhat misleading. It insinuates that the former holds power at the expense of the latter. Disempowered account-holders, nonetheless, are no account-holders at all. To be sure, both actors are empowered in distinct ways and to a certain degree. The relationship may, indeed, be asymmetrical. Still, constructing an accountable relationship is to empower a previously disempowered actor, however soft or arguably insufficient that empowerment might be. To avoid this mischaracterization, I will henceforth use the terms ‘accountee’ instead of ‘power-holder’, and keep ‘account-holder’ or ‘accountor’ for the other side of the equation. When appropriate, I will still use ‘power-holder’ if the very question of whether such actor is accountable is uncertain or simply not at stake. But that, again, does not at all mean that the ‘account-holder’ is not a ‘power-holder’ as well.
\item \textsuperscript{27} By ‘contingent’ I mean the historical and shifting borders of the realm of politics (Shapiro, \textit{supra} note 15).
\item \textsuperscript{28} ‘General interest’ is admittedly a rather vague and inevitably volatile definition of the realm of politics, but it should suffice for the current purposes. ‘Common good’, ‘collective good’ or ‘public good’, without further qualification, would do no better, because different traditions of thought and different moments of political history would read them in different ways.
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political authority are binding on and made in the name of the polity. Collective decisions based on the political pedigree may generate a duty of obedience whose enforceability does not depend upon the individual endorsement of the content of every single choice. The effectiveness of such collective decisions, as it happens with politics, presupposes a sense of trust and membership.\(^{29,30}\) However blurred the boundaries between political and extra-political types of accountability might be in the edges, the distinction between these two types is worth drawing. Yet this does not mean that their relational structure is substantially different.\(^{31}\) Quite the opposite is the case: as far as the structure is concerned, political and extra-political accountability share much in common.

In sum, a power-holder may be deemed accountable when her power is plausibly constrained by the expectations, instructions or stakes of one or several external agents.\(^{32}\) She is thus compelled to furnish an account for what she is doing or not doing. Such rudimentary definition, for sure, is still far from sufficient to fully equip the inquiry that this article intends to undertake. For instance, one could argue that it is too vacuous to come to terms with the contemporary debates about accountability deficits and gaps, overloads and excesses in either national or international levels.\(^{33}\) This sketch must not be the entire notion of accountability these debates have in mind. After all, there is hardly an absolutely unaccountable power, political or otherwise, and some forms of accountability may be spurious rather than admirable.\(^{34}\) Their protest calls for something more specific and normatively loaded, not for whatever sort of accountability one happens to discern.

In fact, the sheer existence of accountability is no reason for celebration. Politics is often embroiled in a string of more or less onerous accountability relationships. Behind the veneer of public rhetoric, the actual discussion has rarely been about whether a certain agent is accountable.\(^{35}\) The critical question has rather been about

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29 The idea that a polity lies in the background of political accountability gets more complicated when the very existence of a polity is contestable, like on the supra-national level of governance.

30 On the ‘sense of trust’ as a pre-condition for meaningful accountability, see Philp, supra note 9.

31 The borders may actually be more porous than strict classifications might suggest. Mashaw emphasizes the permeability between different regimes of accountability, which ‘flow and blend into each other’ despite the differences in kind between public governance, market and social accountability (supra note 1, at 127).


34 Schmitter mentions, for example, the accountability mechanisms that may exist in sultanistic autocracies, military dictatorships or even absolute monarchies (supra note 32, at 48). Mashaw also points to a ‘monarchical model of accountability’: ‘Officials were accountable to the monarch and the monarch to God. We know little about how God kept his accounts, but monarchs rapidly developed rudimentary systems of auditing’ (J. Mashaw, ‘Judicial Review of Administrative Action: Reflections on Balancing Political, Managerial and Legal Accountability’, (2005) Revista Direito GV 153, at 155).

35 A power-holder, whoever he happens to be, is hardly exempt from any accountability relationship. This proposition does not, though, equate accountability with every single power relationship. It is not incompatible, thus, with a proposition that contents that there are unaccountable power relationships. The power-holder A, for example, may exercise raw and naked power against the actor B, and this would configure an altogether unaccountable power relationship. It would neither be reflective nor discursive. Still, A would almost certainly be accountable to other actors, even if those other actors were not the ones we wish them to be (neither the ones normative theories recommend).
whether one is accountable to the right constituency, in the right way, at the right time, for the right reasons or standards. Thus, in order to get some traction, one needs to delve deeper into these thorny normative elements. One does not contribute to this debate without openly recognizing these normative underpinnings. Bracketing them is not a sustainable option because a value-free standpoint is simply not available.

3. THE CO-ORDINATES OF POLITICAL ACCOUNTABILITY

The field of application of political accountability is vast. It comprises diverse sorts of political relationships, which are assimilated by an array of typologies. The regimes of political accountability resort to a number of devices that inform the interaction between accountees and account-holders. Here I introduce some of the chief categories that help to particularize these several possible arrangements.

The structural question put forward in the previous section specifies a way to envisage the co-ordinates of political accountability (or, in fact, of any power relationship): the subjects, the object, the benchmark of judgment, the procedure, the timing and the consequences that bear upon such a relationship. Here, I spell out the co-ordinates that, combined in different ways and doses, allow accountability arrangements to fulfil different functions (as the next section will show). What follows comprises eight co-ordinates of accountability. This list is surely not exhaustive. The goal, however, is to gain systematicity and to group the properties of accountability that are still fragmented in the specialized literature.

Every accountability relationship has a distinct density. Depending on how its co-ordinates are configured, it will vary across thicker and thinner ends of a spectrum of possibilities. Thicker and thinner modes, as we shall see, imply not only that the accoun tees will feel more or less constrained by (or tied to) the account-holder, but also that it will be enmeshed in more or less complex, institutionalized and formal sorts of connection.

The first co-ordinate through which that density can be observed purports to capture the level of formality of an accountability relationship. This is a leading co-ordinate that pervades and shapes all others. Any power relationship will be more or less formal and legalized. This means that general and previously enacted legal rules may regulate each of the co-ordinates listed below, ascribe an official status to their subjects and specify their respective authority and competence.

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36 The typologies are multi-coloured. Some important examples of typologies are offered by Schedler (supra note 4), Keohane (supra note 26), Keohane and Grant (supra note 7), Ferejohn (supra note 7), Stewart (supra note 4) and B. Morgan, ‘Technocratic v. Convivial Accountability’, in M. Dowdle (ed.), Public Accountability: Designs, Dilemmas and Experiences (2006), 243.


38 Schmitter, for example, is sceptical towards a non-institutionalized form: ‘However complex it may be, political accountability must be institutionalized if it is to work effectively. This means that it has to be embedded in a mutually understood and pre-established set of rules’ (supra note 32, at 48).
relationships may benefit from the qualities of the rule of law in order to become more stable and predictable.\textsuperscript{39}

This legal angle invites a conceptual caveat. It would be erroneous, of course, to equate the distinction between political and extra-political accountability with the presence or absence of law (or adjudication). Law is only one of the several possible institutional conveyors that can promote both political and various sorts of extra-political accountability. It brings to accountability relationships a measure of rule-like formality and the accompanying apparatus for legal enforcement. Legal norms and institutions are commonly used for promoting corporate, professional or parental accountability, as well as for fostering political accountability. Law, however, does neither exhaust their potential nor capture informal or less rule-bound accountability tools that may also operate within each of these accountability relationships, including the political ones. Perceptible traces of accountability still subsist both in ‘law-free zones of privacy and association’\textsuperscript{40} or in law-free zones of political relationships, which should not be ignored. This explains why the categorical opposition between political and legal accountability, proposed by some typologies, may be misleading part of the time.\textsuperscript{41}

The second co-ordinate resorts to a traditional spatial metaphor. It regards how the power relationship between two agents materializes along horizontal or vertical lines. The vertical angle is more typical of accountability discourses. Substantially, vertical accountability is characterized by some asymmetry of power between accountees and account-holders. It can run downstream when the account-holder delegates power to the subject that will then be held accountable (in a ‘principal-agent’ or ‘trustee-trustee’ fashion) or it can run upstream when the accountee is held accountable by those who are bound by her decisions or somehow bear their impact. To use a fashionable dichotomy, a vertical accountability relationship can run either top down or bottom up. The same actor, moreover, may be accountable both ways – from above and from below.\textsuperscript{42}

\textsuperscript{39} The mainstream literature on the rule of law explains what these basic qualities are. See, for example, L. Fuller, \textit{The Morality of Law} (1968); N. MacCormick, ‘The Ethics of Legalism’, (1989) 2 \textit{Ratio Juris} 2. O’Neill, however, provides significant examples to show that setting the optimal degree of formalization is a controversial enterprise: ‘Formalisation has advantages that are constantly mentioned by its advocates: mutual clarity of expectations, clear performance targets, defined benchmarks of achievement, enhanced accountability. But there is also the danger that more formalised procedures may deepen the distrust they seek to remedy’ (\textit{supra} note 19, at 130).

\textsuperscript{40} See Mashaw, \textit{supra} note 1, at 119.

\textsuperscript{41} The dichotomy is proposed by Ferejohn (\textit{supra} note 7). I avoid following this contrast between political accountability (election) and legal accountability (adjudication) because law actually disciplines and institutionalizes both elections and adjudication, however differently. That dichotomy runs the risk of underscoring both the presence of law in elections and the presence of extra-legal elements in adjudication. It seems to me that it helps to obscure rather than clarify.

\textsuperscript{42} This lies close to the typology proposed by Keohane (\textit{supra} note 26): on the one hand, accountability would be internal, based on an act of superior delegation, authorization and support; on the other, it would be external, based on participation of those who bear the impact of decisions. Keohane and Grant slightly rephrase the dichotomy into ‘delegation v. participation’ (\textit{supra} note 7). The World Bank is one of their examples of the simultaneous downstream and upstream dimensions operating at a single institution.
Apart from this vertical axis, there can also be accountability relationships that take place along a horizontal (or gradually less vertical) line. This may occur between two agents that are tied neither by a clear relation of ‘command-and-control’ authority nor by an unmitigated duty of obedience. The constraint, in this case, is more delicate and stems rather from a co-operative commitment in light of mutual dependence. Scrutinizing it further, a horizontal accountability relationship could be unidirectional if, despite the horizontality, only one of the subjects is truly held accountable to the other, or bidirectional, if there is a reciprocal constraint to account for the decisions that either subject takes. ‘Checks and balances’ and its several internal tools for mutual control and co-operation are classical instance of this horizontal bidirectional type, where a single agent is both an accountee and an account-holder at one and the same time.

The third co-ordinate highlights a relevant nuance of accountability relationships in multi-member institutions. It shows whether it is the institution, organically considered, or each of its members, who is called to account. The process of holding a power-wielder accountable can work in the wholesale and in the retail or, to use another common dichotomy, be centripetal and centrifugal. In the former case, the entire collegiate (like a court, a regulatory commission or any deliberative body), rather than its members, may be assessed and held responsible for its decisions. In the latter case, on the contrary, the institution evades a collective responsibility, but each member is assessed by the way she has contributed to the collective performance.

An elected parliament, in a constitutional system that also adopts judicial review of legislation, simultaneously provides an example of both: on the one hand, the parliament is subject to atomized accountability by the constituents, who are able to judge, reward and punish, by means of election or non-election, each representative, but not the institution itself; on the other hand, the parliament is subject to organic accountability by the court that assesses the constitutionality of legislation. In such a system, the parliament is held to account both as ‘many’ and as ‘one’, both in its plurality and in its supra-individual unity.

43 To be sure, a sensible perception of the ‘phenomenology of authority’ indicates that a pure top-down pyramidal model usually misses part of the phenomenon. Mashaw reminds of this important feature of power relations when he claims that bureaucratic hierarchies, for example, rather than sheer pyramids, operate through ‘dense networks’ of influence and persuasion (supra note 1, at 123).

44 The concept of horizontal accountability was crucial for G. O’Donnell to single out what genuinely representative democracies had that ‘delegative democracies’ lacked: ‘Delegative democracies rest on the premise that whoever wins election to the presidency is thereby entitled to govern as he or she sees fit, constrained only by the hard facts of existing power relations and by a constitutionally limited term of office’ (‘Delegative Democracy’, (1994) 5 Journal of Democracy 55, at 99). The species of ‘delegative democracies’, by having only the vertical type, falls short of consolidated democracies: ‘In institutionalized democracies, accountability runs not only vertically, making elected officials answerable to the ballot box, but also horizontally, across a network of relatively autonomous powers (i.e., other institutions) that can call into question, and eventually punish, improper ways of discharging the responsibilities of a given official’ (Ibid., at 101).

45 See Keohane, supra note 7, at 129. Keohane shares Derek Bok’s view, according to which individual accountability, rather than making the members of Congress collectively responsible, would expose them to ‘the centrifugal pressures of special interests and constituent groups’.

46 This will vary, of course, according to the kind of electoral and party systems that shape the electoral representation.
An accountability relationship may also be marked by demands of expertise. Through this fourth prism, one should realize whether the subjects possess special knowledge, that is, whether they are technocrats and hence decide on the basis of reputedly objective, impartial and universalizable premises. Here, four pictures may conceivably emerge between accountees and account-holders: (i) both are experts, which would lead to a strictly technocratic accountability relationship; (ii) both are lay and nontechnical agents; (iii) the accountee is an expert whereas the account-holder is not; and (iv) the accountee is lay whereas the account-holder is an expert, shaping a sort of guardianship regime.

Power-holders are usually expected to discharge a rather specific role. The performance of this task might be accompanied by substantive standards and expectations to appraise the output that is delivered (which might be related to expertise or not). The fifth co-ordinate, thus, reveals whether there are explicit criteria through which the performance of power-holders will be evaluated. The specificity of standards may vary and hence provide, to the power-holder, more or less precise guidelines on how her performance will be rated. The existence of public standards (or the lack thereof) will qualify, for example, both the exercises of voting and reason-giving, mentioned below.

The stringency of standards shapes diverse kinds of accountability relationships. Whatever their sources are, the more standards constrict the behaviour of the power-holder, the less room for the exercise of discretion will remain. The openness of standards turns an accountability relationship into one between a ‘truster’ and a ‘trustee’. At the other end of a continuum of stringency, the relationship might be reduced to one between a ‘rule-setter’ and a ‘rule-follower’, where discretion itself might disappear (and, with it, the very idea of accountability). If accountability is not a matter of strict compliance with rules and standards, so as to render accountees

48 This type may be practised, for example, within a technocratic body, in which there is a hierarchical division of labour.
49 This can be seen in the classical accountability relationship between constituents and elected parliamentary representatives, which is usually called ‘electoral accountability’.
50 This evokes the traditional tension between technocracy and democracy and may be seen, for example, in the relationship between regulatory technocrats and the people generally conceived (See Shapiro, supra note 47).
51 Though this type might sound too stylized, it suits our ordinary understanding of the relationship between a legislator (presumably ‘lay’) and a court in charge of judicial review of legislation (the ‘constitutional expert’). Even if one could claim that the legislator is supposed to be no less prepared than judges to handle legal and constitutional matters, as critical accounts on the legitimacy of judicial review have recalled, it is the opposite assumption that one of the mainstream arguments in favour of judicial review of legislation is grounded upon.
52 For Keohane accountability relates to agency, that is, power-holders have significant choices to make, not just superior orders to follow. Therefore, genuine accountability relationships would presumably be closer to the ‘truster-trustee’ rather than the strict ‘principal-agent’ relationship. Keohane has clarified this as follows: ‘Cast in the language of power, an accountability relationship is a relationship in which an actor making a normative claim that it should have influence over another actor actually has such influence; and in which the actor subject to influence has significant discretion’ (supra note 7, at 1225). Philip shares this point: ‘Paradoxically, where the discretion or latitude of the office holder is eliminated in this way, he or she has nothing to explain or justify – nothing to account for!’ (supra note 9, at 37).
‘wholly subservient’ to account-holders, and if it should rather encourage a mindful exercise of judgment, some degree of agency for the power-holder has to be preserved. Wherever this threshold might be located, one might expect to see variations of degree along this continuum. As Philp suggests, at one pole there will be a ‘compliance-based system’, structured around a set of incentives for conformity and threats against non-compliance; at the opposite pole, there will an ‘integrity-based system’, which prioritizes agency over rule-following and hinges upon trust.

The sixth co-ordinate exposes the modus operandi of an accountability relationship, or, in other words, how proceduralized it is. Several methods of participation, enquiry and contestation may sew a web of constraints on decision-making. The way in which the accountee is appointed, appraised or even removed from office by the account-holder may be governed by more or less consolidated practices and conventions. Voting and reason-giving are two stereotypical mechanisms through which these procedures are designed. By voting (or simply nominating), the account-holder can place someone in or, without further justification, remove someone from a position of power. By having the occasion to reason and interrograde (through a ‘notice and comment’ mechanism, for example), the account-holder can also air disagreements that put pressure on the accountee, triggering a sort of deliberation between them both. The power-holder, in turn, may have the obligation to articulate a public justification for each decision she takes. The accountability-promoting quality of reason-giving, therefore, would be able to operate in two directions: for the account-holder, as a right both to give and to receive reasons; for the accountee, as a pressing burden. To put it differently, while the former may constrain through the opportunity to reason, the latter is constrained by the duty to reason.

A variety of balances between transparency and confidentiality will ultimately delineate how the procedures of voting, arguing and commenting by the account-holder, or the onus of reason-giving by the accountee, set the stage for an altogether

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53 Philp, supra note 9, at 43.
54 Philp contends: ‘We trust people to do things under their own initiative and discretion and we use accountability for feedback and evaluation, but the accountability is parasitic on that trust’ (Ibid., at 41).
55 These two modes of control in the hands of account-holders (reasoning and voting) can be analogized with the distinction between ‘voice’ and ‘exit’ advanced by A. Hirschman, ‘Exit, Voice, and Loyalty’: Further Reflections and a Survey of Recent Contributions’, (1980) 58 Health and Society 430. Voice and exit, for Hirschman, are ways for a customer to protest against an economic organization. Keohane also resorted to this distinction in order to exemplify market accountability (supra note 7, at 1131), but the analogy can be further explored in the realm of politics. One should not confuse this distinction, however, with the one between reason-giving and voting proposed by Ferejohn (supra note 7). Ferejohn’s account considers reason-giving only as a burden that some non-elected power-holders (especially judges) have to handle and, in that precise sense, as a pattern of reasoning that would enhance accountability. Ferejohn does not emphasize any special role of reason-giving as a means for account-holders themselves to challenge the power-holders (which Hirschman’s ‘voice’ would entail). This emphasis, therefore, overlooks a dialogic role that reason-giving can play as an accountability mechanism, and focuses only on a monological angle.
56 Reason-giving, for Schedler, would turn monological power into dialogic, would make ‘both parties speak’. It is therefore ‘opposed not only to mute power but also to unilateral speechless controls of power’ (supra note 4, at 15). There is, for him, only a partial overlap between accountability (to someone, with duty to account) and responsibility (for something): ‘while accountability forces power to enter into a dialogue, the notion of responsibility permits it to remain silent’ (Ibid., at 19). Accountability, thus, goes beyond ‘attributing responsibility’ and comprises the act of ‘giving an account’.
plausible accountability relationship. Rather than accountability itself, the transparency of the procedures and decisions taken by the accountee constitutes the informational pre-condition for such a relationship to be set in place. On the whole, transparent authority is not, in and of itself, accountable. Accountable authority, though, cannot but be a minimally transparent one. Total opacity and accountability do not match.

Accountability interactions may also be put into a temporal perspective. This seventh prism illuminates the exact moment the power-holder expects a reaction from the account-holder, or the moment the latter has the opportunity to respond to the former. Two main temporal co-ordinates help discerning the possible variations. Firstly, the accounting may be *ex post* or *ex ante*, that is, it may take place after the decision by the accountee is made and implemented, consummating more or less concrete effects, or it may come somewhat earlier. Mechanisms of preventive control illustrate the latter whereas the posterior ascription of responsibility exemplifies the former. A combination between the two possibilities may jointly form a single accountability relationship. Occasionally, when the power-holder anticipates the potential reactions of the account-holder and acts accordingly, the distinction itself may partially lose its grip. The distinction between *ex ante* and *ex post*, thus, captures an ambivalence in the phenomenon of ‘being accountable’: to ‘perceive yourself accountable’ (and acting accordingly) and to ‘be held accountable’ (and suffering the consequences of your previous acts) are not the same thing. Both may indeed coalesce part of, or even most of the time, but it is crucial to note when they do not.

Secondly, both *ex ante* and *ex post* reactions could also be qualified as immediate and prompt or as diffuse and gradual. Such temporal angle enables one to insert accountability relationships into a short or long-term horizon. Thirdly, these interactions across time can be characterized as a process and hence considered as following a set of phases. Roughly, this process would comprise, as Keohane and Grant suggest,
three phases: first, the standard-setting; second, the process of informing, justifying and assessing; lastly, the sanction.61 This sequence of phases, as an ‘endless loop’,62 can permanently restart and configure iterative ‘cycles of accountability’.63

Finally, the eighth co-ordinate refers to the weight of the consequences that ensue from the exercise of power. The amount of power bestowed upon account-holders to sanction accountees varies. Sanction is a wide concept and comprehends mechanisms with greater or lesser teeth. Some authors have equated the power to sanction to the power to remove someone from office (a typical example would be the power of voters to periodically elect, re-elect or ‘deselect’ their representatives). This automatic equation, though, neglects the more subtle ways through which power may effectively be sanctioned and held accountable.

The power to remove the accountee is probably the most drastic but by no means the only instantiation of sanction there can be. Sanctions that fall short of sheer removal may comprise forms of public criticism and exposure, shaming and stigmatizing, all of which can jeopardize the exercise and the very viability of legitimate power.64 The shrinkage of reputation, for example, might be disastrous for decision-making bodies that operate within a terrain of soft power.65

Hard and soft or direct and indirect are opposite dichotomies to enclose the variety of sanctions there may be. It is undeniably important, for sure, to keep in mind that ‘inconsequential accountability is no accountability at all’.66 Embracing this forceful maxim, however, does not imply reducing ‘consequential’ to the most severe kind of sanction. Whether a soft or indirect sanction creates efficient and credible enough constraints on the power-holder is a different, if relevant, empirical question, the implications of which should be addressed separately, according to each context.67 Some of them will do, while others will certainly not. Generalizations in such a domain would be prone to failure.68 At any rate, the extent to which sanction is a

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61 Keohane and Grant (supra note 7) set out this definition, which has also been adopted by Rubenstein (supra note 2). Bovens also distinguishes three stages, but in a slightly different way. They comprise information, interrogation and judgment (supra note 10, at 952).

62 See Rubenstein, supra note 2, at 618.

63 See Schmitter, supra note 32, at 49.

64 Sanctions may also include the curtailing of budget, the curbing of jurisdiction, among others (see Ferejohn, supra note 7). Although Keohane believes that sanction must be presupposed by an accountability relationship, he has a flexible approach to it. His understanding of accountability of the Supreme Court exemplifies it: ‘The reputations of particular justices rise and fall depending on these evaluations. For justices of the Supreme Court of the United States, a devastating critique of an opinion may surely constitute a sanction’ (supra note 7, at 1134). Mashaw also recognizes the significant range of possible sanctions: ‘sanctions range from removal to simple displeasure, or perhaps ostracism from the inner councils of the ruling elite’ (supra note 1, at 121). For Rubenstein, ‘bad publicity constitutes a sanction in its own right’ (supra note 2, at 626).

65 Like the agents that are deprived of significant ‘potestas’ and heavily depend on ‘auctoritas’ in order to be followed.

66 Schedler problematizes this ‘tight coupling’ between accountability and sanction and argues that, however weaker it might be, accountability can prosper without proper sanction (supra note 4, at 16–17).

67 Rubenstein elaborates on the adequate amount of sanction: ‘the sanction must be neither too mild nor too severe: if it is too mild it will function not as an effective deterrent, but rather as an additional cost that the power wielder must bear … If the sanction is too severe, it might dissuade power wielders from taking worthwhile risks’ (supra note 2, at 620).

68 One could certainly try, as a rhetorical strategy, to retain the term ‘accountability’ for describing and demanding thicker arrangements. One would evade the risk of legitimating, through using that term, too thin relationships. But, as far as the concept is concerned, it seems coherent to classify as instances of accountability those relationships in which the applicable sanction is too light.
‘definitional component’ of an accountability relationship will depend on how one defines sanction itself.\(^{69}\)

These are, in sum, the minimal properties of an accountability relationship. With such co-ordinates at hand, one should be able not only to answer the set of descriptive questions advanced by the previous section in a more thorough and meaningful way, but also to join the normative debate from a more comprehensive starting point. Without such an analytical map, the observer may not go too far in portraying and criticizing so complicated arrangements. Institutional architects and builders have a momentous task: first, the one of identifying each single piece in an institutional paraphernalia; second, to understand how each of them is causally implicated; finally, to discover what calibration of each co-ordinate would favour each of the normative functions that accountability arrangements are expected to play (as explained in the next section, the constitutional, democratic, epistemic and populist).

The following table pinpoints these elementary units:

<table>
<thead>
<tr>
<th>Co-ordinates</th>
<th>Basic variations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Formality</td>
<td>More or less legalized</td>
</tr>
<tr>
<td>2. Spatial vectors</td>
<td>Vertical (top down etc.) or horizontal (unidirectional etc.)</td>
</tr>
<tr>
<td>3. Institutionality</td>
<td>Wholesale (as ‘one’) or retail (as ‘many’)</td>
</tr>
<tr>
<td>4. Expertise</td>
<td>Technocratic or lay</td>
</tr>
<tr>
<td>5. Substance (output)</td>
<td>Quality of standards; compliance-based or integrity-based</td>
</tr>
<tr>
<td>6. Procedure (input)</td>
<td>Voting, reason-giving and other participatory tools</td>
</tr>
<tr>
<td>7. Timing</td>
<td>Ex ante, ex post; immediate, gradual; multiple phases</td>
</tr>
<tr>
<td>8. Consequence</td>
<td>Hard and soft, direct and indirect sanctions</td>
</tr>
</tbody>
</table>

One can certainly play with these abstract ingredients and speculate about which recipes would engender the thickest and the thinnest relationships. Authors widely diverge on finding the exact thresholds, and occasionally deny the title of accountability to some of its thinnest instances.\(^{70}\) Here, I do not intend to engage in this sort of definitional line-drawing. The co-ordinates offer a broad picture of how power relations are configured and how power-holders may be constrained and held accountable.\(^{71}\)

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\(^{69}\) For Philp, sanctions are not part of the core concept. This opposite view, for Philp, ‘muddles the object of description’ (supra note 9, at 35).

\(^{70}\) For Stewart, accountability is either thick (with possibility of sanction) or it is something else. Expanding the concept to capture other sorts of relation would damage its ‘integrity and utility’ (supra note 4, at 3 and 9). Keohane and Grant are slightly less demanding. For them, accountability necessarily involves the right of account-holders to judge and punish the power-wielders. Besides, it occurs only after the fact, but can exert some ex ante (supra note 7, at 29–30). Schedler is more flexible. Accountability, for him, has three dimensions – information, justification (answerability) and punishment (sanction) – but they do not have to be fully present for accountability to exist (supra note 4, at 26).

\(^{71}\) Mashaw, for example, draws a comparison between ‘public governance’ and ‘market’ accountability in a way that, however less comprehensively, echoes the co-ordinates here systematized. In the former type, obligations would flow mostly in one direction (unidirectional). It would also be formalized, structured and collective. The latter, in turn, would be decentralized, informal and individualized, and comprise a more co-ordinate structure, based on mutual obligations (supra note 1, at 128).
When pressed against complex concrete arrangements, these mostly dichotomic categories may fall apart somewhere at the edges. Abandoning these categories, however, would give away a useful source of insight, an angle without which, I believe, important things would otherwise remain unsaid and sound hardly plausible. A reliable description necessarily precedes competent prescription, and that is the cognitive service provided by the co-ordinates to the functions. The next section sets out the main functions one can derive from a descriptive portrait.

4. THE FUNCTIONS (AND DYSFUNCTIONS) OF POLITICAL ACCOUNTABILITY

Institutions are not built in order to be accountable in the first place.\(^72\) Some way or another, however, they are likely to be. If we needed a concept to help us minimally describe the features of a specific power-relation, the distinctions elaborated above would fairly do. However, in order to gain normative traction – or to know both who, how and why should account, and who, how and why should hold to account – one has to further engage with the values and purposes involved. That would presuppose, to start with, a conception of legitimate politics.\(^73\) Accountability conveys no more than a special link between a power-holder and someone else. The mere perception of such a link, in itself, leaves us in a normative vacuum.\(^74\) One can presume neither a positive nor a negative quality in it. There is no such thing as a ‘pure theory’ of accountability, as far as a value-laden prescription is concerned. That is, the appeal of the contemporary call for accountability does not stem from accountability tout court. Such call is not self-standing, but rather ancillary to an external ideal, be it explicitly articulated or not.\(^75\) Or so I shall argue.

The most plausible way to defend and justify accountability, in this sense, is instrumental. Instead of an end in itself, it is a means to an end.\(^76\) More precisely, it is a means to a series of dissimilar and usually conflicting ends that those external ideals articulate. There is no single self-evident end to be promoted. This discomfiting
feature leads to an inevitably contested dispute. Which are, then, the expectations that are embedded in current accountability-talk? What are the institutional ills it is supposed to cure or the vices it is expected to prevent? When can accountability, to sum up, be seen as a good thing, as a positive qualifier of power relationships?

This is an intricate theoretical problem, as controversial as political philosophy can get. To take a firm stand on such dispute is beyond the scope of this article. Nevertheless, one cannot entirely dodge the question if one wants to somehow participate in such debate. If anything, it is crucial to clearly identify the acceptable normative goals of accountability and be prepared to recognize that, depending on the context, these goals may be mutually inconsistent or reinforcing. It is up to the context-oriented institutional designer to strike the suitable balances and value judgments. Tensions can hardly be solved, but a conscious designer has to manage them. Analytical transparency is a pre-condition for meaningful dialogue on the matter.

Accountability scholarship roughly puts forward four pivotal normative rationales to back up its claims. Accountability devices would orient themselves (i) towards limiting power and inhibiting abuses; (ii) towards recognizing, listening and responding to the plurality of voices of the account-holders – those who are deemed to have legitimate stakes on the matter; (iii) towards building institutional capacity – a particular craft for taking substantively good decisions; or, finally, (iv) towards fostering allegiance and obedience from the account-holders. Each rationale has a different story of legitimacy to tell, a distinct reason as to why accountability is a desirable attribute. The first rationale is defensive, the second is emancipatory, the third is technical and the fourth is strategic. I will call them, respectively, the constitutional, the democratic, the epistemic and the populist ambitions of accountability. Such polemical terms evoke concepts embroiled in complicated tensions and overlapping zones, not to mention their diverse yet intertwined historical traditions, which I will not directly address. I resort to them as terms of art.

Let me elaborate a bit more on these four aspects of legitimacy. The constitutional aspect reverberates a conventional way to justify accountability. It basically seeks ‘to keep power from running wild’, to moderate and counterbalance its weight through a set of procedural techniques and substantive standards. Under such perspective, legitimate power cannot be raw and naked power. It should be

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77 As Schmitter reminds: ‘some of its positive properties may be incompatible with each other or, at the very least, involve complex tradeoffs’ (supra note 11, at 17).
78 Managing rather than solving inevitable tensions is the fate of the institutional designer, as Mashaw has insightfully put. He shows, for example, how the tasks of managerial effectiveness and political responsiveness may become ‘strongly competitive’ (supra note 34, at 160). And he adds: ‘But, this is a design problem that can only be managed, not solved. For, it entails maintaining an appropriate balance among competing forms of accountability’ (Ibid., at 154).
79 The dark side of the normative coin, or the spurious accountability relationships (anti-constitutional, anti-democratic and so forth), will not be elaborated here, but can be taken as the opposite of each of these rationales, what they try to combat. A different negative side of accountability devices, however, is their occasional dysfunctionality, which will be better elaborated below.
80 Bovens, Schillemans and Hart (supra note 33) and Bovens (supra note 10) came up with a slightly similar approach and grasped three different roles that these mechanisms might have: constitutional, democratic and learning.
81 See Schedler, supra note 4, at 19.
restricted, so that the arguably constant danger of abuse (that is, of overstepping the commonly regarded limit) gets domesticated. This political maxim is meant to serve a clear-cut goal: the protection of individual autonomy. Accountability, here, enables account-holders to oversee their accountees, to ascribe responsibilities to them and to somehow punish or reward them, if necessary. The point of constraining authority, thus, is to block arbitrariness, to retain power under check.  

The democratic variant of accountability is concerned with something else. Regardless of limits or checks, it is meant to give any member of a political community who might have been affected or otherwise influenced by the exercise of authority, some fair leverage in collective decision-making. The usually rhetorical appeal of ‘the people’ as the one and only source of legitimate power is, in practice, translated into more or less convoluted chains of power delegation or ‘transmission-belts’. If authority is accountable in that way, one is supposed to trace back and ultimately find some incarnation of ‘the people’ in the decisions that ask for collective compliance. Procedurally, this means that some channel must carry the plurality of voices into the final decision-making table, however distant that table might be. These voices, to invoke three other mainstream terms, are ‘included’ or ‘represented’, and somehow ‘participate’ in that table. The farther away this delegation string goes, nevertheless, the quieter the people’s voice and hence the less credible the democratic vestige becomes. How far-off that string can be stretched for convincingly granting the democratic pedigree is a disputed issue.

Accountability arrangements, however, do not only interpose safeguards between power-holders and those subject to power in order to prevent abuses (constitutional rationale). Neither do they solely seek to receive the inputs of ‘the people’ and somehow reflect and express their will, however loosely that will is conceived (democratic rationale). It is not only a transactional cost that hampers the efficiency of decision-making for the sake of other even more important political goods. Accountability, as it has been argued, also carries a ‘promise of performance’ or an ‘institutionalized

82 The constitutionalist project, to be sure, is not only concerned with limits (its defensive or negative side), as others have forcefully shown, but also and firstly with empowerment itself (its constructive and positive aspect). On what can be called ‘positive constitutionalism’, see S. Barber, Welfare and the Constitution (2003); J. Waldron, ‘Constitutionalism: A Skeptical View’, (2010) NYU Public Law & Legal Theory Research Paper Series n. 10–87. I will focus only on the limiting and negative property of ‘constitutional’.


84 Inclusion, representation, participation and responsiveness are, among some others, derivative virtues that underlie rhetorical appeals to democracy.

85 Ferejohn (supra note 7), for example, believes that this distance from electoral sources of authority can be compensated by a more stringent duty of reason-giving (like the one courts face), and this would still fit a democratic framework.

86 For a sceptical view of the too quickly assumed ‘promise of performance’ embedded in new reforms of public administration, see Dubnick (supra note 6). The plausible possibility that accountability devices make power more competent does not necessarily lead to the empirical conclusion that power-holders will be actually willing to be held accountable.
capacity to learn'.87 It aspires to enable the power-holder to take appropriate decisions, to become an instrument for epistemically better choices. In that respect, accountability would improve the cognitive abilities of the institution and have a bearing on efficiency itself.88

Quite often, the concern with a putative accountability deficit is related neither to the risk of occasional power abuse nor to the lack of popular embedment. It is, rather, an apprehension about a possible malfunction, about the danger of power being used unwisely and unskilfully, even if, presumptively, with no arbitrary intentions, or arguably, with no elitist or exclusivist predispositions. In that case, accountability would not be dispensable no matter whether we could prove, hypothetically, that power-holders were the pure embodiment of reasonableness, self-restraint or popular conscience (that is, no matter how power-holders could fulfil our constitutional and democratic demands).89 This is a less visible aspect of an accountability relationship and must be elaborated with care.

Somehow, there is a banal connection insinuated here. After all, if, through echoing a prevalent normative premise of western political thought, we argue that arbitrary and obscurantist decisions are necessarily wrong, then accountability devices that manage to obstruct these sorts of decisional faults should presumably enhance competence. Such negative sense of the epistemic promise does not exhaust the present claim though.90 Otherwise, the epistemic ambition would simply be redundant, that is, would be conflated with either the constitutional or the democratic ones. Nonetheless, a well-crafted accountability relationship, some will argue, has a competence-based virtue for reasons that do not simply replicate the constitutional or democratic ambitions.

One could try to identify the singularity of the epistemic point by arguing that the pathologies of abuse and impermeability, which the constitutional and democratic dimensions respectively intend to rectify, are formal, whereas the epistemic point is substantive. The same political decision, thus, could be abusive or impermeable from the formal point of view, but still correct from a substantive perspective, or vice-versa.91 But to classify the constitutional and democratic demands as merely formal, and to reserve the substantive pull for the epistemic facet, would neglect the
intricate interdependence between form and substance that both ideals entail.\footnote{There is no need to embark in this tricky theoretical controversy here. For a general explanation of the parallel formal and substantive aspects of democracy and constitutionalism, see R. Dworkin, Constitutionalism and Democracy’, \textit{(1995) 3 European Journal of Philosophy}}, one could still claim that, whereas the constitutional and democratic ideals have a substantive ambition of a negative sort (that is, to avoid abuse and impermeability), the substantive aspect of the epistemic expectation would be positive (to find the best answer). This would come closer to what I intend to convey by the epistemic point.} It would strain this formal/substantive dichotomy and yet offer an artificial answer to the question of which promise of accountability has a bearing upon the decisional output.\footnote{For Stewart, in a similar vein, the problem of disregard and the goal of accountability have both a procedural and a substantive aspect: the former is related to fairness – ‘to help ensure that the affected are fairly and appropriately treated in the decision made’, the latter is related to justice – ‘it may not be sufficient to satisfy the procedural regard . . . if the decision itself treats the affected with manifested injustice.’ For him, this does not make procedure collapse into substance because substantive requirements still provide decision-makers with considerable ‘latitude in striking the balance’ (\textit{supra} note 4, at 5–6).}

The epistemic promise is actually more aspiring. It affirms that the performance of an institution is, to some extent, contingent on the sort of accountability arrangement that applies to it.\footnote{Or, in Mashaw’s words, regimes are ‘regulators of institutional performance’ (\textit{supra} note 1, at 154).} The epistemic promise is not only concerned with avoiding abusive and impermeable decisions, even if we envisage them from a substantive point of view. It also aims to highlight how accountability devices may develop, depending on the context and decisional issue at stake, the aptitude or the proficiency of an institution to reach better decisions (according to some criterion of correctness). It purports to call our attention to the fact that, oftentimes, there is an intersection between being ‘accountable’ and being ‘competent’, a correlation between accountability devices and decisional accuracy.\footnote{The epistemic promise should not be confused with the distinction between ‘technocratic’ (or ‘expertocratic’) and ‘lay’ authorities, drawn in the previous section. The epistemic mission, generally conceived, can be pursued either through a technocratic or a lay authority, either by experts or non-experts. Its plausibility will depend, for sure, of what is the decisional issue under consideration and the respective institutional arrangement designed to handle it.} Among other things, then, choosing the adequate accountability regime would also presuppose ‘weighing the comparative competence or incompetence of alternative accountability arrangements’.\footnote{See Mashaw, \textit{supra} note 1, at 116.}

A accountability device is hardly indifferent to that.

Lastly, accountability also has a populist aspect.\footnote{The term ‘populist’ has ambivalent meanings, some ostensibly pejorative and others more neutral and analytical. For an example of the former, see J. Couso, ‘Los desafíos de la democracia constitucional en América Latina: entre la tentación populista y la utopía neoconstitucional’, (2010) \textit{Anuario de Derechos Humanos}, who describes the ‘populist temptation’ of current presidential regimes in Latin America as a danger of authoritarian regression and personalistic cult of a single leader. For an example of the latter, see Dahl, who contrasts ‘Madisonian’ democracy to what he calls ‘populist’ democracy, a regime in which ‘majorities have unlimited sovereignty’ (R. Dahl, \textit{A Preface to Democratic Theory} (2006), at 37). The meaning stipulated here is closer to the latter, although I do not enter the specifics of majority rule.} Institutions tend to obtain better compliance with their decisions through mustering, with the aid of accountability mechanisms, a positive public perception. This property strengthens the reputation that an accountable institution conveys as well as such an institution’s consequent ability to encourage actual obedience. It illuminates a plain causality: if an institution is able to ‘maintain the confidence of the public’,\footnote{See Keohane, \textit{supra} note 26, at 15.} it has a greater propensity to...
be accepted. Accountability would help us construct, maintain and protect the trustworthiness and hence the social effectiveness of an institution.99-100

The co-ordinates and functions of accountability arrangements are thus closely implicated. Those descriptive variables can be blended, in each context, in order to perform the four legitimate functions of accountability. Among the infinite permutations of co-ordinates one could think of and experiment with, one can enumerate a few that are more frequently found in existing institutions and then discern their functional interrelation.

As for the democratic function, nowadays, one can hardly acknowledge that a political regime is democratic if it does not, at the very least, collect and convert individual votes into a quota of seats within a representative body through a reliable procedure (usually through an arithmetic formula that materializes a plausible conception of equality, as ‘one man, one vote’). Competitive elections, the act of delegation through which a principal-agent relationship between constituents and representatives is founded, are the first-best example of democratic accountability. Voting is the basic procedural mechanism to empower or disempower, to reward or sanction the representatives according to their performance as appraised by the constituents.

Second-best supplements, to be sure, can also resonate the democratic idea. Devices of participation, responsiveness, transparency and the like, despite engendering spheres of engagement and influence that fall short of decision-making power, establish horizontal constraints that can conceivably be traced back to the people. All these mechanisms, admittedly, tend to be primarily but not exclusively associated with democratic accountability, since institutional arrangements are versatile to pursue a large variety of ends. Elections, for example, are first and foremost perceived as a tool to empower the people. However, one should not underestimate their ability to limit governmental power, to trigger adequate legislation and policies and to induce the compliance of the constituents with the decisions of representatives (that is, to pursue the three other functions of accountability at the same time).

Constitutional function, in turn, are of two sorts: on the defensive and negative side, the procedure of horizontal checks and balances and the substantive standards that underlie the discourse of rights put, when in good working-order, limits on power by demarcating what power cannot do; on the constructive and discursive side, institutions in charge of deciding on the basis of principled and public

99 It would help ‘satisfy disappointed claimants’, to use Mashaw’s words (supra note 1, at 141). See also Dubnick, supra note 4, at 5. Although trustworthiness cannot guarantee that actual trust will be earned, it gives good reasons for trust to be deserved by institutions. As O’Neill argues: ‘Good reasons for rejecting blind trust are not good reasons for rejecting intelligent trust’ (supra note 21, at 164). She further argues: ‘Good systems of accountability … can improve trustworthiness, and may offer helpful evidence for placing and refusing trust intelligently. But they do not and cannot supersede trust’ (Ibid., at 163).

100 One should not mistake this populist aspect of accountability, however, with the pre-existing trust that should arguably obtain in order for accountability relationship to take hold. For Philp (supra note 9), trust is an underpinning feature of accountability, not the product of it. This tension, however, should not be regarded as a binary ‘chicken-and-egg’ question. Rather, both aspects (namely, trust as a pre-condition, or trust as a product) can be seen as mutually reinforcing, as both cause and consequence.
reasons, like courts and other regulatory agencies, also flesh out the ambition of constitutional accountability.

As for the epistemic function, a variety of procedural mechanisms are regarded as appropriate to fulfill the specific task of an institution. When this task is somehow related to expertise, arrangements such as panels or committees of experts, dense mechanisms of peer review and review bodies, among others, may fit the bill.

Finally, the populist function of accountability does not exactly have a clear institutional configuration. Since its goal is to gain the allegiance and respect from the addressees of power, whatever arrangement can foster social legitimacy would meet its central demand.

To summarize, elections and a set of other voice-giving channels signal a democratic function; mechanisms of mutual oversight, substantive standards of decency and burdens of public justification play a self-styled constitutional role; devices of information-gathering and knowledge-producing would enhance an institution’s epistemic capacities and, lastly, whatever mechanisms manage to improve the public perception of an institution would highlight a populist function.

These four dimensions, for sure, may crisscross each other from several angles when one uses them to observe concrete arrangements of accountability.101 But the four ambitions do not always join forces. When their vectors clash or compete, some accommodation may prove indispensable.102 Cases of divergence among the four functions tend to raise tricky normative dilemmas. If a point of equilibrium is not carved, the whole arrangement may become dysfunctional.103 Accountability becomes a laudable relational property to the extent that such balance is well struck.

Apart from the mismatch of different purposes, a quantitative sort of dysfunction might also arise when the amount of the accountability burden becomes counterproductive.104 Different sorts of deficits or excesses will emerge from the miscalculation of those functions. Processes of accountability deflation or inflation, thus, should be assessed with care. Inflation can be a welcome evolvement if the status quo characterizes a deficit, and vice-versa. Finding the optimal amount of accountability is a perpetual challenge of legal analysis and institutional design, which needs not to extrapolate the tipping point where accountability turns to be harmful rather than beneficial.105

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101 As Mashaw contends: ‘No institution really serves only one purpose or goal, and, therefore, no institution should be expected to be responsive to only one form of accountability regime’ (supra note 1, at 153).
102 Ibid., at 130 and 147.
103 There is a significant literature on the inconsistencies, distortions or excesses of accountability arrangements. See Bovens (supra note 4 and supra note 10) and two works of J.G.S. Koppell, ‘Pathologies of Accountability: ICANN and the Challenge of “Multiple Accountabilities Disorder”’, (2005) 65 Public Administration Review 94, and World Rule: Accountability, Legitimacy, and the Design of Global Governance (2010). Dysfunctionality would refer to an arrangement of those expected functions that cannot be minimally met because of the wrong calibration of each chosen device.
104 As Bovens claims: ‘more accountability does not necessarily produce better government. Accountability overkill discourages innovative and entrepreneurial behaviour in public managers’ (supra note 10, at 953). See also Koppell, supra note 103, on ‘multiple accountability disorder’.
105 Among the decisional flaws that might emerge, authors pay particular attention to ‘tunnel vision’, ‘ritualization’, ‘defensive routines’, ‘mutual stereotyping’ and ‘hostile behaviour’ (Bovens, Schillemans and Hart, supra note 33, at 228; Bovens, supra note 10, at 954). A traditional pathology is the overemphasis on conformity to strict rules, which reduces discretionary judgment. This is a typical epistemic dysfunction: the
Deciding how accountable an institution should be, thus, is not a straightforward and one-dimensional choice of an institutional designer. The appropriate accountability package is contingent on the ultimate purpose of an institution. The appropriate modular construct\textsuperscript{106} can be assembled only after such a purpose has been made sufficiently clear.\textsuperscript{107} Once fully developed, the modular construct has to delve into occasionally incongruous functions and to find out what devices better fit the particularities of this or that case. Conflicts of equally valuable or incommensurable functions demand the exercise of balancing or, to phrase it in economic jargon, imply trade-offs and cost-benefit assessments.\textsuperscript{108}

5. CONCLUSION: A FORM IN SEARCH OF SUBSTANCE

What exactly do we praise when we praise accountability? This question is not a rhetorical one. It should have become clear, by now, why it is worth asking. Accountability works, like other complex political concepts, as an umbrella-term for a ‘nested set of inquiries’.\textsuperscript{109} This article sought to present the many anxieties that accountability spurs, and put them under an intelligible and orderly expository scheme.

The concept of accountability, as I have tried to show, has been both under and over-signified:\textsuperscript{110} under-signified, when it gets restricted to the praiseworthy types of power relationships, ignoring the spurious types and practically equating ‘accountable’ power with ‘legitimate’ power; over-signified, when it ends up inadvertently incorporating external political ideals.

Accountability is a formal property that might be present in some power relationships. Its semantic reach range from the slightest sort of constraint to muscular forms of power control. Deprived of a substantive orientation, though, it tells little about why we should foster it. With no good answer as to ‘why’ some should be held accountable to others in a particular way, accountability remains nothing but a link between two subjects, without anything intrinsically or instrumentally valuable in it. It can equally serve emancipation and domination, self-government and oppression, efficiency and inefficiency, institutional integrity and venality. Sultans

\textsuperscript{106} Or, alternatively, ‘radial concept’, as Schedler would prefer. Schedler explains: ‘They are continuous variables that show up to different degrees, with varying mixes and emphases’ (\textit{supra} note 4, at 17).

\textsuperscript{107} The institutional purpose logically precedes, of course, the question of how accountable this institution should be. As Mashaw remarks: ‘much of the dispute about accountability is a dispute about what particular institutions are meant to do, not how accountable they are in the doing of it’ (\textit{supra} note 1, at 117). For him, the question of how accountable an institution should be is ‘parasitic on beliefs about the true purposes of the program’ (Ibid., at 155).

\textsuperscript{108} As Schmitter puts it: ‘some of its “positive properties” may be incompatible with each other, or at least may involve complex tradeoffs. High levels of individual participation may not be so benevolently linked to subsequent attention and sense of obligation’ (\textit{supra} note 32, at 56).

\textsuperscript{109} See Mashaw, \textit{supra} note 1, at 116.

\textsuperscript{110} See Bovens, Schilemans and Hart, \textit{supra} note 33, at 226: ‘It is an evocative concept that is all too easily used in political discourse and policy documents because it conveys an image of transparency and trustworthiness. Moreover, “accountability” often serves as a conceptual umbrella that covers various other, often highly contested, concepts’.
and dictators, as Schmitter has reminded, or even criminal gangs and corruption schemes, are accountable in their own way, however abhorrent to us their distribution of rewards and sanctions might be.\footnote{See Schmitter, supra note 32, at 48. Similarly, for Keohane, ‘not all forms of accountability are intrinsically democratic. It is an essential aspect of democracy, but it exists, in some forms, in all political regimes’ (supra note 7, at 1131). Rubenstein gives a similar example: ‘it is perfectly comprehensible to say that Hitler held his underlings accountable for failing to follow Nazi protocol’ (supra note 2, at 618).}

The attempt to render accountability an independent political ideal turns it into a rather enigmatic category, as hollow and manipulable as any buzzword that permeates low-quality political debates.\footnote{That is what Mashaw means when he calls accountability a ‘protean concept’, a ‘placeholder for multiple contemporary anxieties’ (supra note 1, at 115).} If we want more than a sound-bite, we need to dissect and identify what values lurk behind each of the claims for accountability. Their appeal is not self-standing. Rather than a substitute for political ideals, accountability is a technology that helps these ideals to pursue their various ends.

A purist accountability discourse would thus lack normative direction. Only a clearly fleshed-out political ideal can provide such a north. Accountable power, if not normatively qualified, does not equal legitimate power. If accountability intends to become a benchmark for legitimacy, its concept needs supplementary normative flesh. This realization, for sure, is just the beginning, not the end of the problem. Trivial though as this claim might sound, it has not been openly conceded by many authors.\footnote{Philh has forcefully urged on the drawing of this distinction: ‘whether (and in what forms) an accountability relationship exists is a descriptive claim; whether we want more or less of it, or different types or additional dimensions of it, will be driven by normative commitments, and we should not run the two together’ (supra note 9, at 32).}

This article sought to craft a sharp enough question that enables the observer to capture and understand, when examining a certain institution, the absence or presence of elements of accountability and what values they might serve. In other words, it uncovers an analytical scaffolding without which accountability-talk tends to become mystifying, if not unintelligible and hollow.

In an age when deeper institutionalization of global governance is called for, mastering such an elementary concept in a less rhetorical way is a challenge that political debate and action have yet to achieve.