

**THE PUBLIC ACCOUNTABILITY OF
PRIVATIZED ACTIVATION:
THE CASE OF ISRAEL**

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הפורום הירושלמי Jerusalem Forum
לרגולציה וממשליות on Regulation & Governance
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Abstract: The study explores the accountability implications of the increasingly privatized and marketized models of welfare governance. Privatization of public services radically destabilizes our concepts of accountability. While on the one hand, accountability deficits are created as traditional public accountability systems become less relevant; on the other hand, new market and results-based forms of accountability emerge. In order to examine how accountability is safeguarded under privatized activation, the study provides an in-depth look at private contractors' accountability in the case of activation, in Israel. It finds that results-based accountability mechanisms were perceived as insufficient to legitimize contractors' discretion; and sometimes they even intensified accountability concerns. In practice, significant traditional public accountability requirements were extended to the private contractors, creating a hybrid public-private model of accountability. The article discusses the contradictory dynamics leading to the development of this hybrid accountability model and the tensions and instabilities it produces. It closes by stressing the need for more research into activation accountability regimes and their complexity.

Keywords: Activation, Contracting-Out, Public Service Values, Hybrid Accountability, Regulation, Social Services.

Acknowledgements: The research was supported by a grant from The Israel Foundations Trustees (Research Grant #19 for the years 2011-2013). I am grateful to Merav Zohari and Efrat Rotem, who served as research assistants. This paper is forthcoming in *Social Policy & Administration*.

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Introduction

Accountability and democratic governance have always been central concerns in the study of social policy and administration (e.g., Brodtkin 1997, Day and Klein 1987, Handler 1979). However, these issues have moved somewhat to the margins of scholarly interest with the introduction of the new forms of welfare governance over the last two decades. The development of quasi-markets and the management of performance-based contracts have captured most of the attention of activation scholars, while questions of accountability – including the public accountability of private activation contractors – have been usually dealt with indirectly or sporadically. As van Berkel and Borghi note, the publicness of activation and contractors' accountability have rarely been examined as issues in their own right (van Berkel and Borghi 2008: 393–4).

Nonetheless, the transformations in welfare governance raise major issues of accountability (Diller 2000, Donnelly 2011, Mulgan 2006, Sol 2003). The new institutional logic of welfare and employment programmes, which often come with stringent and complex eligibility criteria, more discretionary powers to street-level organizations and harsher sanctions, ultimately increases the risks of discretion to the public at large and to individual welfare recipients (Benish 2010, Brodtkin 2007, Lens 2005). These concerns become even more prominent as services are increasingly privatized, sometimes relocating powers and discretion to private contractors who are not subject to the public accountability norms and mechanisms (de Ridder 2010). These changes in welfare governance radically alter the traditional systems of accountability. On the one hand, accountability deficits are created as existing means of holding public agencies to account become less relevant; on the other hand, new forms of accountability emerge (Benish and Levi-Faur 2012, Mulgan 2003, Scott 2000).

In order to better understand the accountability implications of the privatized and marketized forms of welfare governance, the study examines the accountability of private activation contractors to the public through the case of activation in Israel. The Israeli case, still understudied in activation scholarship, offers an excellent context for studying transformation in public accountability, as it is an example of a far-reaching privatized and outcome-driven model of welfare governance (Benish 2008, Gal 2005, Maron 2012). As a radical case of privatization, in which significant discretionary powers were devolved to for-profit street-level activation agencies (including the power to sanction participants from receiving income support payments), it may help us to understand and critically evaluate how accountability changes under privatized service delivery systems.

This article proceeds as follows: the second and third sections present the destabilizing effect of privatization on the traditional concept of public accountability and develop a modular framework for analyzing accountability in privatized forms of governance. The fourth section discusses the Israeli activation programme, and the fifth elaborates the research methodology. The study's findings on the application of public accountability mechanisms and values to the Israeli activation contractors are presented in the sixth section. The seventh and the concluding sections analyze the reconstruction of accountability in the context of privatized activation and the tensions and instabilities produced by the interactions between privatization, devolution of discretion and accountability.

Public Accountability and Privatization

Traditionally, public and private actors have operated under distinctive regimes of accountability, in line with the long-standing public/private and state/market conceptual distinctions in western democracies (Clarke and Newman 2007).

Accountability in the public sphere is associated with democratic conceptions of citizenship. Public workers are accountable to citizens for their actions through various systems of accountability. These accountability systems make civil servants accountable to ministers and Parliament (political accountability); to their superiors in public bureaucracy (bureaucratic accountability); to administrative tribunals and

courts (legal accountability); and to external comptrollers and ombudsmen (administrative accountability).¹ Thus, managers in the public sector operate under tight systems of control. Discretion is traditionally regarded as a problem, especially in welfare bureaucracies (Brodkin 2007), due to concerns over abuse of power and other inappropriate behaviours, such as corruption, nepotism and so on (Bovens 2005). Such concerns express public expectations of due process and fairness in the use of public power and taxpayer resources; they inspire continuing demands for accountability in how government operates. Therefore, in the public sector, inputs and procedures are closely monitored; and efficiency, though important, is often subordinated to broader democratic concerns, such as due process, fairness, integrity and transparency (de Ridder 2010).

In contrast, accountability in the private sphere is associated with efficient markets and responsiveness to customers' preferences. In a market accountability regime, producers are primarily accountable to their stockholders for maximizing their profits, but they are also "accountable" (or more precisely, have to be responsive²) to consumers for their products' quality and prices through the mechanisms of market competition (Mashaw 2006) and market regulation (Levi-Faur 2011). The producers are dependent on the customers' willingness to buy services at the offered price and on their capacity to remain viable in the market. In the market, the commanding values are efficiency and customer satisfaction. Managers in the private sector operate under a "tight-loose" system of control (Mulgan 2003: 166), whereby outcomes (or profits) are tightly controlled, but wide discretion is given in how to achieve these outcomes.

Privatization of public services destabilizes these traditionally distinctive concepts of accountability (Mashaw 2006: 135). Contractors fulfil public functions, but they are privately owned and they operate in a market-like setting. This public-private mix, which blurs the boundaries between the sectors, has intriguing implications on public accountability. On the one hand, privatization creates significant accountability deficits. Private street-level organizations are usually detached from traditional public accountability systems: they are not subject to the same degree of government control over their day-to-day practices as government departments; legislative committees cannot interrogate them in the same way as they can interrogate public servants; by default, they are out of the reach of the

administrative jurisdiction of courts and administrative tribunals; Freedom of Information legislations normally does not apply to them; and they are beyond the jurisdiction of specialised public accountability agencies, such as government auditors and Ombudsman (See, e.g., Bovens 2005, Bovens et al 2008, Mulgan 2003, 2005, Rosenbloom and Piotrowski 2005). As contracting has quickly moved from functions such as cleaning, gardening and refuse collection to much more complex and politically contested services, these accountability deficits led to increasing public concern over the potential abuse of discretionary powers by a range of non-state bodies which are disengaged from the accountability processes which apply in public privatization (Vincent-Jones 2005).

On the other hand, privatization introduces opportunities for new forms of accountability. Notably, the shift to performance and outcome-based management, embodied in New Public Management (NPM) and privatization, may have significant positive effects on accountability as it makes policy objectives and their achievement, or the failure to achieve, more transparent. Moreover, the use of performance-based management techniques may increase goal alignment between policy makers and street-level privatization. Lastly, the market-like setting may create “downwards accountability” and empower service users when they have an option to move to another service provider (Scott 2000).

Thus, NPM reforms can be seen as an attempt to reconfigure public sector accountability along business lines (Mulgan 2003). Whereas in the “old public administration” accountability was mainly input- and process-oriented based on ex ante control systems, NPM reforms emphasize accountability for achieved performance, efficiency and responsiveness to customers (Verhoest and Mattei 2010: 167).

However, the question whether these new accountability mechanisms actually counterbalance the accountability deficits created in the new structure remains open. Some argue that in the long run, given a well-functioning market for public services, competition will make most traditional public accountability systems unnecessary (Trebilcock and Iacobucci as cited in Bovens 2005: 201). Others point out the limits of performance accountability to serve as appropriate accountability mechanisms.

Goal alignment in complex services is frustrated due to the limited ability to formulate policy goals with clear and measurable objectives (Brodkin 2011); and new outcome-related-risks, such as “creaming” and “parking” arise.

In this context, some public law and administration scholars stress the need to extend traditional public accountability mechanisms and norms to the private actors enrolled in the delivery of public functions (See e.g., Diller 2000, Freeman 2003, Rosenbloom and Piotrowski 2005); and there is some empirical evidence of such extension, including in the context of activation (Benish and Levi-Faur 2012, Mulgan 2005, 2006). However, by and large, current studies find the extent of accountability imposed on contractors falls well short of that still expected from publicly owned agencies; and while public opinion continues to place a high premium on values such as fairness and due process in public agencies, non-government privatization are expected to be held accountable for results and the public is less interested in the means by which these results are achieved (Mulgan 2003: 169).

Capturing Public Accountability in Privatized forms of Service Delivery

The previous section clarifies that conventional accountability narratives are unable to adequately capture public accountability in governance structures involving diffuse actors and methods (Scott 2006). To examine the public accountability of the private activation contractors, we need to “unpack” the concepts of public and market accountability, right down to their building blocks (Mashaw 2006), and to reconstruct a modular analytical framework of public accountability which goes beyond the traditional public-private divide. Such a framework should allow us to capture both traditional and new avenues of accountability contributing to the contractors' accountability to citizens, which might otherwise be missed in traditional conceptions of public accountability.

Mulgan's (2003: 22–30) analytical framework of the dimensions of accountability (namely, who is accountable? to whom? for what? how?) is useful for articulating the various combinations of public and market accountability features in mixed models of service delivery. For the current study, the *who* comprise the private

activation contractors and their workers. The *to whom* is ultimately the citizens, but as mentioned above, it includes accountability to the interested minister and ministry, and accountability to other public agencies, such as parliamentary committees, courts and administrative tribunals and the state comptroller.

The *for what* dimension is more complicated. Two relevant aspects focus on apparent differences between market and public accountability regimes. One aspect is whether the contractors are held accountable solely for efficiency and customer satisfaction, as in market governance, or whether they are also accountable for such public service values as due process, transparency and integrity (de Ridder 2010). The second and related aspect is whether and to what extent the contractors are called to account for their results, as in market regimes of accountability, or if their means are also scrutinized in terms of inputs and procedures, as traditionally done in public regimes of accountability.

The analysis which follows provides a comprehensive look at private activation agencies' accountability to citizens in these central dimensions of accountability in the context of the Israeli activation programme.

The Case Study: Activation in Israel

Activation in Israel, which is understudied in international activation scholarship, is an interesting case study for questions of public accountability in privatized activation services, largely because of its far-reaching privatization model (Benish 2008, Gal 2005, Maron 2012). The Israeli activation programme was enacted in December 2004 and became operational in August 2005. Driven by enduring dissatisfaction with the Israeli Public Employment Service and inspired by the global trend toward activation, the programme radically transformed welfare policy and governance in Israel. The programme emphasized the reduction of welfare dependency by a strong “work-first” approach for quick labour market integration of long-term unemployed people dependent on tax-funded income support benefits. The programme started as a policy experiment for two years in four regions; after some significant policy and administrative reforms, it was extended for an additional period under new contracts. The programme ended in April 2010 when Parliament, due to public criticism, refused

to extend it. Recently, however, the newly elected Netanyahu government declared that the programme will be re-enacted.

At an organizational level, the Israeli activation programme - the focus of this study - introduced a strong NPM-driven approach relying on a public-private partnership model between government and private for-profit activation contractors. In the new setting, the state retained purchasing and regulatory functions in a special department, “the department”, at the Ministry of Industry, Trade and Labor. The operation of the job centres, including the exercise of the “employment test” for income support eligibility, previously carried out by the Public Employment Service, was entirely contracted out to four private for-profit firms.

The scope of privatization was considerable as the programme devolved significant discretionary powers to the contractors and their workers. For instance, the contractors' case managers were entrusted with the power to sanction participants who refused to take a job or did not comply with a personal “employment plan” or other programme requirements. Moreover, the contractors and case managers initially had wide operational discretion in the services they provided. The main steering mechanism was a performance-based payment model, according to which the contractors were paid based on reductions in income support expenditures in their region; an additional bonus was paid for saving money on work support services. The contractors were expected to use innovative and personally tailored methods of activation in order to meet their targets (Maron 2012). However, choice among contractors was not available to the programme participants.

Research Methodology

The study is based on an in-depth analysis of the regulatory documents and other secondary materials on the Israeli activation programme. The regulatory materials include: the activation legislation and its amendments, secondary legislation, programme administrative regulations and manuals, and the contracts between the government and the contractors. The study is also based on an examination of all the protocols of parliamentary committees which discussed the programme, judicial and administrative tribunal decisions, reports of the state comptroller and other audit

agencies' evaluations of the programme, and reports by public committees and advocacy groups.

Based on the modular analytical framework of accountability, presented above, these documents were analyzed in order to grasp the following accountability dimensions of the activation contractors: (1) their accountability relations with political, administrative, judicial and other public agencies; (2) the extent to which they are accountable for traditional public service norms; and (3) the extent to which they are held to account for their inputs and procedures rather than for their results.

Analysing Contractors' Public Accountability

Contractors' Accountability to Public Agencies

Accountability to the Ministry; The most intense accountability relations of the contractors were obviously with the department, which was responsible for selecting the contractors through competitive bidding and for regulating them. As the programme regulator, the department had the power to set standards for service provision through administrative and contractual provisions. Moreover, the terms of the contract enabled the department to request any information relevant to the programme (MITL 2005 §8.3.1), enter and inspect any part of the job centres, and access the contractors' records (MITL 2005 §8.2). The contractors also had various reporting and record keeping obligations (MITL 2005 §4.7.6). Lastly, the contract created an explicit “forum” for accountability, as it stated that representatives of the contractor must regularly meet the department to review problems, issues, plans and other matters concerning the programme (MITL 2005 §8.6.1).

Although formally this accountability structure was almost unchanged, in practice, the accountability relations between the contractors and the ministry changed considerably over time. At first, in the spirit of NPM, the department afforded the contractors considerable discretion in how they carried out their tasks and focused almost entirely on their outcome indicators. However, as elaborated below, public concerns regarding contractors' trustworthiness and led the department's close relationship with them, the department – as part of its own obligation to account to the

public – to increase its formal control over the contractors through more extensive regulations and tighter enforcement.

Accountability to Parliament; The contractors were not formally obliged to account directly to the Israeli Parliament (the Knesset). As the programme attracted more public attention, however, a considerable number of parliamentary committee sessions were devoted to it, and these sessions became a central channel for complaints and controversies. The analysis of the records of these sessions shows that the contractors' representatives (usually job centre managers) participated in all sessions side by side with the department's staff. The records show that not only was the department called to account, but the contractors' representatives were also asked to account for accusations of disrespectful treatment of clients, unfair sanctioning practices and so on. This, of course, closely resembles how lower street-level public agencies are asked to account to the parliament; and indeed, it seems that the parliament members did not perceive the contractors as positioned out of their reach as a result of their private status.

Thus, in practice, contractors were *indirectly* accountable to Parliament for their actions as part of the department's own accountability to Parliament. However, their accountability fell short of the requirements of public agencies, since they had no *formal obligation* to account to these committees.

Accountability to courts and administrative tribunals; From the start, the contractors were directly subject to a judicial review system which is similar to the one applied to public agencies. The enabling law gave each participant the right to appeal any decision of the contractors' case managers, first to an administrative tribunal and then to labour courts (in the Israeli system, these courts hear welfare appeals). Moreover, the contract established that contractors could be financially sanctioned if a high number of appeals was found justified. Lastly, in an important decision of an appeal brought forward by an advocacy group, the National Labour Court held that:

Despite the “privateness” of the contractors, due to the fact that they are fulfilling a public function according to law, their workers are also – and

maybe especially – subject to all the rules of public and administrative law... they are obligated to act only in the boundaries of the powers vested to them by law, according to relevant considerations; they have to act according to standards of equality, fairness, reasonableness and proportionality, transparency, and all the other standards that apply to government agencies. (*Lugasy v. the ministry of industry, trade and labour*, 2007)

Thus, the contractors were subject to significant legal accountability constraints, very similar to these imposed on public agencies; and these legal mechanisms were strengthened with the extension of participants' rights to publicly funded lawyers, as discussed below.

Accountability to the state comptroller and to public committees; The enabling law subjected the contractors to audits by the state comptroller as if they were public agencies. As audited agencies, the contractors had to submit an annual report to the comptroller on their income and expenditure; they were also obligated to submit any document required in the audit process. Following complaints about inappropriate treatment by the contractors, a parliamentary committee requested that the comptroller conduct a comprehensive audit of the programme implementation a year after it started. The audit included the department and the contractors, as well as other relevant government departments.

In addition, several *ad hoc* public committees were appointed during the programme implementation. The most significant of which was the Ye'ari committee (after the name of its chair), a special committee of the Israel Academy of Science and Humanities. The Ye'ari committee was appointed by the government shortly after the programme started and was composed of academics and government officials. It was asked to evaluate the programme implementation and provide the minister advice on its operation. Formally an advisory committee, it actually served as a central forum for public debate of the programme, and although they were not formally obligated to do so, the contractors appeared before the committee and testified. Eventually, the committee not only served as an accountability forum, but its report induced the department to strengthen its control over the contractors to safeguard participants' individual rights and the larger public interest (Ye'ari committee 2007).

Accountability for Public Service Values

It is hard to imagine a more explicit and comprehensive application of public service values to the contractors than the National Labour Court's decision cited above, whereby the contractors were obligated to follow administrative law norms as they apply to public agencies. Yet a careful and detailed examination reveals a more complicated picture. While some norms were applied to the contractors as if they were public agencies, and even beyond, others were applied partly and indirectly.

Transparency; When advocacy groups applied for copies of the tender and contracts documents, the department was initially reluctant to disclose them, partly because the contractors argued they were commercially confidential. After more than six months of discussions, the government disclosed the documents but omitted – as “commercial secrets” – several parts, including information about the contractors' shareholders, the bids, and the contractors' philosophy and strategies. When the programme was extended for an additional period, the second contract was uploaded to the department's website, again with some parts omitted, and the department started to use its website also to publish information on contractors' performance and summaries of inspections. In other words, while the transparency of the activation contractors increased over time, it still fell short of the transparency requirements of public agencies. At the level of the individual, the programme participants had the right to access any document in their personal records held by the contractor, except for internal consultations (MITL 2009: 142); similar to the obligations of public agencies under the Israeli Freedom of Information legislation.

Integrity; The enabling law applied penal provisions to the contractors' workers, such as prohibition of bribery and other civil service laws forbidding conflicts of interest; these are usually applicable only to public servants.

Due Process; As mentioned, from the initiation of the programme, the contractors were subject to due process constraints and were required to account to administrative tribunals and courts on the legal merits of their decision-making. The application of this norm was intensified, given increasing public concern over the fairness of the contractors to programme participants. Concerns were enumerated by advocacy groups in the media, in parliamentary sessions and in hearings of the public

committees. Eventually, the State Comptroller and the Ye'ari committee reports pinpointed the need to secure the rights of the programme participants; they recommended strengthening due process requirements on case managers' decisions and making public legal representation available to the participants at the administrative tribunal level (The State Comptroller 2007: 44, Ye'ari committee 2007: 147). These recommendations were adopted by the department and the Ministry of Justice, leading to a standard of due process which exceeds that of public employment agencies, where no public legal aid is available in administrative tribunals.

Accountability for Results or for Inputs and Procedures?

As mentioned, at first the department almost did not use its formal authority over the contractors. The department focused almost entirely on outcome-oriented indicators while leaving wide discretion for the contractors to self-regulate almost all aspects regarding to how to achieve them. The programme started with no governmental guidelines on operation, and contractors were expected to develop their own manuals. Occasionally, the department issued directions and recommendations. Initially, many of these regulations were suggestive, articulated as soft-law and 'best practice' rather than mandatory rules.³

However, over time the department increased its rule-based control of the contractors. The most striking fact is that on January 2009, it published a comprehensive programme manual with about 170 pages of detailed and mostly mandatory regulations. A review of this manual reveals a consistent trend towards structuring and narrowing the contractors' discretion in benefit termination, support services allocation and many other detailed day-to-day aspects of the job centres' operation. This emphasis on *how* things are done was one of the main responses of the department to public concerns over the fairness of the contractors' decision making processes and their trustworthiness. A central concern repeatedly mentioned in parliamentary and other public discussions was that contractors abuse their wide discretion to seek profits while undermining public interests and values. Critics framed this problem as a *structural conflict of interest* between the contractors' commitment to the public; and their commitment to their shareholders. This concern was intensified by the profit maximizing nature of all contractors in the case studied

and by the incentives created by the payment model to cut welfare rolls and save on work support services. Although the responsibility of designing such incentives was the department's, it undermined the legitimacy of contractors' actions and fuelled the demand to subject them to greater control and scrutiny to make sure that discretion is used for proper public purposes. Critics also argued that the close partnership of the department and the contractors rendered the former prone to "regulatory capture" and undermined its capacity to maintain a regulatory role.

These criticisms trickled into the Yeari committee report (2007: 146) calling for greater oversight of contractors and for relaxing the contractors' economic incentives, that in order to reduce the risk that the latest might use in unethical ways (2007:93). And indeed, as a response, the department increased its regulation and monitoring of the contractors. In addition, the payment structure was revised in the second contract to focus on placements and retention, and the bonus for saving money in work support services was revoked.

Accountability Reconstructed: The Public Accountability of Private Activation

The analysis of activation in Israel shows that public accountability was sustained not only by holding the minister and the government publicly accountable, but also by applying significant public accountability requirements to the private activation contractors. Contractors' accountability was institutionalized through both public and market accountability mechanisms, creating what can be described as a hybrid accountability model, which leaps over the traditional distinctions between public and private accountability. This strengthens the empirical evidence of the convergence of accountability regimes in privatized activation programmes, as also found in Australia (Mulgan 2005, 2006) and the state of Wisconsin (Benish 2010, Benish and Levi-Faur 2012).

At the relational level of accountability, the programme regulations spanned a network of accountability relations between the private agencies and public bodies. The contractors were directly accountable to the ministry, the state comptroller, and administrative tribunals and courts; they were also called to account, albeit informally,

to parliamentary committees and other *ad hoc* public committees. Such accountability relations go beyond 'ordinary' regulatory relations between public regulators and market players, and they strongly resemble the accountability relations which traditionally apply to public agencies.

At the level of the content of accountability, the National Labour Court's decision conveys a clear expectation that contractors should act according to democratic values. Although in practice some public service norms, such as transparency, were applied to the contractors to a lesser extent. Moreover, contrary to the assumption that market-like performance-based mechanisms would serve as alternative accountability mechanisms, in practice, there was a strong and consistent trend towards regulating the contractors' activities and proceduralizing their decision-making, changing priorities to accountability for inputs and procedures. Outcome-based payments even *increased* accountability concerns since they were perceived as potentially encouraging discretionary practices that put the rights of welfare recipients at risk.

Thus, paradoxically, the efforts to focus on results ultimately led to a need for the kind of process orientation which the policymakers were originally trying to avoid. Since performance-based steering mechanisms are limited in their ability to control discretion in complex and hard-to-define tasks, and since the performance indicators themselves might sometimes create perverse incentives for the contractors (Benish 2010); the need to use process-based control mechanisms becomes inevitable, especially in the absence of choice among providers. This strengthens Sharon Wright's observation that these seemingly contradictory steering logics are sometimes actually mutually reinforcing (Wright 2011: 93). It also reminds us that in many public services - "process is the product" (Mashaw 1996: 412).

Moreover, it is interesting to note that swings towards greater rule-based central control is also documented in activation programmes in other countries, such as Australia (Considine et al 2011, Mulgan 2005), the UK (Wright 2011) and the Netherlands (Sol 2010). This might indicate that the apparently inexorable swing to central control is embedded in the *nature* of activation itself. It seems that various public concerns about activation policy, mainly the vulnerability of the "customers",

their limited ability to assert their rights, and their dependency on the activation agencies for a minimum income essential for satisfying the most basic necessities of life have led to public demand for greater accountability of the actors implementing this policy.

Therefore, accountability was reconstructed, or “re-assembled”, on new more functional lines. This suggests that public expectations do not arrange themselves only according to the formal status of the actors but also according to the essence of their powers. The case indicates that when sensitive discretionary powers are involved, especially when choice among providers is not available.⁴ Values such as fairness and due process and the means by which results are achieved carry considerable weight, even when non-government privatizations are concerned. Decades of public sector welfare delivery, it seems, have created certain public expectations of how discretionary powers should be operated and how they should be accounted for, and these expectations remain when the functions are privatized.

However, while the hybrid accountability model described above clearly extends the reach of public accountability, it also fraught with tensions and contradictions. Most apparent is the tension between the contractors' increased accountability requirements and the highly discretionary and decentralized nature of activation. In which flexibility, personalized care and innovative labour integration practices are key principles (See, e.g., van Berkel et al 2011, Considine 2001, Mosley and Sol 2005). Strong accountability requirements might lead to rigidity and undermine the programmatic, as well as the economic, rationale that led to contracting out in the first place. This tension between accountability and flexibility is well known in public administration (Behn 2001, Sol 2003). But it seems that the challenge of balancing them becomes more complicated in privatized activation where increasing contractors' discretion (to achieve personalized service and make efficiency gains) and controlling; their discretion (in the name of accountability and fairness) are both strongly advocated. It resembles to pushing the accelerator and the brake pedals simultaneously; it may inspire impressive steering performance, but it may also lead to instabilities and burnouts.

The case studied suggests that sometimes the more sensible solution, rather than adding layers of accountability to counter balance growing accountability concerns, may be to reduce the accountability deficits created by privatization in the first place. In this vein, for instance, the Ye'ari committee recommended limiting the sort of discretionary powers which devolved to the activation contractors designing performance incentives more cautiously. And recommended to relying more on non-profits (2007: 82, 88, 100, 104).

Moreover, the dual normative framework applied on the contractors might be hard to reconcile, given the different logics of the public and the private spheres (John Clarke and Newman, 2007; de Ridder, 2010). This reflected in the fact that the profit motive of the contractors, which is legitimate and even desirable in market settings, was often framed as a conflict of interest problem, undermining the legitimacy of contractors' decision making. Similarly, despite the sweeping declaration of the Israeli National Labour Court, in practice, the public norm of transparency was eroded in the name of "commercial secrets".

In addition, on the practical level, it remains unclear whether private activation agencies truly internalized public service values. Some scholars doubt whether "public service values" were ever a reality, even in the public sector. But it seems that the commitments of for-profit firms to their stockholders and their bottom-line culture are intensifying concerns about ritual compliance (Braithwaite et al 2007, see also Dias and Maynard-Moody 2007). This is especially relevant in the context of welfare, where street-level privatization can quite easily use informal practices to control the ability of participants to assert their rights (Brodkin 2011: 69, Lens 2005).

Conclusions

The study discusses the complex implications of the new forms of welfare governance for accountability, especially with the trend towards privatization. In the case of Israel, activation contractors' accountability became a central issue in the public debates of the programme. Eventually, despite their 'privateness', significant public accountability mechanisms were applied to the activation contractors, thereby extending the traditional concept of public accountability. This extension of public accountability requirements to the private contractors evolved due to the limited capacity of result-based accountability to legitimize contractors' discretion in such a complex and politically contested programme. Not only were performance-based accountability measures perceived insufficient to replace traditional accountability mechanisms, but privatization and the performance-based payment model also created new accountability concerns (i.e., potential conflicts between contractors' commitment to the public and to their owners) and intensified old ones (i.e., the tension between efficacy and fairness).

Subjecting the contractors to accountability requirements that resemble public agencies' accountability commitments mitigates some of these concerns but, at the same time, it contradicts the striving for flexibility embedded in activation policy. These contradictory dynamics and the complex interaction between privatization, discretion and accountability make the task of designing a balanced accountability regime for privatized activation extremely difficult.

The study stresses the need to for activation accountability regimes and their dynamics in additional activation programmes with different public-private mixes research. This may further our understanding of the broader implications of activation reforms and the complex public expectations in which they operate. Street-level research of accountability is of particular importance, as one of the most intriguing questions in cases of convergence of public and private accountability is whether contractors, especially for-profits, truly internalize public service norms, given their sometimes conflicting ethos and interests.

Notes

1. Accountability scholars suggest different typologies to capture the various types of accountability in public administrations (see, e.g.: Bovens 2005, Mulgan 2003: 30–35, Verhoest and Mattei 2010). The typology presented here for public accountability goes beyond the core sense of public accountability as political accountability, but for simplification it does not include managerial and market accountability systems which were adopted as part of NPM reforms within public administrations. Moreover, professional accountability, which is a central accountability mechanism in some areas of public administration, was not included in the analysis due to space limitations. In any event, it was not central in employment services in Israel even before privatisation.
2. The use of the concept of accountability to describe providers' responsiveness to customers is a matter of dispute. As Mulgan notes: "[i]n the private commercial sector, accountability applies more to owners and shareholders, who can call the company's managers to account for the company's performance, than to customers whose main right is to exit by refusing to purchase" (Mulgan 2003: 21).
3. The most evident exceptions were strict regulations as to the minimum hours that the participants must be present at the centres (Maron 2012).
4. Choice for participants was never seriously considered in the Israeli programme. The absence of choice among providers seems not to be coincidental in the context of welfare. Although there are exceptions, such in Australia and the Netherlands, it seems that in general policy makers are reluctant to offer choice to welfare receivers, thinking that benefit recipients will "use 'choice' to work against their responsibilities" (Elliott et al 2005: 51).

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