18

# RETHINKING THE OBSESSION

## Accountability and the Financial Crisis

MELVIN J. DUBNICK AND JUSTIN O'BRIEN

The introductory chapter of this volume began with an observation: In listening to the rhetoric surrounding discussions of government in its various forms, one soon becomes aware of a collective obsession with accountability. The contributions to the Kettering Symposium represent just a small part of the greater effort among students of governance to explore the subject of that obsession. Yet reflecting on the work presented in this volume and elsewhere, we note that one central aspect of that opening observation has been left unexplored: the obsession itself.

Two general issues arise when we focus on the current obsession with accountability. First, what is it about accountability and account-giving mechanisms that we find so critical and attractive in our search for improved governance? And second, what are the impacts and implications of our collective preoccupation with this amorphous yet pervasive idea that has become so central to our approaches to public problems? After briefly exploring possible answers to the first issue, we examine the implications of the obsession on efforts to design policy solutions to the financial crises associated with the Great Recession of 2007–2010.

### THE POWER OF PROMISES

Possible answers to the first question ("Why are we obsessed with accountability?") can be found in a number of explanations drawn from the critical examination of similar governance-relevant obsessions. Students of American public administration are well versed in the Progressive Era's obsession for business approaches to efficiency (see Waldo 1984), and the preoccupation with leadership among students and practitioners of management is pervasive and rarely challenged (see Meindl, Ehrlich, and Dukerich 1985, 1987). Henry Mintzberg has taken a critical approach to these and related obsessions (e.g., strategic management) over the years (Mintzberg 1982, 1987, 2004), often highlighting the fact that while each has a place in the practice of management, there is a tendency to overestimate their value and relevance to successful organization governance. Such obsessions can range from a mere fad to a firm commitment to an explicitly articulated ideology (Williams 1961) or to a more subtle and tacit "logic" or rationale uncritically adopted and applied to matters of governance in general (i.e., what Foucault [1991] termed "governmentality"; see Burchell et al. 1991; Rose and Miller 1992; Cawley and Chaloupka 1997).

Accountability does not fall at either extreme. It reflects neither a coherent ideology nor a logic of "governmentality." Rather, accountability seems best understood as a formidable and pervasive legitimizing standard for modern governance. Thomas Nagel (1987) defines legitimacy—and specifically political legitimacy—as the process of "justifying coercively imposed political and social institutions to the people who have to live under them, and at the same time discover what those institutions must be like if such justification is to be possible" (218). Legitimacy, Nagel observes, derives from two sources: either a Hobbesian-like convergence of motives or interests generating "rational support for certain institutions from the separate motivational standpoints of distinct individuals" or a "common standpoint" (e.g., moral standard) that exists distinct and above individual motives or interests (218–219). For accountability, these two positions—convergence and common standpoint—mirror the earlier distinction (pp. xv–xviii) between those who perceive the promises of accountability in instrumental (convergence) or intrinsic (common standpoint) terms. We posit that the grounds for accountability's role as legitimizing standard fall somewhere in between the two extremes.

Highlighting the role that the instrumental and intrinsic "promises of accountability" (see Introduction, this volume) play as a contemporary standard of legitimacy begs many questions, including those related to the significant power of the concept in political rhetoric and policy discourse. Accountability has reached iconic status within epistemic and discourse communities (see Dubnick 2002), where it is treated as the holy grail of political action, the normative embodiment of what is frequently termed today "good governance."[1] Its role as a standard of governance is so widely accepted that anyone who questions its provenance or legitimacy is regarded as a radical, and his or her participation in political discourse is effectively marginalized. As important, accountability is a concept or term that has rhetorical power and can be used to either mobilize or subdue political reaction and reflection.

Historically, perhaps the concept most similar in weight to the term "accountability" was the broadly conceived notion of "planning" that emerged from the Enlightenment and reached its most influential position as a contemporary legitimizing standard in the 1960s. Aaron Wildavsky's (1973) two-paragraph description of the role planning played in contemporary governance can just as easily be applied to the concept of accountability today:

> The concept of planning stands between actors and their societies. It conditions the way they perceive social problems and it guides their choice of solutions. Their understanding of planning helps them to choose the questions they ask and the answers they find. It leads them to evaluate their experience, including their attempt to plan, in certain ways rather than others. The difficulties they experience in society are related to their understanding of the mechanism—planning—they believe will help them solve its problems.
>
> Men think through language. They can hardly conceive of phenomena their words cannot express. The ways in which men think about planning affect how they act just as their attempts to plan affect how they think about it. The problems they have with the word mirror their problems with the world. (pp. 127–28)

The lens and language of planning became so pervasive and powerful during the first half of the twentieth century that it achieved the iconic status we can now attribute to accountability (cf., Hoover 1934).[2] Despite the strong challenges of critics (e.g., Hayek 1944; cf. Dahl and Lindblom 1953), planning retained its hold on the methodology of governance for decades and remains influential in a number of fields, from city planning to strategic management (see Beauregard 1989). What gave the promises of planning its empowering legitimacy? Was it its strength as an ideology (Guttenberg 2009)? Was it the strength of the modernist governmentality that sustained it (see Scott 1998)? Or was it the practical value it had during a time when market approaches required supplementation (e.g., Stiglitz 1989)? Seeking answers to those same questions for accountability should be high on the agenda of those analysts who study this increasingly pervasive concept. What empowers the current obsession with accountability?

One answer is that the turn toward accountability reflects the challenging and complex realities of modern governance. Multiple accountabilities (see Part I, this volume), for example, can be explained as the product of a pluralist politics where the structure of governance and oversight is part of the bargains and compromises struck during the policy-formulation and program-implementation stages. The importance of public support and legitimacy (e.g., Pollitt, Chapter 5) and institutional factors (e.g., Radin, Chapter 6) in determining the form and relative success of policies are reasonable themes in several chapters. Rational-choice models are implied in Hood's earlier discussion of blame avoidance (Chapter 10), and Posner and Schwartz (Chapter 8) explicitly address the presence of account-giving mechanisms as "solutions" in the widely used policy-streams model. But while these and similar theories can be used to inform us about the adoption, form, and effectiveness of accountability, none approaches the issue of why this (or any other governance concept) holds such a powerful sway within the policy community.

Implied in the promises-of-accountability perspective, however, is an alternative set of theories that focus attention on the power of collective beliefs. Inherent in the promises perspective is the idea that assumptions we make about the appropriateness of certain institutional and policy choices are self-empowering (March and Olsen 2006). The power of those promises can be attributed to a number of factors and theories, from the relatively simple notion of the normative "power of ideas" (Reich 1988; Jacobsen 1995; Yee 1996) to social constructionism (Gergen and Thatchenkery 1996; Hacking 1999) and the empirical effort to understand the role that "folk psychology" plays in how we approach the world (Bruner 1990; Malle 2004).

Among these, the work of social (folk) psychologists on the role of internalized theories or assumptions of human behavior is most compelling, with three major attractions. First, with its roots in experimental attribution studies and recent extension through advances in cognitive science and neuropsychology, folk psychology provides empirically testable explanations for the power of the promises of accountability that go beyond views relying on the rationality, reasonableness, or moral force of those promises (see Churchland 1989). A second attraction is that this folk-psychology explanation for the power of the promises of accountability is compatible with (and complementary to) the theories of administrative behavior, organizational decision making, and democratic institutions that emerged from the works of Barnard (1968), Simon (1957), and March and Olsen (1989, 1995). The power of the promises, in short, lies in the power of the decision premises they occupy. Third, beyond the question of its credibility as a source of explanations for the power of the promises of accountability, folk psychology models help us make sense of a wide range of cases in which accountability has become a central issue of governance.

In that last regard, these models enhance our ability to deal with the second question raised by the promises framework: what are its impacts and implications for the use and role of accountability within the governance and policy-making arenas? We consider that question in the following section where we apply a variation on the "promises" theme to recent events in the global financial markets that brought the major world economies to the brink of disaster—and which generated a great number of calls for "greater accountability."

## FINANCIAL MELTDOWN AND THE CALLS FOR REFORM

We previously took note of the iconic status of accountability as a source of its power, and the extent of that power was recently demonstrated in the political rhetoric, policy analysis, and reform proposals emerging from the financial crisis that began in 2007 and continues to dominate the global agenda. That crisis is perfectly suited as a case study highlighting the impact and implications of the accountability icon as well as the power of the promises that underpin it.

We begin by noting that iconic terms such as accountability are part of a larger class of concepts that cultural theorists call "keywords." The study of keywords can be traced to the work of Raymond H. Williams, a British scholar who, upon returning to academe after World War II, realized that there were certain words and phrases that played special roles in discussions about culture and society. In 1976 (and again in 1985), Williams published a book (*Keywords: A Vocabulary of Culture and Society*) building on that observation and noting that such words and phrases were more than merely terms reflecting some "meaning" that can be defined through application of its sometime complex and divergent etymological roots. These keywords were meaningful in a broader and more contextualized sense and constituted a distinct vocabulary (a "shared body of words and meanings") we apply "in our most general discussions, in English, of the practices and institutions which we group as *culture* and *society*." In *Keywords,* Williams collected relevant examples for the usage of about 100 terms. The rationale for inclusion centered on the fact that each term "has at some time, in the course of some argument, virtually forced itself on my attention because the problems of its meanings seemed to me inextricably bound up with the problems it was used to discuss" (Williams 1985, 15).[5]

Viewed through the lens of political science, Williams's list of culture-and-society keywords seems remarkably "politicized" in the sense of containing words (e.g., democracy, equality, class, bureaucracy) that would certainly be core to discussions of politics and governance. Were we to develop a more focused list used to discuss politics and governance today, there would be considerable overlap with many of Williams's culture-and-society keywords. More important, such a list would no doubt give a prominent place to the word "accountability."

Williams's keyword approach to our everyday discourses have special meaning in the politics and governance arena where words do more than merely "represent" and shape meaningful discussions. In the politics and governance arena, words are linked to power relationships (see Edelman 1964, 1971, 1977). As such they shape policy as well as conversations. Moreover, the difficulty in divining an exact meaning intentionally or otherwise serves an exceptionally useful purpose. Creative ambiguity not only masks divisions, but also facilitates the transformation of the symbolic into the substantive.

The keyword and iconic stature of accountability has been most evident in the rhetoric surrounding debates about the recent collapse of global financial markets. While explanations for the crisis have ranged from the narrowly technical to the broadly systemic,[6] much of the policy debate has focused on the role of governance as both the source of and solution to the market's problems. It is in the context of that discussion that accountability plays a central role, and it is within the scholarly literature and political rhetoric that we find the active meanings for this keyword. To uncover those active meanings and their implications for understanding and dealing with the financial crisis, we need to analytically put aside the iconic status of keywords as "affective symbols"—words that are associated with human reactions ranging from quiescence to arousal—and instead focus on how keywords impact policy issues and the ways in which solutions are developed.

## Accountability as Cause and Cure

Consider, for example, the role that accountability played in efforts of commentators and analysts to "make sense" of the 2007 crisis. Explanations varied dramatically. Some accounts highlight narrowly technical considerations, such as expansive monetary policy and excessive levels of leverage (Reinhart and Rogoff 2008, 2009). Others focus on flawed incentives that were exacerbated by tacit official support for the rational actions of institutional actors in sidestepping regulation (e.g., Calomiris 2009; Ely 2009). Others still focus on the broadly systemic nature of the crisis on either practical (e.g., Posner 2009) or normative grounds (e.g., Stiglitz 2009). Much of the policy debate coalesces, however, around the role of governance and ways of making it more effective as both the source of and solution to the intractable problems in capital markets.

It is in the context of that discussion that "accountability" plays a central role. Figure 18.1 posits two critical dimensions accountability plays in the discourse surrounding the financial markets crisis. Each reflects significant but relatively obscure distinctions. Along one dimension, accountability is often noted as either the cause and/or cure for the market's problems. As a causal factor, it is the absence or failure of effective accountability that provides the focus of the discourse. In contrast, accountability is also central to many discussions on how to deal with specific failures, including but not limited to manifestations of malfeasance and misfeasance such as deceptive or misleading conduct, unethical conduct linked to defective internal corporate codes of conduct or governance arrangements, and/or the operation of the external regulatory architecture. Accountability can also be deployed as a counter to the overall conditions that caused the crisis, for example the need to respond to the danger posed by technical compliance within specific epistemic communities, such as lawyers, auditors, rating-agency professionals, investment bankers, or other groupings that play a gatekeeping function in contemporary markets (see Coffee 2006; McBarnet and Whelan 1999; McBarnet 1991, 2006).

The second dimension highlights another, often overlooked, distinction within the general discourse in which accountability is referred to in either mechanistic or normative terms.[7] In the former sense, being accountable means being subject to those mechanisms that are designed to impose some form of control or guidance. It means being answerable, liable, legally obligated, and so forth. Alternatively, accountability is also treated as a manifestation of the normative condition of "being accountable"—as something an agent is or ought to be. Here we associate accountability with the concepts of integrity, trustworthiness, blameworthiness, and so forth. In Figure 18.1 we note this distinction as "accountability as mechanism" in contrast to "accountability as [normative] setting." In the following section we test the relevance of this framing of accountability's "active meanings" by examining how that keyword has been applied in the discourse emerging out of the recent global financial crisis.

In the general blame game (Knobloch-Westerwick and Taylor 2008; cf. Davies 2010) that has characterized much of the debate over the collapse of global financial markets, considerable attention has been paid to the failure of accountability within specific firms or institutions: those who ought to have been in control were not; those who should have known better did not. The first implies an accountability-as-mechanism approach, albeit one in which the emphasis on culpability is both wide-ranging and dependent on the particular reform agenda proposed. At times these interpretations focus on the lack of internal controls that would have prevented some of the most flagrant risk taking; at other times they focus on the failure of external control mechanisms (i.e., regulatory agents and agencies) to do their job.

The Obama administration's diagnosis, for example, combines both, citing the accountability deficit as a key common factor. Announcing a blueprint for more accountable regulatory reform (discussed in detail below), President Obama commented on June 17, 2009: "The actions of many firms escaped scrutiny. In some cases, the dealings of these institutions were so complex and opaque that few inside or outside these companies understood what was happening. Where there were gaps in the rules, regulators lacked the authority to take action. Where there were overlaps, regulators lacked accountability for their inaction" (U.S. Department of the Treasury

Figure 18.1 **Accountability's Discursive Roles**

| | | FOCUS ON: Cause | FOCUS ON: Cure |
|---|---|---|---|
| PERSPECTIVE | Accountability-as-Mechanism (i.e., control) | Failure of instrument | Reform, replace, repair the instrument |
| PERSPECTIVE | Accountability-as-Setting (i.e., normative infrastructure) | Absence or collapse of norms, mores, standards | Reestablishing, rebuilding moral community based on effective norms/standards |

2009). The European Commissioner for Internal Markets, Charlie McCreevy, by contrast, refers to the consequences of imbibing with abandon a toxic cocktail of "stupidity, ignorance and misplaced optimism" (O'Brien 2009, 33). For Commissioner McCreevy, the failure of internal risk-management systems derives from the fact that senior corporate executives "of large financial institutions have admitted in their more candid moments that they did not understand many of the new products that their firms were designing, underwriting and trading" (O'Brien 2009, 33).

At the practitioner level in London and New York, corporate executives expressed regret for what happened but denied personal responsibility. In the United Kingdom, bankers testifying before the influential Treasury Select Committee failed to provide a convincing explanation for their failures. McCreevy's concern at the levels of recklessness, noted above, was exposed in particularly acute form in the revelation that the two most senior executives at Halifax Bank of Scotland (HBOS) had little banking experience. They testified that this was unnecessary because they were surrounded by people with broad experience, a defense undermined by evidence from the bank's former head of risk and compliance.[8] Similarly, in the United States, the multifaceted ethical problems besetting Citigroup are indicative of both the paucity of institutional memory within the banking sector and the reliance on technical compliance with corporate governance norms, rules, and standards (for discussion, see O'Brien 2009, 42–44).

The major alternative to the blame game approach has been to focus on systemic causes for the crisis. Here the ambiguity over the nature of accountability plays a secondary but still significant framing role. On the one hand, to see the cause of the collapse as systemic is to imply that there is no specific blame to be apportioned; no one agent or group of agents can really be held to account for institutional-level faults. This was indeed the defense offered at congressional and parliamentary hearings. On the other hand, systemic defects also reflect the fact that flaws embedded in the very structure of financial capitalism were reinforced. It is not so much that the crisis was a result of unbridled greed; rather, it resulted from structural changes to the operation of the market that lowered the material and reputational opportunity costs for engaging in risky practices that proved unsustainable and indefensible in the long run. In both cases accountability is brought into the narrative as part of the "system."

In the former (no one is to blame), accountability is used as a defense (i.e., the crisis was the result of a confluence of factors in which none was immediately culpable). It is a perspective that allows those corporate and regulatory actors who face accusations of blameworthiness for the crisis to defend themselves on grounds that the acts they engaged in were not merely legal at the time, but also widely accepted and at times even rewarded. In the latter (systemic defects), accountability serves an offensive function (i.e., the crisis was the result of the degradation of embedded norms, values, and standards, which as a consequence of compartmentalized views of responsibility were present only in symbolic terms). Here Citigroup provides a telling example. Until his departure from the organization, Robert Rubin denied any responsibility for either the failings within the conglomerate or within the integrated banking model he helped create and sustain, as both a leading practitioner and as a policy maker serving in the Clinton administration as Treasury Secretary. In an interview with the *New York Times* (Dash and Creswell 2008), Rubin argued, "in hindsight there are a lot of things we'd do differently. But in the context of the facts as I knew them and my role [as Vice Chairman of Citigroup] I'm inclined to think probably not." Moreover, some senior chief executives went so far as to blame ex post facto government intervention (e.g., Steel 2010).[9]

In hindsight, most analysts now believe the decision to allow Lehman Brothers to fail turned the subprime housing scandal into a major global catastrophe. Belated recognition of market panic forced the U.S. federal authorities into a series of immediate policy reversals. In such circumstances, it was not surprising that the Lehman CEO, Richard Fuld, would be unapologetic. In written testimony to the House Oversight and Government Reform Committee he maintained that Lehman Brothers, as the smallest investment bank, could not withstand a "financial tsunami" that had generated "a storm of fear" (U.S. Congress 2008c; also Fuld 2010).[10] No one institution could be held responsible for the unintended consequences of belatedly recognized deleterious market and policy choices. Rather, Lehman was "overwhelmed, others were overwhelmed and still other institutions would have been overwhelmed had the government not stepped in to save them" (U.S. Congress 2008c). Accordingly, Lehman was to be regarded as an innocent victim of a collective failure to foresee a once-in-a-lifetime crisis. This argument failed to impress the U.S. House of Representatives Committee on Oversight and Government Reform. Representative Waxman, chair of that body, castigated Lehman Brothers as "a company in which there was no accountability for failure" (U.S. Congress 2008a). This was true, but it was also true that there was very little accountability within any major institutional actor on Wall Street and the City of London.

The collapse of Lehman Brothers, the forced sale of Bear Stearns and Merrill Lynch, and the calamitous failure of Royal Bank of Scotland and HBOS reflected grossly deficient internal risk-management systems, cosmetic compliance, poor ethical training, and exceptionally weak external oversight at both individual firm and on the wider systemic level.[11] This failure destroyed not only the corporate reputation of many storied firms and individual financiers but also the trust on which a credible banking system is founded. It is important to emphasize that while there was undoubtedly criminal activity on the margins—such as Bernie Madoff's Ponzi-style investment scam—the vast majority of the crisis can be traced to collective misjudgment about the capacity of markets to price information effectively and to be self-correcting. From this perspective, the critical significance of the global financial crisis lies in the fact that the norms and values of the banking community disappeared or were insufficient; assumed to be relatively stable after having accreted over centuries, they were in fact seriously degraded.

As Joseph Stiglitz put it in evidence to Congress, "securitization was based on the premise that a fool was born every minute. Globalization meant there was a global landscape on which they could search for these fools and they found them everywhere" (U.S. Congress 2008d; cf. Tett 2009). There is nothing unethical about securitization per se, but rather its reckless deployment. The compartmentalization of responsibility—through the originate-rate-distribute model and a comprehensive failure to calculate systemic risk—provided both the opportunity and justification for this kind of behavior. The unresolved question is whether these normative issues would be addressed in the reform agenda. As will be explored below, accountability played a central role in shaping the answer to that question.

## Accountability and the Design of Reforms

In response to the idea that the industry's norms and values did not foster appropriate behavior, there was a general call for reforms that would enhance accountable actions. This was most notably reflected in the political rhetoric of national leaders, but it also reflects a long-standing view that markets are indeed civilizing institutions with moral foundations (Hirschman 1982; cf Fourcade and Healy 2007; Boltanski and Chiapello 2005). Financial markets would operate well, it is assumed, if only the trust and moral commitment to responsible action can be assured, a central if overlooked preoccupation of Adam Smith in *The Theory of Moral Sentiments* (1759; see also Mason 1958; Stiglitz 2001; Sen 2009)—a work that philosophically informs the later (and more often cited) *Wealth of Nations.* A moral commitment to responsible action, in turn, may require reforms that would promote a more normative perspective on what constitutes accountable behavior.

Following this well-developed narrative path, President Obama's Inaugural Address emphasized the need for the inculcation of a new "ethics of responsibility" in corporate governance, echoing earlier calls by then British Prime Minister, Gordon Brown (2008), for moral restraint within financial centers (if only for instrumental reasons). Beyond London and New York, however, the extent to which the crisis metastasized with such ferocity has substantially strengthened calls for an integrated response to nullify what then Australian Prime Minister, Kevin Rudd (2008), called "extreme capitalism." Although many would disagree with such polemical framing, there can be no question that the policy discourse reached an inflection point for both the theory and practice of regulation through enhanced accountability. The critical question is what constitutes or should constitute accountable governance? In this context we again find advantage in pursuing the "promising" nature of accountability as a variable keyword in regulatory dynamics.

The rhetoric of reform, for example, focused on the need for changes in the normative infrastructure to enhance the responsibility, ethics, and integrity in governance of the financial markets. However, when the specific proposals for reform are examined, there is little doubt that the dominant approach has been to establish or revitalize the mechanisms of accountability—mainly regulatory—that have been at the heart of market-reform agendas for decades (see O'Brien 2007a).

The proposed reform of the U.S. regulatory system is a case in point. On June 17, 2009, the White House officially launched its proposals for reforming the federal government's approach to reform oversight of the banking industry and financial markets (U.S. Department of the Treasury 2009). It was billed as the most significant overhaul of any U.S. regulatory system in nearly eighty years. It involved structural and jurisdictional changes that (if passed and implemented) would, it was claimed, transform the way both government and the entire financial sector conducted business in the United States and globally. Reflecting the strategic and politically pragmatic orientation of the Obama administration, the concerns and/or displeasure of potential opponents from most quarters had been considered, and few if any of the main players complained that they had not been consulted or their ideas not given serious consideration. Throughout the process of developing these reform proposals, President Obama made clear that a normative dimension had to be considered and rendered operational.[12]

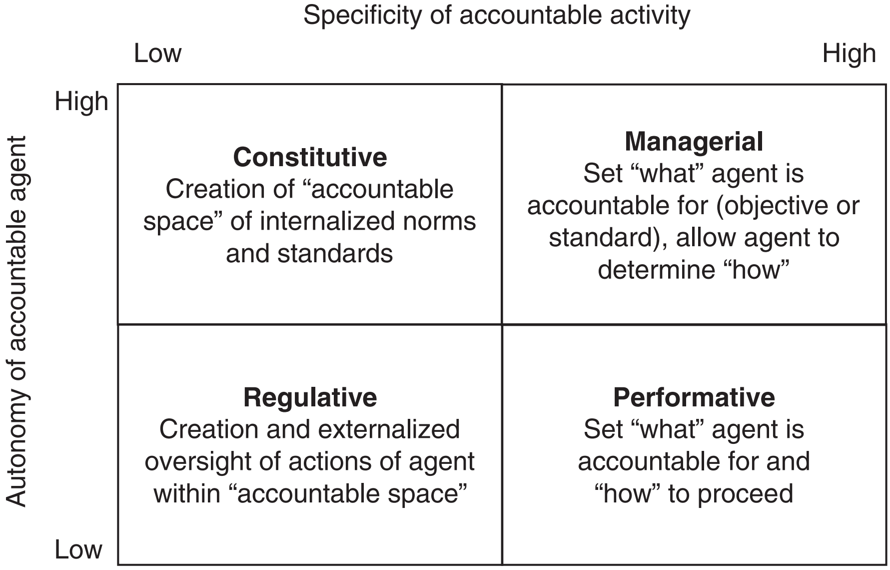
Although many of the specifics of the Obama plan for reform were likely to be modified as proposals wended their way through the policy-making process, few doubted or challenged the basic stated premise of the effort: the regulatory system of the U.S. financial sector was broken to an extent that it required major repairs; an overhaul was needed that would prevent a recurrence of the global financial crisis and its impact on the operation of credit markets, which, in turn, converted an emerging recession into what many analysts termed an economic depression. Despite the alteration of the U.S. regulatory regime that might have emerged from these proposals, there was little in the details that addressed the often-stated need for promised changes in the normative setting of corporate governance in the banking industry to accompany the soaring rhetoric.

The stress on mechanistic cures to solve the accountability problem was also evident globally. There was, of course, recognition that reform required much greater coordination and integration of accountability at the global level, if only for protection of national self-interest. The Group of Twenty Finance Ministers and Central Bank Governors (G20) began to lay the foundations for a new international regulatory architecture covering all systemically important financial institutions and markets (including hedge funds which, through judicious structuring, had been effectively unregulated), as well as systemically important financial instruments (such as securitization and credit derivatives). The European Union proposed the establishment of the European Systemic Risk Council, headed by the president of the European Central Bank, and much greater coordination of securities-market regulators through the formation of a European System of Financial Supervisors. Both initiatives eventually secured the requisite approvals with the European Union. The question is whether concentrating power among those who have demonstrably failed in the past will work. The United Kingdom, which had gone further than most in proposing limitations to executive pay, put a sunset clause in its operation, mainly because of fear that global coordination would not gel. The failure of the G20 finance ministers' meeting in London in September 2009 to agree to a cohesive framework, combined with the decision by the Obama administration to release major banks from congressional oversight, appears to justify British caution.

The gap between reform rhetoric and the actual proposals for reform of the financial markets can be traced to both the treatment accountability receives as a keyword in our discourse on policy and governance and the various promises it generates. Regulatory reform discourse and proposals can be seen as manifestations of both the instrumental and intrinsic promises of accountability. In the discourses surrounding reform of financial markets, accountability is articulated as either a means to some desirable end (i.e., accountability valued for its instrumental functionality) or as a good unto itself (i.e., intrinsically valued). Instrumentally, accountability-based reforms promise to enhance control over resources (e.g., through strengthening accounting and reporting requirements); to ensure proper behavior and actions by agents (e.g., through enhancing both hierarchical responsibility and shareholder governance); and to promote and enhance improved performance (e.g., through external auditing requirements and oversight of compensation contracts). Intrinsically, many of the reform proposals promise to render regulated actors (or regulatory agencies) more trustworthy while enhancing their integrity and promoting the legitimacy of the process as well as the fairness and justness of the decisions generated by the agency, firm, or market.

The evident bias toward mechanistic proposals reflects a strong indifference to the political rhetoric of reform in the deliberations taking place at the proposal-formulation stages. We contend that much of this bias can be attributed to a tendency at that stage to view accountability-based policy options as a response to two questions: to whom is the accountable party to be accountable, and for what? While often a convenient approach, efforts to reduce accountability to simply

Figure 18.2 **Accountable Strategies**




the governance and policing of principal-agent relationships (through either prescriptive rules or agreed-upon principles) perhaps too narrowly defines both the functions and forms of accountability as it operates within real governance systems.

To put the bias of the current reform agenda in perspective, consider the two major issues that could be the focus of accountability-based reform proposals: (1) how specific or detailed should the scrutiny be of the activity or behavior subject to account-giving, and (2) how much autonomy does the accountable party have in the fulfillment of his or her required behavior. As illustrated in Figure 18.2, four general strategic types of reform can emerge in response.

*Performative Reform*

In the financial services market, for example, there are state, national, and regional regulatory regimes where banks falling under certain jurisdictions are obligated to issue intermittent but time-specific (e.g., quarterly, annual) reports to oversight agencies or make public statements that are to include detailed information that is standardized by rule or agreement. As a strategic approach, this form of accountability integrates accountable governance with the very definition of "doing business," and failure to perform the required account-giving frequently requires sanctions. We consider these performative strategies of accountable governance.

Performative forms of accountability are commonplace in even the most mundane regulatory contexts (e.g., Bardach and Kagan 1982), but they also play major and more visible roles in broader markets as well. Crucial to the use of the strategy, however, is the fact that the capacity of regulatory agencies to engage in performative exercises is usually time-limited (this has been empirically demonstrated) to a period in the immediate aftermath of scandal, where political appetite for enforcement trumps concern that excessive regulation may curb innovation (O'Brien 2007b). Consider, for example, the pervasive use of negotiated prosecutions in the aftermath of Enron and related accounting scandals in which invasive and ongoing external monitoring of compliance programs was conceded to by individual corporations in exchange for an agreement not to proceed with civil or criminal prosecution. These are examples of both the power and limitations of such a performative-based approach (see O'Brien 2009, 48–56). Its efficacy was contingent on acquiescence by all concerned to the legitimacy of the mechanism. Injudicious use and a changed business and political climate demonstrated all too clearly the contingent and, therefore, suboptimal nature of the mechanism.[13]

*Managerial Reform*

The managerial approach involves an articulation of accountability that provides considerable discretion in meeting some standard of behavior set by oversight or regulatory bodies. A simple example drawn from city building codes can serve to illustrate: traditionally, builders and landlords are held accountable for meeting standards that get to the detail of the type of wiring to be used or the placement of exits, and even the material composition (e.g., steel, oak) of doors. In some jurisdictions, however, those performative requirements are replaced with more a managerial approach based on general standards, and the burden falls to the accountable party to demonstrate to the building-code authority that their plans and material meet or exceed the objectives of the code. In financial markets, the distinction between performative and managerial accountability is manifest in the debate between those advocating rules-based (i.e., performative) versus principles-based (managerial) regulation (Kaplow 1992; Ford 2008; Surowiecki 2008). Traditionally, U.S. regulatory regimes have tended to be rules-based, while in the United Kingdom and elsewhere the stress has been on principles-based regulation.

The managerial approach has its benefits in allowing the accountable party a greater degree of freedom in meeting the demands of an accountant, but the strategy has proven problematic in practice. In its annual report for 2007–2008, for example, the UK's Financial Services Authority admitted it failed in its oversight of the market but claimed this derived not from a flaw in the logic of principles-based regulation, but rather in a failure to apply it.[14] Problems also arose when the U.S. Securities and Exchange Commission (SEC) attempted to rely on a managerial approach in its short-lived experiment with regulating U.S.-based global investment banks. In 2004, the SEC established a Consolidated Supervised Entity (CSE) program to fill a regulatory gap in U.S. law regarding large investment-bank holding companies such as Goldman Sachs, Lehman Brothers, Bear Stearns, and others. The program was voluntary for those firms, but they opted into it once an understanding had been reached with EU banking regulators who were willing to accept the SEC (through the CES program) as a legitimate "regulatory supervisor" in lieu of the more burdensome European options. This arrangement provided those U.S. firms with a competitive advantage, not merely because it helped them avoid the more stringent EU regulators, but also because of the managerial approach taken by the SEC. The CSE was attractive to the investment banking firms precisely because "under [its] alternative capital computation method, the broker-dealer will be allowed to compute certain market and credit risk capital charges using internal mathematical models" (SEC 2008a).

The decision to take this approach represented transference of control over accountability to the firms themselves. SEC commissioners were not unaware of the risks involved in this approach. One commissioner at the time commented, "if anything goes wrong, its going to be an awfully big mess"; a second commented that he was "very happy to support it and I keep my fingers crossed for the future" (Labaton 2008, p. A1). As it turns out, the SEC was at best naïve in relying on the internal mathematical modeling provided by the investment banks. Moreover, an investigation by the inspector general for the agency revealed that responsibility for managing a combined $5 trillion asset portfolio was delegated to a team comprising just seven staff members, which had functioned without a director since March 2007. The SEC instead relied upon the market to provide an early warning system. The SEC abolished the initiative in September 2008 as a consequence of recognition from its then chairman, Christopher Cox, that "voluntary self-regulation does not work" (SEC 2008b).[15]

*Regulative Reform*

The regulative and constitutive strategies rely less on the specificity of actions to be held to account and more on the creation of a jurisdictional "accountable space" within which the accountable agent is expected to act in an appropriate or reasonable fashion. This space can be regarded as a normative setting—an arena in which trustworthiness is a central feature, and where accountability is intended to foster integrity. What differentiates these two strategies is the regulative reliance on some external or independent oversight body that has as its prime mission the monitoring of what takes place in the accountable space. Here the classic examples are found in the broad and ambiguous legislative mandate originally given to many U.S. regulatory commissions to ensure that the enterprises under their purview (e.g., in transportation, power generation, communications, and other utilities) operated "in the public interest." As demonstrated by several well known cases (e.g., the Interstate Commerce Commission, the Civil Aeronautics Board), three factors worked against this approach in practice: the ambiguity of what constitutes "the public interest"; the inclination of those agencies to rely on narrow performative and managerial approaches in pursuing their mission; and the inability of the oversight agencies to sustain their independence from those being held to account (i.e., agency capture).

To some degree, central banks were originally designed to act primarily (if not exclusively) through a regulative strategy. Typically they are provided with broad missions. The European Central Bank declares that its "main objective" is to "maintain price stability: safeguarding the value of the euro" (http://www.ecb.int/ecb/html/mission.en.html). Referring to its 1913 founding authorization, the U.S. Federal Reserve System notes its mission as "to provide the nation with a safer, more flexible, and more stable monetary and financial system" (http://www.federalreserve.gov/aboutthefed/mission.htm). The Central Bank of Indonesia's objective is to "achieve and maintain rupiah stability by maintaining monetary stability and by promoting financial system stability for Indonesia's long term sustainable development" (http://www.bi.go.id/web/en/Tentang+BI/Fungsi+Bank+Indonesia/Misi+dan+Visi/). These broad mission statements establish the accountable space within which those banks under their jurisdiction operate. To carry out those missions, these and other central banks typically have significant discretion and/or autonomy (Acemoglu et al. 2008; Keefer and Stasavage 2003, 2000; Magnette 2000). Moreover, the actions they take in response to some problem or need will require them to rely in part on performative and managerial forms of accountability. A similar dynamic informs many of the functions and operations of securities regulators, such as the UK's Financial Services Authority and the U.S. Securities and Exchange Commission.

In the recent financial market crisis, however, a critical flaw in the logic of this regulative approach became evident. Those who sit in key positions in those agencies designed to make certain that accountable space is generating appropriate and accountable behavior often do so with a bias, sometimes subtle and at other times explicitly ideological. The choices they make in this regard are usually informed by an ideationally driven belief in the self-correcting power of the markets. There is perhaps no better case study of what can happen than the story of Alan Greenspan's fall from grace following this extraordinary admission: "I found a flaw. That is precisely the reason I was shocked because I had been going for 40 years or more with very considerable evidence that it was working exceptionally well." The mea culpa that followed marked the moment when the intellectual edifice governing financial capitalism crumbled. Greenspan's testimony before an exceptionally hostile congressional committee October 2008 was one of the most memorable moments in the drama associated with the implosion of global capital markets (see O'Brien 2009). It might also prove to be one of the most significant from the perspective of regulatory theory:

> A Nobel Prize was awarded for the discovery of the pricing model that underpins much of the advance in derivatives markets. This modern risk management paradigm held sway for decades. The whole intellectual edifice, however, collapsed in the summer of last year because the data inputted into the risk management models generally covered only the past two decades, a period of euphoria. Had instead the models been fitted more appropriately to historic periods of stress, capital requirements would have been much higher and the financial world would be in far better shape today, in my judgment. (U.S. Congress 2008b)

The failure of the regulative approach was evident to all. The extent of government intervention required to stabilize financial markets across the world after the financial crisis of 2007 temporarily transformed the conceptual and practical dynamics of capital-market regulation. The power and influence of government has been augmented considerably. In the short term, the Federal Reserve (and other U.S. agencies) has turned to managerial and performative approaches to contend with the emergency conditions in the United States. The issue is whether that can return to the regulative approach that is inherent in their original mandate (see Mariani 2009) and whether this is, on its own, going to be sufficient to deal with the normative failure of regulatory policy.

### *Constitutive Reform*

In contrast to the regulative option, the constitutive approach relies on the development of governance norms and standards within the accountable space and reflects a classic political-economy approach most often (and mistakenly) associated with free-enterprise capitalism. Here the emphasis is on the design and maintenance of institutional arrangements that foster accountable behavior without the monitoring and oversight of the regulative approach or the specificity of actions of the performative and managerial strategies.[16] Perhaps the best examples come from the use of the legal system to structure (or restructure) a dysfunctional market. Markets already operate within established legal environments that set parameters and rules around behaviors. The influence of the legal context goes well beyond its having a direct impact on behavior. Legal scholars and economists have long been aware of the impact the "shadow of the law" has on individual and corporate behavior (Stevenson and Wolfers 2006; Jacob 1992; Cooter et al. 1982; Bagley 2008; Dixit 2004).

Several prominent analysts of the current economic crisis believe that financial markets can be made more accountable through institutional reforms rather than more explicit regulative, managerial, or performative interventions (e.g., Shiller 2008). On the surface, advocates of this approach to reforming accountability seem to be engaged in an updated version of deregulation. The difference, however, is in the emphasis on purpose and intent, with the goal being to reconstitute markets so that institutional incentives and pressures will promote greater accountability.[17] Consider, for example, the case of Sarbanes-Oxley. While it hardly stands as a model for effective regulation, the basic logic was an approach that would create the legal context in which specific corporate actors (chief executive officers and chief financial officers) were on notice that they could no longer hide behind the fiction of the corporate "person" and were now going to be held criminally accountable for their actions as corporate officers.

On a more abstract level, academics such as Oliver Williamson have been pursuing studies that can provide a coherent positive theory to support a more constitutive approach—one that views financial markets as dynamic arrangements of incomplete and imperfect contracts. Combining the logic of economics with the design imperatives of organization theory, Williamson has already addressed the possibility of reforming corporate governance (Williamson 2008). Constituting through laws and other devices a financial marketplace characterized by integrity and worthy of trust (i.e., an accountable market) requires a strategy based on design rather than deregulation. Accountability is therefore a design question at both corporate and regulatory levels, which to be effective needs to be mutually reinforcing and address dynamically the calculative, social, and normative reasons for behaving in a more (or less) ethically responsible manner. Ironically, such an approach would be the fulfillment of Adam Smith's vision of the marketplace as a venue in which our all-too-human moral sentiments can be allowed to play themselves out.

## INSIGHTS AND LESSONS

As is evident to anyone tracking the proliferating literature on the subject, many lessons can be drawn from the global financial crisis of 2007. We make no claims that the present work adds anything of value to those analyses. Rather, the crisis was used here as a case study demonstrating the impact and implications of our collective obsession with accountability and the influence it wields in our political and policy discourses. What has emerged is strong evidence supporting the view that accountability deserves the designation of a "keyword" according to Raymond Williams's definition of the term. Moreover, accountability's central role in the crisis—as a core concept in discussions of what caused and what can cure the crisis, as well as the basis for deliberations regarding potential reforms of the domestic and global financial marketplace—gives credence to the view that a degree of power can be attributed to some keywords and other symbolic language that explicitly or subtly shape and direct political action and governance.

In addition, our analysis gives some support to the contention that the influence of accountability as a keyword is derived from the power of its various promises—promises that are themselves derived from belief systems rooted in our folk psychology. This perspective on accountability warrants further exploration and application in the study of governance and policy making.

## NOTES

1. For example, Both the World Bank (www.worldbank.org/wbi/governance) and the International Monetary Fund (http://www.imf.org/external/np/exr/facts/gov.htm) have made good governance a major component of their long-term agendas.

2. "To plan or not to plan is no real issue," declared Charles E. Merriam. "Planning even of economic affairs has existed at all levels of our national life, both public and private, since the beginning of our history. The only issue is who shall plan for what ends" (1944, 397). In this regard, Merriam was echoing the words of Herbert Hoover, who observed a decade earlier that the United States "have been engaged in planning, and the execution of plans, within the proper functions of government ever since the first days of George Washington's Administration.

> No civilization has hitherto ever seen such a growth of voluntary associative activities in every form of planning, coordination and cooperation of effort, the expression of free men. It comes naturally, since the whole system builded on liberty is a stimulant to plan and progress. The unparalleled rise of the American man and woman was not alone the result of riches in lands, forests or mines; it sprang from ideals and philosophic ideas out of which plans and the execution of them are stimulated by the forces of freedom. (Hoover 1934, 6)

3. For a critical and useful overview, see John 2003; cf. Wedel et al. 2005.
4. Much of what follows in the next two sections is drawn from Dubnick and O'Brien 2009.
5. For Williams, keywords have two major (and intertwined) functional characteristics. First, they are "significant, binding" terms that are "indicative" of the meanings and interpretations of the discourse; at the same time these same words were "elements of the problems" the very discourse they addressed had generated (Williams 1985, 15–16). He observed that we typically become aware of keywords only after the discourse in which they played such a significant role had passed. But what if we were to become more "aware" of the keywords that are dominating our ongoing discourse community? That was Williams's project in *Keywords,* where he focused attention on some of those words that are at the heart of our contemporary discussion of culture and society; and in his two editions (the second was published in 1983) these included terms such as literature, unconscious, evolution, liberal, empirical, equality, etc.
6. See the recent collection of articles focused mainly on the causes of the 2007 crisis—the June 2009 issue of *Critical Review,* esp. Bhidé 2009; Acharya and Richardson 2009; Friedman 2009; Jablecki and Mateusz 2009; Stiglitz 2009; Wallison 2009b, 2009a; and White 2009; see also Posner 2009 and the online and ongoing analyses by Paul Krugman, Simon Johnson, and others.
7. This distinction has its roots in one of the foundational debates of modern governance studies that took place in the early 1940s between Carl J. Friedrich (1940) and Herman Finer (1941). Friedrich regarded accountability as a condition instilled in public officials as they become more professional; Finer insisted that the only way to ensure accountability was through institutions and mechanisms that constantly check on the exercise of public authority.
8. The executive, Paul Moore, noted that "my personal experience of being on the inside as a risk and compliance manager has shown me that, whatever the very specific, final and direct causes of the financial crisis, I strongly believe that the real underlying cause of all of the problems was simply this—a total failure of all key aspects of governance" (cited in O'Brien 2009, 36).
9. For overview of steps taken in response to the crisis as it emerged, see Broome 2009.
10. This choice of metaphor was also deployed by Alan Greenspan to deflect responsibility two weeks later (U.S. Congress 2008b).
11. For wider problems and lack of oversight on Wall Street, see Morris 2008 and Soros 2008; for lack of political oversight in the United States, more generally, see Milhaupt and Pistor 2008, 47–66, and Galbraith 2008. For problems in the British banking sector, see UK Parliament 2009a. Paul Moore, the author of that memorandum, is former head of regulatory risk at HBOS. He argued (at section 4.3) that there was a need for more detailed policy guidance from the Financial Services Authority (FSA) on the form and content of ethics training within banking corporations. He says it is essential to introduce "a more detailed policy and rules which allows the FSA to test the cultural environment of organizations they are supervising e.g., tri-annual staff and customer survey. There is no doubt that you can have the best governance processes in the world but if they are carried out in a culture of greed, unethical behavior and indisposition to challenge, they will fail. I would now propose *mandatory* [emphasis in original] ethics training for all senior managers and a system of monitoring the ethical considerations of key policy and strategy decisions within the supervised firms."
12. In remarks at release of the reform proposals on June 17, 2009, President Obama said:

> "There's always been a tension between those who place their faith in the invisible hand of the marketplace and those who place more trust in the guiding hand of the government—and that tension isn't a bad thing. It gives rise to healthy debates and creates a dynamism that makes it possible for us to adapt and grow. For we know that markets are not an unalloyed force for either good or for ill. In many ways, our financial system reflects us. In the aggregate of countless independent decisions, we see the potential for creativity—and the potential for abuse. We see the capacity for innovations that make our economy stronger—and for innovations that exploit our economy's weaknesses. We are called upon to put in place those reforms that allow our best qualities to flourish—while keeping those worst traits in check. We're called upon to recognize that the free market is the most powerful generative force for our prosperity—but it is not a free license to ignore the consequences of our actions." (Obama 2009)

13. It is instructive that negotiated prosecution, which was predicated on the assumption that the formal existence of a performative compliance program was in itself insufficient to address the risk of inappropriate behavior, was subject to an increasingly vocal and effective campaign of corporate and political vilification from 2004 onwards—precisely the same time as the expansion of securitization magnified the risk of defective risk-management systems. Policy makers such as the Treasury Secretary Hank Paulson, along with influential academics, advocated the expansion of a principles-based (i.e., managerial) regulatory regime,

which transferred the exercise of discretionary power from the regulator to the regulated (see U.S. Department of the Treasury 2008).

14. Responding directly to criticisms from Parliament, the FSA offered the following self-assessment:

> The regulatory philosophy which we pursued in the past focused on ensuring that firms had the appropriate systems and controls in place and relied on the senior management of firms to make the right judgments. We did not see it as a function of the regulator to question the overall business strategy of the institution or more generally the possibility of risk crystallising in the future.
>
> Our approach has now changed. We now expect firms' management to make decisions knowing they will be judged on the ultimate consequences of those actions. In our supervision we will judge firms on those outcomes and on the consequences of their actions, not on the compliance with particular rules. We will apply this outcomes-based approach through our new intensive supervisory model, which is underpinned by our focus on credible deterrence. (UK Parliament 2009b)

15. Cox was also under considerable pressure to do so from Treasury Secretary Paulson and Federal Reserve Chairman Bernanke as the looming financial crisis worsened and the need to impose more stringent controls on those banks became increasingly urgent.

16. The contemporary academic view most closely identified with this perspective is the public choice school of political economy most often identified with James Buchanan and Gordon Tullock (see, for example, Buchanan and Tullock 1962).

17. In a very real sense, all regulatory regimes are constitutive to the extent that the state acts as an autonomous actor in pursuing the redesign of the marketplace (Vogel, 1996; Shearing, 1992).

## REFERENCES


Acemoglu, Daron, Simon Johnson, Pablo Querubin, and James A. Robinson. 2008. "When Does Policy Reform Work? The Case of Central Bank Independence." In National Bureau of Economic Research Working Paper Series. Cambridge, MA: National Bureau of Economic Research.

Acharya, Viral V., and Matthew Richardson. 2009. "Causes of the Financial Crisis." *Critical Review: A Journal of Politics and Society* 21 (2): 195–210.

Bagley, Constance E. 2008. "Winning Legally: The Value of Legal Astuteness." *Academy of Management Review* 33 (2): 378–90.

Bardach, Eugene, and Robert A. Kagan. 1982. *Going By the Book: The Problem of Regulatory Unreasonableness.* Philadelphia: Temple University Press.

Barnard, Chester I. 1968. *The Functions of the Executive.* Cambridge, MA: Harvard University Press.

Beauregard, R. A. 1989. "Between Modernity and Postmodernity: The Ambiguous Position of U.S. Planning." *Environment and Planning D: Society and Space* 7 (4): 381–95.

Bhidé, Amar. 2009. "An Accident Waiting to Happen." *Critical Review: A Journal of Politics and Society* 21 (2): 211–47.

Boltanski, Luc, and Eve Chiapello. 2005. *The New Spirit of Capitalism.* London: Verso.

Broome, Lissa L. 2009. "Extraordinary Government Intervention to Bolster Bank Balance Sheets." *North Carolina Baning Institute Journal* 13:137–55.

Brown, Gordon. 2008. "The Global Economy." Speech Delivered at Reuters Building, London, October 13.

Bruner, Jerome. 1990. *Acts of Meaning.* Cambridge, MA: Harvard University Press.

Buchanan, James M., and Gordon Tullock. 1962. *The Calculus of Consent: Logical Foundations of Constitutional Democracy.* Ann Arbor: University of Michigan Press.

Burchell, Graham, Colin Gordon, and Peter Miller, eds. 1991. *The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault.* Chicago: University of Chicago Press.

Calomiris, Charles W. 2009. "Financial Innovation, Regulation, and Reform." *Cato Journal* 29 (1): 65.

Cawley, R. McGreggor, and William Chaloupka. 1997. "American Governmentality: Michel Foucault and Public Administration." *American Behavioral Scientist* 41 (1): 28–42.

Churchland, Paul M. 1989. "Folk Psychology and the Explanation of Human Behavior." *Philosophical Perspectives* 3: 225–41.

Coffee, John C. 2006. *Gatekeepers: The Professions and Corporate Governance.* New York: Oxford University Press.

Cooter, Robert, Stephen Marks, and Robert Mnookin. 1982. "Bargaining in the Shadow of the Law: A Testable Model of Strategic Behavior." *Journal of Legal Studies* 11 (2): 225–51.

Dahl, Robert A., and Charles E. Lindblom. 1953. *Politics, Economics, and Welfare: Planning and Politico-Economic Systems Resolved into Basic Social Processes.* New York: Harper Torchbooks.

Davies, Howard. 2010. *The Financial Crisis: Who Is to Blame?* Cambridge (UK): Polity.

Dixit, Avinash K. 2004. *Lawlessness and Economics: Alternative Modes of Governance.* Princeton, NJ: Princeton University Press.

Dubnick, Melvin J. 2002. "Seeking Salvation for Accountability." Paper read at American Political Science Association, August 29–September 1, Boston.

Dubnick, Melvin J., and Justin P. O'Brien. 2009. "Retrieving the Meaning of Accountability in Financial Market Regulation." Paper read at American Political Science Association, September 3–6, Toronto, Ontario.

Edelman, Murray. 1964. *The Symbolic Uses of Politics.* Urbana: University of Illinois Press.

———. 1971. *Politics as Symbolic Action: Mass Arousal and Quiescence.* Chicago: Markham Publishing.

———. 1977. *Political Language: Words that Succeed and Policies that Fail.* New York: Academic Press.

Ely, Bert. 2009. "Bad Rules Produce Bad Outcomes: Underlying Public-Policy Causes of the U.S. Financial Crisis." *Cato Journal* 29 (1): 93.

Finer, Herman. 1941. "Administrative Responsibility in Democratic Government." *Public Administration Review* 1 (4): 335–50.

Ford, Cristie L. 2008. "New Governance, Compliance, and Principles-Based Securities Regulation." *American Business Law Journal* 45 (1): 1–60.

Foucault, Michel. 1991. "Governmentality." In *The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault,* ed. G. Burchell, C. Gordon, and P. Miller. Chicago: University of Chicago Press.

Fourcade, Marion, and Kieran Healy. 2007. "Moral Views of Market Society." *Annual Review of Sociology* 33 (1): 285–311.

Friedman, Jeffrey. 2009. "A Crisis of Politics, Not Economics: Complexity, Ignorance, and Policy Failure." *Critical Review: A Journal of Politics and Society* 21 (2): 127–83.

Friedrich, Carl J. 1940. "Public Policy and the Nature of Administrative Responsibility." In *Public Policy: A Yearbook of the Graduate School of Public Administration, Harvard University,* ed. C. J. Friedrich and E. S. Mason. Cambridge, MA: Harvard University Press.

Fuld, Kenneth S., Jr. 2010. Testimony of Kenneth S. Fuld, Jr., Former Chairman and Chief Executive Officer of Lehman Brothers, September 1, before the U.S. Financial Crisis Inquiry Commission.

Galbraith, James K. 2008. *The Predator State: How Conservatives Abandoned the Free Market and Why Liberals Should Too.* New York: Free Press.

Gergen, Kenneth J., and Tojo Joseph Thatchenkery. 1996. "Organization Science as Social Construction: Postmodern Potentials." *Journal of Applied Behavioral Science* 32 (4): 356–77.

Hacking, Ian. 1999. *The Social Construction of What?* Cambridge, MA: Harvard University Press.

Hayek, Friedrich A. 1944. *The Road to Serfdom.* Chicago: University of Chicago Press.

Hirschman, Albert O. 1982. "Rival Interpretations of Market Society: Civilizing, Destructive, or Feeble?" *Journal of Economic Literature* 20 (4): 1463–84.

Hoover, Herbert. 1934. "Consequences to Liberty of Regimentation." *Saturday Evening Post* (September 15): 5–89.

Jablecki, Juliusz, and Machaj Mateusz. 2009. "The Regulated Meltdown of 2008." *Critical Review: A Journal of Politics and Society* 21 (2): 301–28.

Jacob, Herbert. 1992. "The Elusive Shadow of the Law." *Law and Society Review* 26 (3): 565–90.

Jacobsen, John Kurt. 1995. "Review: Much Ado About Ideas: The Cognitive Factor in Economic Policy." *World Politics* 47 (2): 283–310.

John, Peter. 2003. "Is There Life After Policy Streams, Advocacy Coalitions, and Punctuations: Using Evolutionary Theory to Explain Policy Change?" *Policy Studies Journal* 31 (4): 481–98.

Kaplow, Louis. 1992. "Rules versus Standards: An Economic Analysis." *Duke Law Journal* 42 (3): 557–629.

Keefer, Philip, and David Stasavage. 2000. "Bureaucratic Delegation and Political Institutions: When Are Independent Central Banks Irrelevant?" In *Regulation and Competition Policy,* Development Research Group, Policy Research Working Paper No. 2356. Washington, DC: World Bank.

———. 2003. "The Limits of Delegation: Veto Players, Central Bank Independence, and the Credibility of Monetary Policy." *American Political Science Review* 97 (3): 407–23.

Knobloch-Westerwick, Silvia, and Laramie D. Taylor. 2008. "The Blame Game: Elements of Causal Attribution and Its Impact on Siding with Agents in the News." *Communication Research* 35 (6): 723–44.

Labaton, Stephen. 2008. "Agency's '04 Rule Let Banks Pile Up New Debt." *New York Times,* October 2, 2008.

Malle, Bertram F. 2004. *How The Mind Explains Behavior: Folk Explanations, Meaning, and Social Interaction.* Cambridge, MA: MIT Press.

March, James G., and Johan P. Olsen. 1989. *Rediscovering Institutions: The Organizational Basis of Politics.* New York: Free Press.

———. 1995. *Democratic Governance.* New York: Free Press.

———. 2006. The Logic of Appropriateness. In *The Oxford Handbook of Public Policy,* ed.M. Moran, M. Rein, and R. E. Goodin. New York: Oxford University Press.

Mariani, Pierre. 2009. "Ways Towards a More Stable and Credible Financial Sector." *European View* 8: 65–72.

Mason, Edward S. 1958. "The Apologetics of 'Managerialism.'" *Journal of Business* 31 (1): 1–11.

McBarnet, Doreen. 1991. "Whiter Than White Collar Crime: Tax, Fraud Insurance and the Management of Stigma." *British Journal of Sociology* 42 (3): 323–44.

———. 2006. "After Enron Will 'Whiter than White Collar Crime' Still Wash?" *British Journal of Criminology* 46 (6): 1091–09.

McBarnet, Doreen J., and Christopher J. Whelan. 1999. *Creative Accounting and the Cross-Eyed Javelin Thrower.* Chichester, UK: Wiley.

Meindl, James R., Sanford B. Ehrlich, and Janet M. Dukerich. 1985. "The Romance of Leadership." *Administrative Science Quarterly* 30 (1): 78–102.

Meindl, James R., and Sanford B. Ehrlich. 1987. "The Romance of Leadership and the Evaluation of Organizational Performance." *Academy of Management Journal* 30 (1): 91–109.

Merriam, Charles E. 1944. "The Possibilities of Planning." *The American Journal of Sociology* 49 (5): 397–407.

Milhaupt, Curtis J., and Katharina Pistor. 2008. *Law and Capitalism: What Corporate Crises Reveal about Legal Systems and Economic Development around the World.* Chicago: University of Chicago Press.

Mintzberg, Henry. 1982. "A Note on That Dirty Word 'Efficiency'." *Interfaces* 12 (5): 101–05.

———. 1987. "The Strategy Concept II: Another Look at Why Organizations Need Strategies." *California Management Review* 30 (1): 25–32.

———. 2004. "Enough Leadership." *Harvard Business Review,* 22.

Morris, Charles R. 2008. *Trillion Dollar Meltdown: Easy Money, High Rollers, and the Great Credit Crash.* New York: Public Affairs.

Nagel, Thomas. 1987. "Moral Conflict and Political Legitimacy." *Philosophy and Public Affairs* 16 (3): 215–40.

Dash, Eric, and Julie Cresswell. 2008. "Citigroup Saw No Red Flags Even as It Made Bolder Bets." *New York Times,* November 23.

Obama, Barack. 2009. President Obama's prepared remarks on the proposed financial regulatory reform plan, June 17. The White House.

O'Brien, Justin. 2007a. *Redesigning Financial Regulation: The Politics of Enforcement.* Chichester, England: Wiley.

———. 2007b. "Managing Conflicts: The Sisyphean Tragedy (and Absurdity) of Corporate Governance and Financial Regulation Reform." *Australian Journal of Corporate Law* 20 (3): 317–42.

———. 2009. *Engineering a Financial Bloodbath.* London: Imperial College Press.

Ostrom, Vincent. 1974. *The Intellectual Crisis in American Public Administration.* Rev. ed. Tuscaloosca: University of Alabama Press.

Posner, Richard A. 2009. *A Failure of Capitalism: The Crisis of '08 and the Descent into Depression.* Cambridge, MA: Harvard University Press.

Reich, Robert B., ed. 1988. *The Power of Public Ideas.* Cambridge, MA: Ballinger Publishing.

Reinhart, Carmen M., and Kenneth S. Rogoff. 2008. "Is the 2007 U.S. Sub-Prime Financial Crisis So Different? An International Historical Comparison." In National Bureau of Economic Research Working Paper Series. Cambridge, MA: National Bureau of Economic Research.

———. 2009. *This Time Is Different: Eight Centuries of Financial Folly.* Princeton, NJ: Princeton University Press.

Rose, Nikolas, and Peter Miller. 1992. "Political Power Beyond the State: Problematics of Government." *British Journal of Sociology* 43 (2): 173–205.
Rudd, Kenneth. 2008. "The Children of Gordon Gekko." *The Australian* (6 October): 12.
Scott, James C. 1998. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed.* New Haven: Yale University Press.
Securities and Exchange Commission. 2008a. Press Release, 28 April.
———. 2008b. Press Release, 28 September.
Sen, Amartya. 2009. *The Idea of Justice.* Cambridge, MA: Belknap Press of Harvard University Press.
Shearing, Clifford D. 1992. "A Constitutive Conception of Regulation." In *Business Regulation and Australia's Future,* ed. P.N. Grabosky and J. Braithwaite. Canberra: Australian Institute of Criminology.
Shiller, Robert J. 2008. *The Subprime Solution: How Today's Global Financial Crisis Happened and What to Do About It.* Princeton, NJ: Princeton University Press.
Simon, Herbert A. 1957. *Administrative Behavior: A Study of Decision-Making Processes in Administrative Organization.* 2d ed. New York: Free Press.
Smith, Adam. 1759. *The Theory of Moral Sentiments.* London: A. Millar.
Soros, George. 2008. *The New Paradigm for Financial Markets: The Credit Crisis of 2008 and What It Means.* New York: Public Affairs.
Steel, Robert K. 2010. Testimony of Robert K. Steel, Former CEO of Wachovia Corporation, September 1, before the U.S. Financial Crisis Inquiry Commission.
Stevenson, Betsey, and Justin Wolfers. 2006. "Bargaining in the Shadow of the Law: Divorce Laws and Family Distress." *Quarterly Journal of Economics* 121 (1): 267–88.
Stiglitz, Joseph E. 1989. "Markets, Market Failures, and Development." *The American Economic Review* 79 (2): 197–203.
———. 2001. "Principles of Financial Regulation: A Dynamic Portfolio Approach." *World Bank Observer* 16:1.
———. 2009. "The Anatomy of a Murder: Who Killed America's Economy?" *Critical Review: A Journal of Politics and Society* 21 (2): 329–39.
Surowiecki, James. 2008. "Parsing Paulson." *New Yorker,* April 28.
Tett, Gillian. 2009. *Fool's Gold: How the Bold Dream of a Small Tribe at J.P. Morgan Was Corrupted by Wall Street Greed and Unleashed a Catastrophe.* New York: Free Press.
UK Parliament. 2009a. HC."Memorandum to the Treasury Select Committee," from Paul Moore, ex-head of Group Regulatory Risk, HBOS Plc Westminster.
———. 2009b. HC. "Response to the House of Commons Treasury Committee"—Seventh Special Report from the Financial Services Authority. Westminster.
U.S. Congress. 2008a. House Committee on Oversight and Government Reform. *Opening statement, Representative Henry Waxman, Hearing on the Causes and Effects of the Lehman Brothers Bankruptcy.* October 6.
———. 2008b. House Committee on Oversight and Government Reform. *Testimony of Alan Greenspan, Hearing on the Role of Federal Regulators in the Financial Crisis.* October 23.
———. 2008c. House Committee on Financial Services. *Testimony of Joseph Stiglitz, Hearing on the Regulatory Restructuring of the Reform of the Financial System.* October 21.
———. 2008d. House Committee on Oversight and Government Reform. *Testimony of Richard Fuld, Hearing on the Causes and Effects of the Lehman Brothers Bankruptcy.* October 6.
U.S. Department of the Treasury. 2008. *Blueprint for a Modernized Financial Regulatory Structure.* Washington, DC: U.S. Department of the Treasury.
______. 2009. *Financial Regulatory Reform: A New Foundation.* Washington, DC.
Vogel, Steven Kent. 1996. *Freer Markets, More Rules: Regulatory Reform in Advanced Industrial Countries.* Ithaca, NY: Cornell University Press.
Waldo, Dwight. 1984. *The Administrative State: A Study of the Political Theory of American Public Administration,* 2d ed. New York: Holmes and Meier Publishers.
Wallison, Peter J. 2009. "Cause and Effect: Government Policies and the Financial Crisis." *Critical Review: A Journal of Politics and Society* 21 (2): 365–76.
———. 2009. "Credit-Default Swaps Are Not to Blame." *Critical Review: A Journal of Politics and Society* 21 (2): 377–87.
Wedel, Janine R., Cris Shore, Gregory Feldman, and Stacy Lathrop. 2005. "Toward an Anthropology of Public Policy." *The Annals of the American Academy of Political and Social Science* 600 (1): 30–51.

White, Lawrence J. 2009. "The Credit-Rating Agencies and the Subprime Debacle." *Critical Review: A Journal of Politics and Society* 21 (2): 389–99.
Wildavsky, Aaron. 1973. "If Planning Is Everything, Maybe It's Nothing." *Policy Sciences* 4 (2): 127–53.
Williams, Bernard. 1961. "Democracy and Ideology." *The Political Quarterly* 32 (4): 374–84.
Williams, Raymond. 1985. *Keywords: A Vocabulary of Culture and Society.* Rev. ed. New York: Oxford University Press.
Williamson, Oliver E. 2008. "Corporate Boards of Directors: In Principle and in Practice." *Journal of Law and Organization* 24 (2): 247–72.
Yee, Albert S. 1996. "The Causal Effects of Ideas on Policies." *International Organization* 50 (1): 69–108.