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Reconfiguring Political Responsibility

INTRODUCTION

Citizens in countries all over the world seek ways to solve their economic, social, and political grievances. They appeal to governments on all levels of politics, engage with civic associations, and invent new participative venues to express and aid their political concerns. Political problems and demands are "tugging and pulling" at the capacities and legitimacy of governments, civil society, and corporations. At the same time, the general public in Western societies has been expressing decreasing trust in the representatives of democratic institutions. Civil society organizations, including consumer groups and environmental associations, have consistently been rated as more trustworthy than political, religious, or business groups (Hampel et al. 2001). The combination of declining trust in governmental institutions and rise in demand for solutions to complex problems puts a strain on citizens, politics, parliaments, and governments in industrialized and stable democracies. These developments challenge the conventional framework and mechanisms for dealing with political, social, and economic problems.

This book addresses the ongoing reconfiguration of political responsibility. It asks what kinds of developments and problems are challenging governments' capacity for political problem-solving and how other actors and institutions come to be political agents. Are there models of political responsibility that address these ongoing changes, and are they effective mechanisms for solving political problems? Particularly, what role do citizens play in the reconfiguration of political responsibility? Chapter 1 begins to answer these questions. It discusses the traditional framework of responsibility by outlining and evaluating its assumptions and characterizing the challenges that it faces today.

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 $^{^{\}scriptscriptstyle \mathrm{I}}$ The phrase "tugging and pulling at states" is taken from Princen and Finger (1994), 225.



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The chapter argues that the traditional framework of responsibility needs to be revised and expanded into both the public and private spheres and should emphasize the role of responsible choice for political problem-solving.

The emerging framework for political responsibility puts greater pressure on citizens to take daily responsibility in their public and private engagements. But can citizens realistically assume more general and daily responsibility over these matters? Are they equipped to shoulder this kind of responsibility? What structural and individual prerequisites are necessary for citizens to take on more responsibility and, therefore, play a greater role in political problem-solving? This book explores these questions theoretically and empirically by focusing on the role of political consumerism as a problem-solving phenomenon.

Chapter 1 begins the theoretical exploration. With the help of general theoretical findings on the role of citizens in politics, it develops theory on individualized responsibility-taking that can be used to assess the capability of citizens as problem-solving agents. Subsequent chapters in the book study the actual ability of citizens to act as responsibility-taking agents as well as the consequences and effectiveness of such actions. They explore in different ways whether and how political consumerism in the Northern (Western, industrialized, stable democratic) world provides examples of individualized responsibility-taking practices and investigates political consumerism's capability to solve complex political problems. This focus is chosen because political consumerism has been viewed as a phenomenon that both addresses and reveals many of the problems mentioned in scholarly discussions on contemporary changes in politics. Besides the need for new problem-solving mechanisms and platforms due to the large-scale processes of globalization, modernization, and individualization, political consumerism also emphasizes the role that the market, corporations, and family life can and perhaps should play in politics. However, political consumerism is not only about political responsibility-taking for the common good. Our investigations also explore how citizens take responsibility for selfregarding issues and, in so doing, discuss the more central role of personal choice as a mechanism in politics.

LIMITS OF AND CHALLENGES TO THE TRADITIONAL MODEL OF POLITICAL RESPONSIBILITY

The term *political responsibility* is used in the academic discourse to denote answerability for matters of the common and public good (Peters and Pierre 2007, Keohane 2003). Throughout the ages, political scholars and practitioners have explicitly assumed or, at times, just taken for granted that this answerability for the public good is the task and sole responsibility of government. They envision and model government as the collective actor with supreme authority for dealing with problems that threaten the common good. Governments are called on to solve all sorts of problems from the local to the global levels. These problems include issues of land use, water and school quality, police



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protection, provisions of welfare and social services as well as food, energy, national safety, and so on. Governments are also called on to engage in global problem resolution. The kinds of concerns involved here are pandemics, banking crises, climate change, international drug-smuggling, terrorism, and world poverty.

But even before governments start to work on these issues, they must be convinced that the matters raised are important to public well-being and thus in need of government action. Therefore, mobilizing opinion and support for a problem area as the responsibility of government is a political process in itself (Keck and Sikkink 1998, Fraser 2005, Kingdon 1995, Baumgarten and Jones 1993, Sabatier 1991). Once it is decided that an issue is a responsibility for government, ideally government actors will attempt to solve it through legislative action, public policy, the public administration, and/or the court system. This framework of political responsibility in which public policies are made, implemented, and enforced has been the central way for citizens to demand governmental action and for nation-state governments to assert their authority and answerability for the public well-being or common good of their citizenry. In democratic societies, this framework has structured political ideology, election campaigns, and citizens' engagement in politics. It has also influenced social science and legal theoretical, methodological, and empirical scholarship. The question is, however, whether the premises of the model are in step with political reality.

The traditional framework of political responsibility is built around three assumptions. The first is that government has legal authority for problemsolving – that is, the government must have legal jurisdiction over the source of the problem. The second is the authority and ability of government to identify actors and institutions and prosecute those who have caused the problem. This is sometimes termed "cause responsibility" (cf. Javeline 2003). The third assumption is that government is able to make these actors accountable for their actions and for ending the problems they have been found to have caused. In other words, they have "treatment responsibility" (cf. Javeline 2003, Young 2006, May 1992, Finer 1941, Winthrop 1975, Sabatier 1991, Dearing and Rogers 1996, Pellizzoni 2004).

The political histories of many sovereign states offer ample examples showing that this framework has functioned and functions well as a problem-solving model in many policy fields. Local, regional, and national governments have, for instance, been able to take relatively effective action on citizen welfare, different forms of public safety (e.g., water, public housing, and traffic safety), and the regulation of industry (Weaver and Rockman 1993, Lundqvist 1980, Esping-Andersen 1990). Another field where the traditional model seems to have worked well is related to some aspects of corporate governance. For example, in the wake of the 2001 Enron scandal, when this large energy corporation was found guilty of fraudulent activity, the U.S. Congress swiftly enacted the Sarbanes-Oxley Act in 2002; its goal was to control and prevent corporate

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fraud through the creation of the Public Company Accounting Oversight Board mandated to regulate and supervise corporate conduct (see Lucci 2003).

The traditional political responsibility model has also functioned well in some areas of public health, as illustrated by the decision of an increasing number of national governments to ban smoking in public places. Studies have, for instance, demonstrated that these bans have been implemented in such a way that they effectively reduce exposure to the harmful effects of secondhand smoke (Naiman, Glazier, and Moineddin 2010, Pickett et al. 2006). The traditional model has even reacted quickly to large and sudden environmental disasters, as most prominently illustrated by the Exxon Valdez oil spill and the recent Deepwater Horizon spill. These two cases are of special interest for this book because they explain when and how government political responsibility mechanisms can be employed, how they can make corporations answerable for problems of the common good, and why there is so much current focus on the role of corporations as a problem-solving actor in domestic and international relations (Bexell 2006, Alger 2010, Fraser 2005, Ebbesson and Okowa 2009, Winter 2006). Moreover, the oil-spill cases illuminate why such political problems can occur in the first place. They also represent new trends in problem-solving now being implemented in many levels of government.

The Exxon Valdez oil spill occurred on March 24, 1989, outside the Alaskan coast, when the tanker *Valdez* hit the Blight Reef and spilled between 11 million and 35 million gallons (42,000 m³) of crude oil that affected 1,300 miles (1,900 kilometers) of the Alaskan coastline. The U.S. Congress acted rapidly and passed the Oil Pollution Act of 1990, which defined the political problem and the responsible actor, stipulated the establishment of a fund for the payment of compensation for identified damages, and formulated regulations to avoid such problems in the future (United States Senate 1990, Birkland 1997, Margulies 2003). Less than one year later, on February 27, 1990, ExxonMobil was indicted on five criminal counts and found guilty of causing the problem through irresponsible conduct (so-called negligence or intentionality by neglect) and mandated by the court to spend more than I billion USD to clean up the oil spill. The company was ordered to pay an additional 5 billion USD to victims to settle its civil and criminal charges over a ten-year period (Baura 2006). Although all civil cases against ExxonMobil and many ecosystem and societal problems caused by the oil spill and in its aftermath are, as of 2013, still not resolved, it is generally believed that government assumed good leadership in dealing with the concerns. It enacted the Oil Pollution Act, moved swiftly in prosecuting ExxonMobil, and held the corporation legally responsible for causing the problem and contributing to its resolution (Birkland and Lawrence 2002, Exxon Valdez Oil Spill Trustee Council no date, Gerber, Jensen, and Kubena 2007).

This case shows how the traditional framework can work rapidly and effectively when its basic assumptions are in place. The oil spill occurred in U.S. territorial waters, thus fulfilling the first assumption of legal jurisdictional authority.



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Government could identify the wrongdoer (the second assumption) because the tanker accident that caused the spill occurred at a specific time and location. Government passed legislation and used its legal system to find the company guilty of and liable for the damages to nature and society, thus fulfilling the model's third basic assumption of holding actors accountable for their wrongdoings. In these ways, the model held actors answerable for instigating and solving the problem, that is, cause and treatment responsibility (cf. Javeline 2003, Young 2006, Pellizzoni 2004, Solum no date, Jordan, Wurzel, and Zito 2003b).

Interestingly for the discussion that follows, the Oil Pollution Act also acknowledges that an underlying cause of the disaster was complacency on the part of both industry and government in monitoring the operation of the Valdez terminal and vessel traffic. To ensure against similar problems and oil tanker accidents in the future, it proposed two innovations in political responsibility-taking: more active participation by local citizens in the formulation of oil spill contingency planning and the establishment of "a mechanism... which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals" (United States Senate 1990, Section 5002, 274). As developed further later in the chapter, the role of individual citizens and multistakeholder mechanisms continues to be discussed as a necessary element in political responsibility-taking in the 2000s.

Thus, whereas the Exxon Valdez oil spill demonstrates the strengths of the traditional model to react quickly to serious and acute political problems, it also shows that additional efforts and mechanisms are needed to create long-term solutions for large and sudden problems. But what happens when the assumptions for the traditional political responsibility model are not in place? How strong is the model when government does not have full jurisdictional authority, when it is not possible to identify specific actors who have caused the problem, and when government lacks the capability to make these actors responsible and accountable for their actions? A review of contemporary research on political responsibility that takes as its point of departure in complex cross-national problems and the role of the global economy in politics today sheds light on these questions. This review focuses on the scholarship of two political scientists who have offered significant insights and contributions to the reconfiguration of political responsibility for the contemporary world.

First, in his role as the United Nations Special Representative of the Secretary General on Human Rights and Transnational Corporations and Other Business Enterprises, political science professor John G. Ruggie has investigated whether the traditional political responsibility model is applicable in extraterritorial settings outside the legal jurisdiction of national government. Foreshadowing his appointment was the failure of the United Nations in realizing the "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Right Attempts," a proposed



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authoritative guide to corporate social responsibility that scholars argue was "stymied" by politics and "overly ambitious" as an overarching regulation of the activities of transnational corporations and their relationships with host governments (Hillemans 2003, 1066). From his extensive research since his appointment to this post in 2005, Ruggie has concluded that it is difficult to apply in a "territorially fragmented system of public governance" (Ruggie 2009, 2) and for problems that are outside the "areas within their [government's] 'power or effective control'" (UN General Assembly 2007, 5; see also UN General Assembly 2011). In 2011, Ruggie's research team, for example, concluded from current developments in U.S. tort litigation that the courtroom is not an effective venue for holding multinational corporations responsible for allegations of negligence, breaches of the duty of care, and international human rights violations (Meeran 2011), although more recently there are some indications that this may gradually be changing.² Ruggie has characterized these weaknesses as a serious contemporary structural problem because the model cannot easily and readily be applied in the jurisdiction of other sovereign states and in international territory. Even though his evaluation focuses primarily on human rights violations associated with free trade and in cross-national cases, his conclusions apply to other large and difficult problem areas and to different territorially fragmented governments. Other scholars focus their attention on investigating how and why the model is hard to employ to solve environmental, economic, safety, and health problems that are cross-jurisdictional in origin and conclude that this difficulty explains why more effort has been put into developing and ratifying international law (Ebbesson and Okowa 2009, Winter 2006, Fraser 2005).

But difficulties in solving political problems with the traditional model can even be found in a single nation-state territorial jurisdiction if political authority is dispersed and problems "spill over" into multiple legal jurisdictions, as shown in the case of federalism in the United States and the multi-layered government of the European Union. These forms of fragmented governmental authority lead to difficulties in determining the common level of governmental answerability and in harmonizing problem-solving efforts to ensure, for instance, equal treatment of all citizens, common environmental protection, and similarities in laws so that legality in one legal jurisdiction does not translate into illegality in another one. Such problems have been found in the United States in the field of gun control, air pollution, treatment of illegal immigrants, and social welfare (Mayors against illegal guns 2010, Revesz 1997, Potoski and Woods 2002, Fix and Tumlin 1997). For instance, differences in social welfare policies among U.S. states have been found to create "marked disparities" in the treatment of similarly situated American citizens (Kinney 1990, 857).

² Two examples are the California Transparency in Supply Chain Act of 2010 that became law in 2012 and the new forerunning mediation and complains institution "Danish Responsibility" created by the Danish Minister for Business and Growth in 2012 to implement the new recommendations from the UN and OECD on global development of responsible business behavior.



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Harmonizing policy across member states also affects the functioning of the European Union, which has, as a result, experienced several instances of time-consuming and even unsuccessful policy delays. An illustrative case of relevance for the coming chapters in this book concerns the failed attempts to harmonize regulatory policy on the cultivation of genetically modified organisms (GMOs) (European Commission DG Health and Consumers no date a).³ An interesting side effect of this inability to provide a common regulatory framework is that government calls on citizens and consumers to increase their awareness of national differences in food policy (see e.g., European Commission DG Health and Consumers, no date b).

Scholars have also questioned whether the other basic assumptions of the traditional political responsibility model keep up with reality and how the inability to fulfill them can create what they identify as serious weaknesses and structural problems. An important scholar who conducted such investigations is political philosopher Iris Marion Young. Before her death she evaluated the traditional model's second basic assumption: its need to identify specific actors as those who cause a specific problem ("the wrongdoers"). For her philosophical evaluation, she studied the case of labor rights in offshore operations within the globalized garment-making industry, the so-called sweatshop problem that had gained considerable public attention in the 1990s and early 2000s (see also Chapters 5 through 8). She found that, unlike the oil-spill example earlier, when governmental answerability was swift and strong, it is often difficult for government to act and act promptly to identify a specific actor who, as in her case, is not providing satisfactory working conditions or salary and not following the labor standards recommended by the International Labor Organization, an international governmental agency within the United Nations. Her theoretical investigation shows that the globalized garment industry's nature, which involves a vast number of specialized factories manufacturing specific garment parts and doing so simultaneously for several different companies (Andersson 2001; see also e.g., The Walt Disney Company 2008), is one reason it is hard to identify the wrongdoer.

Young concluded that the traditional political responsibility model is structurally rigid because it must assign both cause responsibility and treatment responsibility to specific identified actors. She argued that this rigidity is a serious weakness when problem-solving is reliant on the identification of specific actors because, without their identification, there is a risk that the problem will just continue. Young maintained that such reoccurrences perpetuate individual harms that accumulate into collective harms and develop into what she termed

³ After twelve years of governmental deliberation, fierce environmental protest, and intensive business lobbying, the EU announced in the summer of 2010 that it would not pursue efforts for a common European regulatory framework on GMOs. Instead the European Commission decided to adopt a more flexible approach, which it maintains will ensure the right balance between maintaining the EU system of authorizations based on scientific assessment of health and environmental risks and the need to grant freedom to Member States to address specific national, regional, or local issues raised by the cultivation of GMOs.



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"structural injustices" or widespread domination or deprivation of large categories of persons (Young 2006, 114). Similar difficulties in identifying the specific responsible actor or actors and assigning them both cause and treatment responsibility have been found in other large and complicated cross-national problem areas. Prominent examples noted in the literature are deforestation, overfishing, the banking crisis, and climate change (Gibson, McKean, and Ostrom 2000, UN Development Programme, UN Environment Programme, World Bank, World Resources Institute 2000). Such examples have led scholars to conclude that the traditional model cannot solve problems swiftly and effectively when, firstly, identifiable actors cannot be revealed; secondly, when the identity of wrongdoers cannot be established within a reasonable time frame so that problem-solving can commence before it is too late; and finally, when the problems grow incrementally thus making it difficult to hold specific actors answerable as the specific source of the problem (Young 2006, 2010, Ebbesson and Okowa 2009, Winter 2006, Fraser 2005). As part of her solution for this problem, Young discussed the role that corporations and individuals must play in new frameworks of responsibility-taking.

The traditional model's third basic assumption – that government has the capacity to take action to make the identifiable actors accountable for wrongdoing – has also undergone scholarly evaluation. Policy making, policy implementation, and governance researchers identify several different weaknesses in governmental capacity existing on all levels of government and in different parts of the world and argue that they can lessen the effectiveness of the model. An important first weakness is generated when there is a lack of political will among politicians to formulate an effective policy solution. Reasons for this lack of will include conflicting political interests and priorities, as, for instance, shown earlier in the EU example on GMOs. Political disagreement can even prolong the policy-making process so that the problem accumulates and becomes more severe. Political conflicts can also, of course, be solved through compromises, but as scholars have demonstrated, there is a risk that policy compromise results in watered-down measures that are less comprehensive and effective as problem-solving tools.

Such weaknesses are, for example, noted by scholars at the international government level, where ratification processes can take considerable time or when agreements, as in the case of climate change, cannot materialize fully (Carraro 1999, Robertson 2006, Wiegandt 2001). But they have also been found on the domestic level of government when political leaders feel that it is necessary to give priority to certain policy issues over others. A telling example from Ruggie's extensive investigations is when governments decide that offshore oil extraction, foreign investments, exports, and food production are more important for their people's development than stronger protection of their human rights and the country's environment (Ruggie 2009).

A second kind of government capacity problem occurs when legislatures are able to pass strong regulatory policy but policy is not implemented because of



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other circumstances. In a cross-national perspective, these problems have been found to be greatest in countries with low economic development and where the rule of law is weak and corruption high (UN General Assembly 2008, 6, 11). However, the economic effects of the recent banking crisis are also affecting the ability of government worldwide to deliver on its policy commitments, for instance in the field of education and employment (UK Parliament no date, Johnson, Oliff, and Williams 2011, L.A. County Workforce Investment Board 2011). Even in countries less affected by the banking crisis, such problems have been identified. Two rather recent scandals in Sweden - one concerning the treatment of pigs on farms and the other concerning the presence of toxic chemicals in toys and other household goods – reveal that problems with implementing strong policy can also occur in resourceful, proactive, strong Western industrialized states. In both examples, the public authorities charged with monitoring responsibility maintained that the national government did not give them the necessary resources to conduct their work properly. This lack of resources meant that neither could sufficiently implement proper farm and slaughterhouse inspections to ensure animal welfare or perform the necessary chemical laboratory analyses to ensure that products sold on the Swedish market do not contain illegal toxic substances. In both cases, Swedish government officials and corporate actors involved in the ensuing public debate announced that more conscientious and informed consumer choice and more responsibility on the part of industry are necessary to ensure food and product safety (Sveriges Radio 2009, 2010, Kemikalieinspektionen 2008).

Some problems demonstrate that – even when the assumptions are in place – the model can be weak in solving problems. An illustrative case is the 2010 BP oil spill, estimated as the largest-ever offshore spill (Duvall 2012) and deemed by U.S. President Obama as the "greatest environmental disaster of its kind in our history" (Financial Times 2010). The spill, caused by the explosion of the Deepwater Horizon oil rig on April 20, 2010, killed eleven workers and leaked more than 4.1 million barrels of crude oil into the Gulf of Mexico over a threemonth period (Calkins 2011). The 1990 Oil Pollution Act was used to identify BP as the responsible actor with "the primary liability for damage caused by the spill" (Bloomberg 2010). In June 2010, Obama pressured BP to create a 20 billion USD fund for cleanup efforts and to compensate affected businesses and individuals (BP 2010). Six months later, the U.S. Department of Justice filed a lawsuit against BP and eight other companies with the charges that they violated federal safety regulations (BBC News 2010). This lawsuit has been disputed by involved corporations but appears now to have been somewhat resolved.⁴ However, although BP has taken official responsibility for the spill, further reporting revealed that other corporations were involved in leasing

⁴ This development is underway during the writing of this manuscript. As of late 2012, BP has agreed to pay 4.5 billion USD in fines and other penalties and to plead guilty to fourteen criminal charges related to the rig explosion (*New York Times* 2012).



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equipment and in constructing the rig (Bloomberg 2010). The spill's complexity led President Obama to appoint the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, which concluded in its final report that the spill was preventable, was caused by BP's and its two key contractors' faulty management practices, and that governmental shortcomings also played a role (National Commission 2011). In particular, the inadequate regulations and oversight resources of a federal agency under the U.S. Department of Interior (the Mineral Management Service) were mentioned.

This case illustrates that the traditional model of political responsibility is applicable to the extent that the U.S. government was able to identify certain responsible actors and is in the process of holding them accountable in various legal and other ways. However, weaknesses in the model are also apparent. For example, responsibility for the spill was even extended to the American people's desire to drive large vehicles and purchase inexpensive fuel. "Our addiction to fossil fuels" is how President Obama included consumers in his Oval Office address on the oil spill recovery (Obama 2010). Thus, while BP and several other companies and even government agencies have been identified as the primary perpetrator of the spill, the lines of "cause responsibility" go beyond the realm of legal sanction and thus to several other actors. Another weakness made evident by the spill is the need to connect cause and treatment responsibility. Because the spill was unprecedented in that it involved a heavier blend of crude oil containing asphalt-like substances, the best cleanup techniques were essentially rendered difficult or even useless (Borenstein 2010). Therefore, charging BP with the spill's cleanup was not necessarily the most effective response for solving the broader complex problem. Moreover, the amount of compensation that should be allotted for the extent of the ongoing damage to ecosystems, employment opportunities, and the local community's way of life, is difficult to calculate and include in treatment responsibility. Prior to the spill, BP's activities were legal, considered largely unproblematic, and not very risky. Finally, the oil spill illustrates an additional and important challenge to the traditional model of political responsibility, namely the increasing proclivity of governments and corporations to outsource work tasks which makes it more difficult to assign and even track responsibility. This oil spill thus illustrates the strengths and weaknesses of the traditional model. Importantly, it demonstrates that laws alone may be inadequate to prevent and resolve complex problems because they may not be able to compel companies to act in the most ethically responsible ways, which may in essence mean volunteering to do more than required by law (see Bernstein and Cashore 2007 cf. Young 2010).

This discussion of the weaknesses illustrates how the traditional model of political responsibility is challenged in the world today. In general terms, its weaknesses can lead to what has been identified as "governance gaps" (UN General Assembly 2008) when there develops an imbalance between the scope and impact of problems and governmental capacity to manage their adverse consequences. Another general conclusion is that the weaknesses seem to be most acute when it is difficult to identify a specific actor as the source of the