Background, development and democratization of accountability

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Introduction

This paper carries out an investigation to track the origins and development of accountability. This paper is divided into three sections to achieve this; the first one deals with the origins of accountability which can be found in old government documents from 4 BC and Roman and Byzantine texts; they can also be found in Bodino’s or Altusio’s writings. The following section tackles the institutionalization of accountability which was established as universal right in the Declaration of the Rights of Man and the Citizen, a cornerstone for the edification of accountability in a state governed by the rule of law. This idea was expressed in public administration texts –Charles Bonnin- or administrative law texts. The last section deals with the current conception of accountability which is now referred as democratic because it allows society to participate too.

I. Origins

What we refer to today as accountability has a remote history. It has had other names and addressed different sectors (first only rulers and then states governed by the rule of law); it has accompanied governments since its origins and development. We can see that governmental accountability is mentioned in writings pertaining to Arthasastra de Kautilya’s (4 BC) government and administration. The latter mentions work supervision, specific steps to be taken when a

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man (public employee) is absent from work or when a government official refuses to supervise its department; all of this is regulated because it would result in revenue lost by the government due to his negligence or ignorance.\(^1\)

Administrators working in government departments should be monitored daily, as well as their offices, work schedules, work instruments, precise work procedures and results.

If these employees did not fulfill their tasks, a fine worth twice their daily payment would be imposed, plus additional expenses. It is also interesting to discover the way they monitored public employees, they used spies to reveal public employees’ way of acting\(^2\).

Romans’ public employees’ obligations are identified since the times of Monarchy and the Republic; their rights also led to their obligations. The times of the Empire show the great amount of obligations they had: higher posts had dignity requirements whereas auxiliary posts did not.\(^3\)

As administrative development grew, professional obligations were stipulated first by the force of habit; however, administration became more complex due to regulations which included duties or accountability and sanctions for improper conducts such as misappropriation, embezzlement and corruption were also imposed. An important situation is the control exercised through wages\(^4\) and activities became hierarchical and organized. A gradual bureaucratization process (since principality) helped the delimitation of subordinates’ and superiors’ obligations. This was recorded in books regarding trades such as \textit{De officiis} or Frontino’s \textit{De officio curatoris aquarum} or \textit{De officio praefecti vigilium}, among many others.\(^5\)

\(^2\) \textit{Arthasastra} (op cit). p. 204.
\(^4\) Jeremias Bentham analyzes wages as a way to ensure employees’ responsibilities and keep him away from corruption; however, he also states there is not a cause-effect relationship between higher salaries and better performance: “best paid services are not always done better”. Bentham, J. (1838) \textit{Teoría de las penas y las recompensas}, Barcelona: Imprenta de D. Manuel Sauri. pp. 107, 140 and 276.
\(^5\) Varela (op cit)., pp. 340, 341, 344, 345.
This information would not be complete without mentioning the responsibilities faced by administrators if they did not fulfill their duties\(^6\); this started in principality, the definition of public obligations resulted in administrative responsibility when professional duties were not fulfilled.

Administrative responsibility included minor punishments as well as disqualification which meant public functions could not be performed anymore. Administration staff was directly supervised (monitoring and correct performance of duties) by the *magister officiorum* and praetorian prefects.\(^7\)

Later on, the Byzantine Empire’s public employees constituted a unique body coordinated by the *basileus*; public employees had certain degree of power so if they did not fulfill their orders they could be charged with breach of legal duty or obligation. All public employees were “bound by imperial will”, their main duty was to execute and fulfill it. This duty was written in several legal texts and even though at first it was not enforced; subsequently, emperors drafted regulations to protect their subjects, avoid injustices and abuse of authority.\(^8\)

We can find that Justiniano also forced provincial employees to remain at their posts fifty days after they left their positions to address complaints made by the people they administer; an accountability situation\(^9\) which only meant the return of money that had been wrongfully taken from taxpayers. In the 10\(^{th}\) century, under the benevolent government idea, other regulations in regards to public employees’ responsibility were promulgated. Some of them invited subjects to present complaints and allegation regarding robberies or violence committed by public employees (archons and strategists).\(^10\)

Juan Bodino in the 16\(^{th}\) century analyzes the duties and rights of the Republic’s magistrate. Their main obligation is to obey the su-

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\(^6\) Responsibility can be civil, criminal or administrative, for space reasons we will only define the last one which is the result of not fulfilling professional duties.

\(^7\) Varela (op. Cit). pp. 359-362.


It is also worth mentioning that 14th century Spain had a revisión period called “residence” which was a way of monitoring authorities, force them to be open, fulfill their obligations and moderate their excesses.

premier lord and complete their jobs. To achieve this, they must obey the prince, obey the authority of their superiors, “honor their equals, command their subjects, defend the weak, respect the powerful and seek justice for them all”.  

The way of ensuring decent performance was the oath magistrates took when stepping into office, they promised to obey and respect regulations and edicts or else incur in perjurers’ infamy which goes beyond penalties contained in edicts; if public damage was very severe they would have to compensate the injury to the edict. Besides, the Republic and the magistrate’s dignity considered it better to resign instead of admitting any wrongdoing.  

In the 16th century Germany, Juan Altusio’s (1557-1638) splendid writings explain that the reign’s officials are in charge of everybody’s wellbeing, citizens and the protection of everything that is done all over the kingdom. It is also important to maintain the distinction between officials and job occupations have to be clearly defined, intermediate magistrates must behave “holy and innocently”, renounce their vices and strip of positions those who commit crimes and punish them adequately.

Furthermore, means (prizes and punishments) to ensure that magistrates or officials do not act corruptly, but behave faithfully, comprehensively and diligently are also established. In this sense, salaries must be honest and sufficient; criminal prohibitions and injunctions are to be used and make example of other punished officials. The fact that job positions were created with limited power and capable of being inspected helped a lot. It was also useful to interrogate subjects in these inspections.

There are many examples that prove that there was a deep concern in regards to public employees’ good performance, accountability and corrective measures which come to us after a long historical construction process.

12 Ibid, pp. 552, 553.
14 Ibid. pp. 478-479.
II. Institutionalization\(^\text{15}\) of accountability

The period that indicated the change between the first government activities which sought to meet their own needs and based themselves on their own laws and the beginning of accountability and transparency is found in the institutional constructions of the Enlighten (late 17\(^{\text{th}}\) century) and the French Revolution. This period's intellectual and social framework made it possible to create the Declaration of the Rights of Man and the Citizen, which was later adopted by constitutions of different countries.

Since the Revolution, rights were understood as the other side of duties; thus “principles that rule modern societies are established. These are based on popular will and give the people the right to change its way of government”.\(^\text{16}\)

a. Public Administration and responsibility

This was a crucial moment for public administration; the National Assembly redefined it according to diverse principles different from the ones that existed before. Public employees, regardless of their position, are defined as “public representatives”; they do not wield power inherent to them, they are only entrusted with it, “power belongs to everyone”. To summarize, “exercising public power is not a right, but a duty”.\(^\text{17}\) It is also noteworthy that public employees, in all levels of power, are responsible for their corrupt practices and their behavior.\(^\text{18}\)

The National Assembly stated that performance responsibility would include besides honesty, efficiency and the following idea under this new legality: “that which is not permitted is prohibited”.

“This idea which appears repeatedly in the Assembly’s writings is a gift to modern public Administration”. “This


\(^{17}\) Ibid, p. 71.

\(^{18}\) Sieyès, cited by Guerrero (op cit).
is the immediate origin of transparency, that is, responsibility and accountability; administrative clarity does not exist without the employees’ responsibility and their obligation to account for their performance”.19

The Declaration of the Rights of Man and the Citizen states in its first article the right to freedom and equality among men; in regards to work issues article 15th mentions that society has the right to ask their agents to be accountable for their performance. 20 This locates the origins of accountability in the modern State.

However, it is important to mention that these ideas were also expressed on other works, especially the founding book of modern public administration, Public Administration Principles written by Charles-Jean Bonnin in 1880. This text highlights the way public administration worked in the absolutist era; an arbitrary administration where neither people nor properties were protected from abuses of power or ignorant mistakes.21

At this time, citizens were victims of authorities’ arbitrariness and ignorance who felt powerful enough to look down on those subject to their will. These reasons are used by Bonnin to justify the need for an administrative code to regulate public administration.22 This is why modern public administration, as well as public employees were born under the tight ropes of regulations and laws. This means all of their actions are regulated. This is public administration framed within a state governed by the rule of law.

Bonnin establishes that administrative employees, according to their degree of power, have specific functions and powers that form a chain of duties. The non-fulfillment and corruption of their functions makes it necessary to have an administrative police inside the government with the power to punish, appoint or revoke. To help the government guarantee the virtues and talents of public employments Bonnin suggests the use of “gradual progress” (civil service or public function) which allows people to hold lower-position jobs before higher ones; this weakens intrigues, favors and corruption. He also

19 Ibid.
20 National French Assembly. (1789, August 26th) “The Declaration of the Rights of Man and the Citizen”.
22 Ibid, pp. 176, 182.
states the importance of having wages according to rank and the importance of tasks.  

Another relevant point is that Bonnin explains that administrators are public men whose duties include everything important to society; the “annual visit” paid by the ever-vigilant eye of the government is an obligation that benefits the greater good; administrators should be accountable for their morals, the exact work they have done and the one they have not.

The word accountability used to be understood as “the representative shall be accountable to the one who governs” due to his term in office. It is also important to mention that in the 19th century this words, in Spanish, were only understood in an economic-property context.

Public employees’ responsibility and accountability, from early on, have been expressed in regulations that establish the relationship between the State and public employees (Public employees’ laws, regulations and statutes) and most recently as legal relationship in various initiatives (laws and regulations) whose goal is to achieve co-responsibility in accountability that includes society so as to achieve greater democratization and transparency in the operation of public administration and the actions of public employees.

b. Legal relationship between the State and public employees

According to José Gascón y Marín, public employees perform duties which if not fulfilled cause triple responsibility: civil, criminal and ad-

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23 Ibid, pp. 325-327.
26 For example, an 1829 document on decrees and orders of the Real Hacienda (Royal Property) mentions the instructions administration, collection and intervention in Crown revenues employees must follow; the accountability section includes accounts to be given and accounts and reason methods. Thus, administration, collection and intervention in Crown revenues employees had to turn in monthly accounts to their superior bosses of everything that has been administered, collected and intervened. Accounts were divided into four sections: flows, effects, creditors and debtors. The first two specifically refer to “manifesting the behavior or management shown by employees in charge of flows or effects”; the other two are related to the state of the Real Hacienda. *Colección de Reales Decretos y Órdenes pertenecientes a la Real Hacienda* (1829). Imprenta Real. p. 3.
ministrative or disciplinary. These three responsibilities are not equally important in all countries; however, they reinforce or complement each other to be effective, i.e. when disciplinary power is weak, criminal responsibility is strong.27

Gascón y Marín highlight the importance of public employees’ responsibility, it is essential to avoid abuse of power in bureaucracy and at the same time, ensure effective guarantees to citizens. One can only say one lives in a state governed by the rule of law when public employees’ responsibilities can be made real, it makes it necessary the existence of laws that make it easy and declare the existence of said responsibility, so as to have public opinion demand its effectiveness.28

Civil responsibility is between the State and the individuals; public employees’ is seen through accountability, management of public flows or wage perception. When it comes to personal lack of service the employee’s responsibility is direct and the State’s responsibility is either direct or indirect.29

Criminal responsibility arises when employees commit omissions considered as crimes by criminal law. These crimes can be everyday or professional crimes. This responsibility is examined by criminal courts.

On the other hand, administrative responsibility is internally demanded by public administration; it demands public employees to maintain their discipline. Sanctions are the elements that exist in the public employee-administration relationship and punishment is handed out by administrative authorities. Offences can be classified as minor (delays in performance that do not disrupt services, negligence or excusable carelessness), serious (indiscipline, altercations, informality or delays that affect service) and severe (abandonment of service, insubordination, lack of professional secrecy, disclose information, accept unjust agreements and lack of integrity).30 The correction of the alleged facts will depend on the severity of the charges

28 Ibid, p. 304.
29 Ibid.
and the nature of the administrative body in charge of imposing the punishment.\textsuperscript{31}

Public employees’ responsibilities have been established in public administration texts, Mosher’s and Cimmino’s is worth mentioning, it expresses that the administrative body can view horizontally and vertically the same situation. The vertical manner derives responsibilities assumed by diverse administrative levels, the dynamic face of administrative life known as delegation (of responsibilities, authorities, functions and powers). These authors define the vertical element of any organization is the responsibility; in the democratic system this means content and source of authority.\textsuperscript{32}

Responsibility is defined as core subject of the study of public administration. These authors explain that people in charge of carrying out public functions have certain responsibilities and functions and have to be accountable to someone. This statement has two meanings; the first one refers to a person who has certain responsibilities and has to be accountable for their execution, in this sense, being responsible means being accountable and the other meaning is sense of duty. However, besides this meaning we understand that service is monitored by an authority and if it is not exercised correctly, this public employee must face the consequences.\textsuperscript{33}

Charles Debbasch studies criminal and civil responsibility. The first one entails offences related to the activity or official situation of public employees. Civil responsibility means personal and service offenses in regards to public employees’ responsibilities; damages caused to the managed ones or personal offenses that can cause the victim to act against the agent and the process against the administration.\textsuperscript{34}

Another text can connect ideas which focus solely on government and those which include society as participant; this text written by Gladys and Marshall Dimock analyzes four means of administrative responsibility before the public: administrative self-regulation, legislative security, judicial supervision and control exercised by citizens. We shall only analyze the last one. These authors explain that citizens’ interest and participation in the working of its government is

\textsuperscript{31} Ibid, p. 307.
\textsuperscript{33} Ibid, pp. 241, 242.
proportional to their bureaucracy’s honesty and responsibility; administration is the mirror of social structure and it cannot be below or above the rest of society. The participation of civic committees and political administration are methods citizens can use to access public administration and help bureaucracy be strong and responsible. Another method entails the participation of citizens in education, health, planning, government business enterprises and similar committees and commissions.35

As can be seen, citizen participation is something very important, as well as desirable, to achieve public administration responsibility.

III. Socio governmental co-responsibility as democratization of accountability

Current perspectives consider that resources and activities used for accountability had never been more important in regards to the reform of public administration or the provision of services. Under this perspective, accountability means responsibilization of political and administration behaviors; accountability is a concept inseparable from democracy.36

Thus, accountability means to be a system that ensures response and demand functions towards rulers, allows the development of transparency, participation, evaluation and control in social and political life of the administration. We propose that accountability mechanisms have a real impact on democratic quality and public policy effectiveness.37

Plain and simple it can be defined as “the requirements of a public or private organization which explains their actions to society and consequently accepts their consequences”38.

This contrasts with more comprehensive approaches such as Schedler’s who has said accountability has become a constant

37 Ibid.
38 Fundación Amics de la Universitat Politécnica de Cataluña. (2002). *Rendición de Cuentas en una sociedad avanzada*, Barcelona: Icaria Editorial. p. 12. We must not forget that these ideas have made accountability to be associated with human rights, non-governmental organizations or elections.
demand in the world of democratic policy and consensus on the
democratic relevance of accountability. According to this author, ac-
countability forces politicians and public employees to inform about
their decisions and justify them in public and sanction politicians and
employees if they violate their public duties. In summary, the power
is forced to public inspection (information), explain and justify their
acts (justification) and make it subject to sanctions (punishment). 39

Ergo, accountability is to answer uncomfortable questions; deman-
ding accountability can also mean an opportunity to pose uncomfor-
table questions. According to Schedler two things can be discovered:
informing and explanation of public employees’ decisions and their
reasons and facts. Accountability is the right to receive information
and divulge necessary data. 40

This author states that accountability keeps up the Enlightenment’s
project of subordinating power to the empire of law and reason;
although this does not give us a clue on the most transcendental
facts and moments among these conceptual developments and ela-
borations; the way they are connected to current perspective.

Schedler also states that the center of accountability is the critical
dialog made of arguments and counterarguments. It is not only a
right to demand, but a right to criticize and negotiate; those who are
accountable not only report what they have done and why, but also
receive the consequences of their actions such as punishments and
sanctions. The punishment is directly correlated to the offense. 41

Current accountability strongly emphasizes control relationships
exercised by society towards the government and public adminis-
tration. Electoral accountability, power voters have to reward or pu-
nish their representatives’ performance, is distinguished from social
accountability which focuses on citizens’, civic associations’ and the
media’s power to monitor, question and punish politicians and pu-

cular employees. 42 Although Gladys and Marshall Dimock had already
mentioned mechanisms society can use to contribute to public em-
ployees’ and public administration’s responsibility.

sos a la Información Pública. pp. 9, 12, 13.
41 Ibid, pp. 15, 16.
42 Ibid, p. 34.
The definition of responsibility that has worked as worldwide example belongs to OECD which defines it as a characteristic of an authority relationship; one of these parts is accountable to a person, organism when fulfilling their tasks or functions. Responsibility goes hand in hand with competence transfers and flexibility: managers are in charge of the results because they have been endowed with the power to make decisions that yield said result. There is another aspect of responsibility such as government’s political responsibility towards the elected ones and the public in general.43

This definition has influenced the reform of public administration which started with the new public management model. These reforms also include international, regional and national initiatives and measures. The regional area includes the guidelines established in 2000 by the Latin American Centre for Development Administration which also described the ways of contemporary accountability.

The national area includes advances made to strengthen accountability in Mexico, the issuance of the 2002 Transparency Law (which dates back to 1977) and the creation of the Federal Institute of Access to Public Information and the proposals to make progress in the participation of society in public administration’s responsibilization and accountability such as the creation of a Social Government Accountability Office.44

Conclusions
Public employees’ responsibility and accountability were established a long time ago; ever since the idea that the king was accountable to God and public employees answered the king through a certain hierarchy. These were configured as government tasks became more complex until the contemporary notion emerged with the Declaration of the Rights of Man and the Citizen. Later, public administration was tied to law and concepts such as popular sovereignty rose and institutional conditions were created; the latter reinforced the idea that public employees should be accountable to the people.


There is still a long way to go to achieve accountability that is a step closer to legality, especially in contexts that lack trained public employees who have a solid administrative career. Advances are made every day and there are more political, economic, social and worldwide conditions that seem to strengthen the responsabilization of political and administration behaviors through social control. All of this to achieve greater performance and transparency in the exercise of public administration.

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