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Risk Management and Blame-Avoidance: A Political Science Perspective

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We can perhaps imagine a world in which risks could be managed without consideration of blame. But any such world exists mainly in the imagination, in a society free from law, politics or even ordinary human psychology. To understand the management of risk, we need to understand how it is shaped by blame and blame avoidance. So this paper aims to describe the blame-avoidance perspective in political science, to explore some of the forms blame-avoidance can take, to weigh up some of the positive and negative aspects of blame-avoidance in the management of risk, and to explore possible remedies for the negative kinds of blame-avoidance strategy.

1. The Blame Avoidance Perspective in Political Science

Blame avoidance has a curiously low profile as a field of academic study. The academic study of blame-avoidance consists of a diffuse body of writing and analysis that is scattered across numerous disciplines including psychology, political science, sociology and institutional economics, and indeed tends to live at the edges of each of those disciplines. Some of it is new and some of it is old, because scholars were analyzing the phenomenon before the term 'blame-avoidance' came into currency.

The modern development of the blame-avoidance approach in political science is conventionally thought to have started in the USA in the 1980s, with the work of a leading institutional scholar, Kent Weaver. Weaver drew heavily on the idea of negativity bias, and argued that elected politicians in the US often tended to prefer avoiding blame to claiming credit. Negativity bias denotes a commonly-observed cognitive tendency for more attention to be paid to negative than to positive information and for losses to be valued more highly than gains of an equivalent amount.[i] The causes of negativity bias are debated (notably as between competing 'figure-ground' and 'loss aversion' explanations), but the existence of the phenomenon in politics and government has been established in various studies. Dissatisfaction is often said to produce proportionately higher levels of activity and changes in allegiance than corresponding levels of satisfaction.[ii] Some voting studies have revealed that dissatisfied voters are more likely to turn out to vote than satisfied voters and to switch their vote among parties (see for instance Kernell 1977), though

the claim that dissatisfied voters are more likely to turn out has been contested by others (see for instance Radcliff 1994). Elected politicians often turn out to get less credit from the voters for their successes than the blame they get for failures (see for example Borraz 2007: 226; James and John 2007). The media are said to shape negativity bias by amplification of figure-ground effects, and that process is highlighted by Roger Kasperson's (1992) controversial notion of 'social amplification of risk,'[iii] and the related idea that media tend to expose society to more information that decreases trust or reduces credit than to information that increases trust and credit (Koren and Klein 1991).

The 1980s and early 1990s also saw complementary developments in social psychology and 'rational choice theory' about institutions and politics, with the classic work of Kahneman and Tversky (1979) on risk asymmetry, the analysis of the politics of delegation by leading scholars like Morris Fiorina (1982 and 1986) and Murray Horn (1995), and work at the borderline of political science and social psychology, notably Kathleen McGraw's (1991) experimental work on excuses and justifications by politicians facing blame.

What it was about the social and political background of that era in the US that prompted such intellectual developments at that time is not clear. But in the twenty-odd years since Kent Weaver's famous article and book appeared, political scientists have worked on the blame-avoidance perspective in at least three ways

First, a substantial amount of work has been done investigating the ways that officeholders in democratic political systems can limit their risks of being punished by voters for the pursuit of unpopular policies that may expose some of their voters to more risk (particularly when they are making cutbacks in welfare entitlements such as state retirement pension benefits while often at the very same time increasing the welfare benefits going to the political class). How can we explain how governments can do such things to their voters and still manage to get re-elected? The answer, according to such studies, takes us into recondite questions of policy timing, coalition building across parties and ways of framing and packaging policy (see for instance Pierson 1994 and 1996).

Second, a new generation of scholars have tried to take the approach beyond circumstantial evidence and telling anecdotes, for instance by following Kathleen McGraw's (1991) approach of using experimental evidence to analyze responses to public inquiries (Sulitzeanu-Kenan 2006) and by tracking policy actions and public opinion systematically over time (Jennings 2004 and 2008; Sulitzeanu-Kenan 2006; Hood et al 2009, forthcoming).

Third, the blame avoidance perspective has been applied specifically to the management of health and financial risks, for instance in the work of Julia Black (2005) on risk-based approaches to financial regulation taken by the British Financial Services Authority in the early 2000s. Other scholars working on the regulation of health and social risks (such as Hood, Rothstein and Baldwin 2001; White 2008) have developed a similar analysis, in showing how the management of such risks is shaped by career risks of politicians and officeholders.

2. Some Varieties of Blame-Avoidance

The blame-avoidance perspective cuts across three different strands of political science that are normally separated – namely the analysis of institutional architectonics (why institutions are designed in the way that they are), the analysis of policy processes (how policies play out at all stages from their emergence onto the decision agenda down to the way they operate on the ground), and the working of electoral processes and public opinion.

As yet we have no definitive categorization of blame avoidance strategies to show for the twenty years or so since the term began to come into currency in political science and other fields. But in that scattered literature, we can identify three main strategies for deflecting or avoiding blame (see Hood 2002; Sulitzeanu-Kenan and Hood 2005). They are here termed presentational strategies, agency strategies and policy strategies, and are summarized in Table 1 below. [iv]

Table 1 Three Types of Blame-Avoidance Strategy

	Aspect of blame dealt with	Works on	Example	Assume
Agency strategies (Slogan: 'Find a scapegoat')	Agency and time	Distribution of formal responsibility, competency or jurisdiction among institutions and officeholders in space or time	Formal delegation of potentially blame-worthy tasks to 'lightning rods'	Formal allocation of organizational responsibility is sufficiently credible and salient to last through blame firestorms
Presentational strategies (Slogan: 'Spin your way out of trouble')	Loss perception and time	Arguments for limiting blame (excuses) or turning blame into credit (justifications) and other methods of shaping public impressions	Shaping of public perceptions through news management	Presentational activity will limit or deflect rather than exacerbate or attract blame
Policy strategies (Slogan: 'Don't make contestable judgements that create losers')	Agency and time	Selection of policies or operating routines to minimize risk of institutional or individual liability or blame	Protocolization and automaticity to remove or minimize the exercise of individual discretion by officeholders	There is a low- or no-blame option (e.g. in choosing between errors of commission and errors of omission or between opting for automaticity and opting for discretion)

Source: Developed from Hood (2002)

Agency strategies are directed to the directional or agency dimension of blame (who can be held responsible for what is perceived as avoidable harm) and work through organizational architecture. They comprise various ways of trying to avoid blame by the way lines of formal responsibility are drawn in government and public services. They focus on organograms and on who occupies what position within organizational structures. Agency strategists, in a tradition that goes back to Machiavelli's seventeenth-century ideas, aim to delegate the activities that will attract blame while retaining in their own hands the activities that will earn credit. They may seek to diffuse blame by partnership working, multi-agency arrangements or institutional machinery so complex that blame can be shuffled about or made to disappear. They

may choose to engage in processes of continuous defensive reorganization and revolving door movement of officeholders, so that by the time blame comes home to roost, the organizational structure that produced the perceived harm has been superseded and the relevant officeholders have all moved out or on. A blame avoidance perspective can help to explain why elected politicians and senior bureaucrats often seem to spend so much of their time on the fine print of organizational design while usually professing that all they are interested in is 'results' (see for instance Pollitt 1984).

'Presentational strategies' deal mainly with the loss perception dimension of blame, for example by accentuating the positive to counter negativity bias, and involve various ways of trying to avoid blame by spin, stage-management and argument. Presentational strategists aim to find ways of showing that what is perceived as a blame-worthy problem is in fact a blessing in disguise, for instance as short-term pain that will produce long-term gain. They may also search for plausible excuses to mitigate blame on the part of particular officeholders, at the point where loss perception and agency meet. They may actively create diversions or at least contrive to time unpopular announcements at times of minimum public attention, with measures such as increases in politicians' pay sneaked out on public holidays or at a time when media attention is focused on some other major event. Much has been written of the rise of 'spinocracy' – rule by spin doctors – in the US and the UK over the past decade (see Kurtz 1998; Jones 1996 and 1999; Oborne 1999).

Policy strategies also deal with the directional or agency dimension of blame. They are ways of trying to avoid blame by the processes that are followed in decision-making or by the substance of what officeholders do, rather than concentrating on how its presentation is handled or who is placed in the front line of responsibility for organizing it. Policy strategists aim to work on the agency and time dimension of blame by choosing policies or procedures that expose themselves to the least possible risk of blame. For instance, they may choose to rely as far as possible on following whatever they have inherited, so that blame attaches as much to their predecessors in office as to themselves. They may seek to replace human judgement and the blame it can attract by following automatic formulae such as formula-driven rather than discretionary budget allocations, rigid protocols rather than independent professional judgement in casework decisions, tick-box approaches rather than qualitative assessment or computer-based decision algorithms rather than direct human contact. Or they may simply choose to abandon activities that may attract blame (such as advice or public recreational activity) rather than relying on being able to spin their way out of trouble or on shifting the responsibility around.

Though they are not usually discussed together, these three blame-avoidance strategies are interlinked. They can be mixed together or substituted for one another when each reaches its limits, and combined sequentially or simultaneously. Moreover, blame avoidance strategies pursued by one set of actors can have consequences for the strategies to be pursued by other actors. For example, policy strategies of blame avoidance can be expected to figure large in the management of risk by those to whom formal responsibility for blame-attracting activity has been delegated, especially if their scope for blame sharing or blame shifting is limited.

The three types identified here are not claimed to exhaust all the possible approaches to avoiding or limiting blame, but they do represent commonly-discussed elements in the scattered literature on the topic. Variants of presentational strategy include approaches designed to win arguments, 'drawing the line' moves (by disarming apologies and the like), keeping a low profile (by empty-chairing and the like) and changing the subject, for instance by diversionary tactics. Variants of agency strategy include defensive reorganization, government by the market tactics, partnership structures to share blame (such as intergovernmental projects or public-private partnerships) and various forms of 'hard' and 'soft' delegation to other actors. Variants of policy strategy include forms of protocolization (such as the 'assurance' approach to defensive medicine), herding approaches (to collectivize blame), individualizing approaches (such as attempts to put the onus of responsibility onto front-line operators or users) and abstinence approaches (such as closure of advice or recreational facilities).

Nor is the identification of presentational, agency and policy strategies claimed to represent a set of categories that are mutually exclusive. We can think of them as elements of a Venn diagram, a common diagrammatic representation of three separate circles that overlap at the margins, and they are presented as such in Figure 1. One of the obvious areas of overlap consists of those cases where policy or agency strategies are so plastic (that is, easily-changed, ambiguous, lacking clear exposition) that they are hardly distinguishable from presentational strategies. Cases of that kind include those instances where the arrangement of responsibilities among organizations or officeholders are so soft that they can be spun at will or where policies and procedures are capable of being interpreted in widely different ways, such that they too are not distinguishable from presentational strategies.

FIGURE 1 HERE

Moreover, as Table 1 suggests, each of those three approaches to blame-avoidance will have some built-in limits. Agency strategies will reach their limits when formally declared lines of responsibility turn out not to be credible with the relevant public, for example when voters still blame ministers even when activities are formally delegated to or shared with other organizations. Presentational strategies reach their limits when spin-doctors and their activities start to serve as blame magnets rather than blame deflectors. And policy strategies reach their limits when there turns out to be no blame-free position or procedure available, for example, where errors of commission will attract much the same amount of blame as errors of omission. But to say that any strategy has its limits is not to say that it cannot be used effectively within some range or in a suitable social context.

3. Positive and Negative Effects of Blame Avoidance in Risk Management

Blame avoidance in politics and bureaucracy generally gets a bad press, but it could be considered to have numerous positive features. After all, if a desire for blame avoidance leads those who rule us to try to lead blameless lives, motivates public officeholders to take care with the policies they design, to avoid egregious risks to the lives, health and financial security of the rest of us, and to vigorously defend what they do against challenge, whatever could be wrong with that?

For instance presentational strategy that is intended to win arguments over blame can in some circumstances improve public debate and accountability by providing an effective and maybe even necessary counterweight to the negativity bias that would otherwise go unchallenged in public and media debate (or example if no government spokesperson is ever on hand to counter accusations of incompetence or corruption). Like the social case for advertising (Hood 2005) blame-avoiding presentational strategies can be defended on the grounds that well-framed excuses and justifications can better inform the potential blamers – voters, media, the commentariat - about the issues, the difficult tradeoffs and all the tricky judgement calls of the life political and bureaucratic. Such activity can thus in some conditions provide the basis for more sophisticated judgements about the blameworthiness of individuals or organizations in their handling of risk.

Similarly, agency strategy that is intended to shuffle off responsibility for blame can in some conditions serve to enhance the accountability of organizations and officeholders and possibly to improve the functioning of government and public services in other ways too. For instance, partnership arrangements for service delivery, while functioning as convenient ways for each of a group of individual or corporate actors to avoid being singled out for blame for risk management fiascos (be it Olympic deficits or operational fiascos, convicted paedophiles who re-offend after having been injudiciously released into the community, or financial institutions that fail after errors of commission or omission by the authorities), can sometimes result in the collection of intelligence that is superior to what any organization could ever muster on its own on the problem in hand. Similarly, arrangements for delegating potentially blame-worthy operational tasks away from ministers or other elected government officials into the hands of more or less autonomous agencies, while heavily influenced by a desire to avoid blame, may unintentionally lead to better policy or service delivery if they give professional managers and more decision space to do what they know best (tackling the detail of technical advice, project management and implementation), by giving the various players roles for which they have a comparative advantage.

Policy strategies for blame avoidance can also have be advantageous for society at large if they result in policy-makers putting the stress on avoiding harm rather than producing positive benefits. Two hundred years ago, the great utilitarian philosopher Jeremy Bentham (1962, Vol 1: 301) thought it was entirely appropriate that public policy should be biased in that way. He declared that: 'the care of providing for his enjoyments ought to be left almost entirely to each individual; the principal function of government being to protect him from sufferings.' More recently, Kristin Shrader-Frechette (1991) used a similar argument to defend a 'precautionary' approach to public policy towards harm as superior to conventional 'science-based' policies in justice and democratic effect. She argued that the difference between those policy stances concerns the relative weight to be given to Type I errors as against Type II errors. In conventional science and statistical theory, Type I errors involve rejection of a 'null hypothesis' (for example, that there is no relationship between smoking and cancer) that turns out to be true. Type II errors involve acceptance of a null hypothesis that turns out to be false. If the null hypothesis is taken to be the assumption that a product or practice is not harmful, as it conventionally is in assessments of risk and hazard, debates about appropriate policy and management turn on whether we prefer to avoid Type 1 errors (the conventional bias of science and the 'innocent until proved

guilty' precept embedded in liberal systems of law) as against Type II errors (following the precautionary principle of being better safe than sorry). Kristin Shrader-Frechette argues for the superior justice and democratic justification for public policy based on the 'precautionary' principle of avoiding Type II errors rather than Type 1 errors. Her argument is that the latter in practice tends to be biased towards less representative producer interests, while the former is more likely to reflect a broader range of interests.

But it seems hard to deny that there is a negative side to blame-avoidance as well. For example, when blame-avoiding presentational strategy is the dominant preoccupation in politics or organizational life, it can divert the scarce time of top-level leaders away from other activities in which they might be engaged (such as actually running their organizations). It can lead power at the top of politics and organizations to pass from those who have substantive knowledge about law or the technicalities of risk policy to a new class of political functionary that has no such expertise, such that those organizations start to be controlled by those whose main concern is with appearance rather than substance. It can lead to a tendency to bully and intimidate anyone whose actions or views could put the officeholder or organization concerned in a bad light, meaning a stultifying centralization that slows up decision-making and a culture that flies in the face of conventional precepts for high-reliability organization (Sagan 1993), and feed a culture in which no public statement is taken at face value.

Similarly, agency strategies for blame-avoidance can in some conditions blunt the accountability that is so often said to be at the heart of effective governance. They can lead to an ostensibly representative democracy whose elected rulers are so concerned to avoid political blame that they end up (apparently) hardly being in a position to decide or run anything when adverse events have occurred. They can make organization far more costly and cumbersome than it would otherwise be, producing over-complex structures that expend their energies in managing their internal interactions over the ambiguities of who is responsible for what rather than concentrating on policy delivery, and for endless defensive reorganizations that confuse customers and absorb the limited time of managers at the expense of all else. They can have negative effects on those at the receiving end of organizational structures designed primarily to blunt all attempts to pin down responsibility for anything that goes wrong at higher levels, producing declining trust in organizational and political leaders and 'blame displacement' onto politicians' private lives rather than on the substance of the policies they pursue.

Policy and operational strategies intended to avoid blame can also be negative where defensive procedures (such as protocolization or assurance behaviour), like the much-discussed phenomenon of 'management to audit' rather than management for positive value, leads citizens or service users to become more frustrated and alienated. The same thing can happen where back-covering alibis lead to a mechanical following of inappropriate procedures even when those actions are patently contrary to what common sense or intelligent professional judgement would suggest. Protocolization can make service provision organizations harder for politicians to control, limiting the ability of elected representatives to re-programme some of the very risk-avoiding procedures that make service delivery most frustrating to voters or users. Further, avoidance or abstinence behaviour can in some circumstances harm users by withdrawal of services (such as advice centres or rural railways lines) that could

potentially cause blame to service providers. And the individualization of blame can in some circumstances result in transfer of blame from those who are best-placed to take steps to reduce risks of harm onto those who are worst-placed to do so, violating US Judge Learned Hand's famous dictum that responsibility for avoiding risk should be placed in the hands of those best placed to manage it (for example, adults rather than children).[v]

4. Distinguishing Good and Bad Blame Avoidance

If we can find prima facie arguments both for and against blame avoidance as affecting the quality of risk governance, as so often happens with debates about governance or public management, should we conclude that blame avoidance like so many other aspects of organization and governance (Simon 1946), in which contradictory assertions exist alongside each others, like proverbs that give diametrically opposite maxims for what to do in any situation? Or can we distinguish between 'good' and 'bad' approaches to blame-avoidance and if so, how?

Just as Aristotle thought that each of the basic types of rule (which he defined as rule by one person, rule by a few or rule by many) were capable of taking a positive form or a negative form, we can think of each of the three types of blame avoidance strategy sketched out earlier as containing potentially positive variants that can enhance the quality of governance and democratic accountability as well as negative variants that will tend to have the opposite effect.

Table 2 offers a very basic sketch of such an analysis. It identifies three potentially positive effects of blame-avoidance activity (namely, a heightening of policy debate, sharper accountability and increased transparency) and gives a simple + or - score to two or more sub-types of each of the three forms of blame-avoidance strategy discussed earlier.

Thus if the key test of the positivity or otherwise of presentational blame-avoidance strategy is how far it serves to engage the citizenry in serious argument about the merits of policy or operational choices to be made by officeholders and organization and clarifies where fault lies after allegations of avoidable losses have been made, the forms of presentational strategies that are most likely to have such an effect are those that serve to engage in rather than to evade policy arguments. So on that criterion we would score 'winning the argument' variants of presentational strategy as broadly positive, but 'changing the subject' and 'low profile' variants (such as diversionary tactics, empty chairing or backdoor pressures on media) as negative.

TABLE 2: POSITIVE AND NEGATIVE BLAME-AVOIDANCE?

Selected types of blame avoidance		Selected governance criteria		
Strategy	Variant(s)	Heightened policy debate	Sharper accountability	Increased transparency
Presentational strategies	Winning the argument	+		
	Changing the subject or empty chairing	-		
Agency strategies	(Hard) delegation		+	
	Soft delegation or defensive reorganization		-	
Policy strategies	Abstinence or protocolization			+
	Herding			-

Similarly, if the key test of the positivity or otherwise of agency blame-avoidance strategy is how far it sharpens accountability for failure, the forms of agency strategy that are most likely to have such an effect are the 'hard' forms of delegation strategy rather than plastic or complex forms of delegation or partnership. So on that criterion we would score harder types of delegation as positive, but soft variable-geometry forms of delegation, together with opaque partnership arrangements and defensive forms of rotation and reorganization, as negative.

When it comes to policy and operational strategies, arguably the most important test of negative or positive effect would be the risk of physical harm to users or the public at large. That is hard to assess for policy strategies in the round, though it can be explored for particular sectors, as in the case of the net health effects of assurance and avoidance tactics in defensive medicine. For instance, such harms can result from hypercaution over risks for which individual organizations are responsible, irrespective of the effects on the risk/risk tradeoffs that apply across organizational boundaries. Examples of such behaviour are often cited in critiques of risk management as well as public management more generally. For example, a study of EU rail safety regulation highlighted the closure of a Swedish railway line because of the costs of implementing new requirements for automatic train protection systems, even though line closure could be expected to increase death and injury as a result of the increased road traffic it would produce (see NERA 2000: 85, fn 57). And the harm problem figures even larger when policy strategy reaches the point when defensiveness moves away from blame avoidance altogether and moves into attempts

to ensure the physical safety of officeholders and their families, irrespective of the blame they may attract from everyone else.

But if we stay with broad governance principles, as Table 2 does, and take a key test of the positivity or otherwise of policy types of blame-avoidance strategy as how far it tends to increase the transparency of organizational or institutional operation, the forms of policy strategy that are most likely to have such an effect are abstinence or protocolization approaches rather than herding strategies in which the positions and influence of individual actors or organizations in the decision or implementation process are almost impossible to figure out. So on that criterion we would score the former variants of policy strategy as positive and the latter variants as negative.

Any such analysis is necessarily crude, and picks up only some aspects of the wider discussion of potentially positive and negative features of blame-avoidance strategy. But it nevertheless shows how we can start to distinguish between forms of blame avoidance that can have positive effects on policy, argument, accountability and transparency from those that have negative effects on such qualities. We could of course add many other possible dimensions and criteria that would separate negative from positive forms of blame-avoidance, and likewise we could start to subdivide each of the sub-types of blame avoidance strategy noted into Table 2, for example in breaking down different forms of protocolization. But we will not pursue such complications here. The more general point is that once we start to move away from seeing blame-avoidance as a purely negative phenomenon, the what-to-do issues start to look different.

5. Remedies for 'Bad' Blame Avoidance

If the analysis offered in the previous section is correct, the practical problem that then arises is how to avoid 'the wrong sort of blame avoidance' while fostering the more positive forms. What, if any, remedies are available? Do we have to count blame avoidance as a 'condition' – one of those human facts of life that we just have to live with, like the common cold or all the unchangeable things that are built into our genes? Or is it something that can be shaped and engineered in some way?

At first sight, the scope for changing such behaviour by official rules and formal institutional tweaks seems quite limited. Many of the negative types of blame avoidance that are summarized in Table 2 are invisible to conventional 'hard' legal remedies for malfeasance. They are not the sort of things that can be readily addressed by purple prose in legal or constitutional documents and generally seem to be outside the 'thin' conditions for democracy put forward for political scientists such as Robert Dahl (1971; 1989), which tend to focus on the basic machinery for electoral choice and party contestation, such as elected officials, inclusive suffrage, the right to run for office, alternative sources of information and relative freedom of expression and association.

Some hard law remedies might nevertheless play a part in checking some of the negative types of blame-avoidance noted in Table 2. For instance, when it comes to presentational strategies, we suggested that the more negative varieties are those that evade argument by resort to diversions or by backdoor pressures on media rather than open argument (including perhaps the punitive use of strict libel and privacy laws to suppress any public blame and criticism of incumbent officeholders). If so, legal

restraints on monopolies in the media and changes to libel and privacy laws could in principle limit the scope for such behaviour. Similarly, if the more potentially damaging forms of agency strategy are those soft, plastic and revocable forms of delegation that can be trimmed at will to fit the political conditions of the moment (and related arrangements that allow blame to slip between the cracks of legal ambiguity), greater legal and constitutional entrenchment of institutional forms could put more procedural obstacles in the way of casual or opportunistic delegation or obfuscatory partnership arrangements.

When it comes to policy strategies, it was suggested that the most potentially damaging forms are those in which a narrow defensiveness puts the blame-avoiding interests of providers and producers ahead of the welfare of those they ostensibly serve. Such behaviour is obviously hard to check by hard-law remedies, though there may be something to be gained from measures such as tough transparency laws, mandatory information reporting, mandatory decision processes that provide for the representation of user or client interests or the mandating of certain positions within organizational structures that can cut across officeholders' and organizations' ability to engineer systems that allow them to claim they had no knowledge of certain facts. That is an approach to the legal control of corporate behaviour advocated by authors such as Stone 1976, and requires legislators and regulators to be able and willing to reach deep into organizational decision processes.

However, any such remedies for the negative forms of blame avoidance mentioned above have at least three major limits. Some of them can be double-edged – for instance transparency laws can easily be used to buttress corporate blame-avoidance as much as to check it (see Roberts 2006). Some possible measures, such as restrictions on the institutional forms available for provision of public services, can kill off organizational dynamism and thus throw out the baby with the bathwater. And even if that was not the case, government and corporate lobbying power are likely to strongly resist any such measures, both because they undercut the logic of private-sector governance and (less loftily) because both public bureaucrats and private interests can often benefit from ambiguous delegation arrangements and other negative blame-avoidance approaches.

'Soft law' remedies in the form of quasi-legal instruments whose binding force rests on convention and compliance rather than more heavy-duty forms of rules (see Chinkin 1989) might also play some part in checking some of those negative types of blame-avoidance. A well known example is the red-tape-busting activity that has been adopted in many of the developed countries and the European Union in an attempt to counterbalance the proliferation of back-covering regulations, typically allied with mechanisms of 'risk management' to check whether procedures adopted are proportionate to the real risks involved. But soft law depends on a culture in which institutional and individual behaviour can be changed by shaming or administrative pressure, and such cultures are hardly universal. Moreover, the subtlety and limited 'justiciability' negative kinds of blame-avoidance activity – such as the changing-the-subject kind of presentational strategy or constant defensive reorganization – inevitably limit the effectiveness of both hard and soft law remedies.

That suggests that the most effective remedies for the more negative kinds of blame avoidance strategy seem more likely to be found in political behaviour than in legal rules of either the hard or soft variety. Political and social action that raises awareness,

mobilizes opinion and puts pressure on officeholders and organizations to check negative forms of blame-avoidance strategy will often be the most – or only – effective remedy. Blame avoidance strategy can itself be subject to the process of 'naming, blaming and claiming' that Felstiner et al (1980) identified as the necessary dynamic of legal claims, as negative forms come to be named, perpetrators identified and demands developed for different behaviour.

Such political processes can certainly be messy and fragile, are liable to frequent reverses in the face of institutionalized power, and will not even get off the starting-blocks in a whole society devoted to blame avoidance, as was often said to apply to the former Soviet Union (see Politskovaya 2003). But that is where effective remedies for negative blame-avoidance seem to be most likely to be found. And there are some conditions that may help to boost such behaviour, such as apparently growing public and media awareness of the way blame games are played in some of the developed countries, moves towards less tribal party politics driven by changing social structures, and the development of more social communication through less centrally-controllable internet forms (functioning as a modern form of the samizdat informal publications in the former Soviet Union).

Moreover, that sort of politics matters, because although the negative kinds of blame-avoidance discussed here might at first sight seem to go well beyond the 'thin' conditions for democracy in conventional political science (which, as noted earlier, tend to relate to the openness of the voting system), they cut to some basic issues in democratic and responsive government – such as the ability of the ruled to change their rulers, the ability of the ruled to hold the rulers to account, and the development of governance processes that are understandable and effective in the provision of services. So these issues may not be so far from the thin conditions for democratic government after all.

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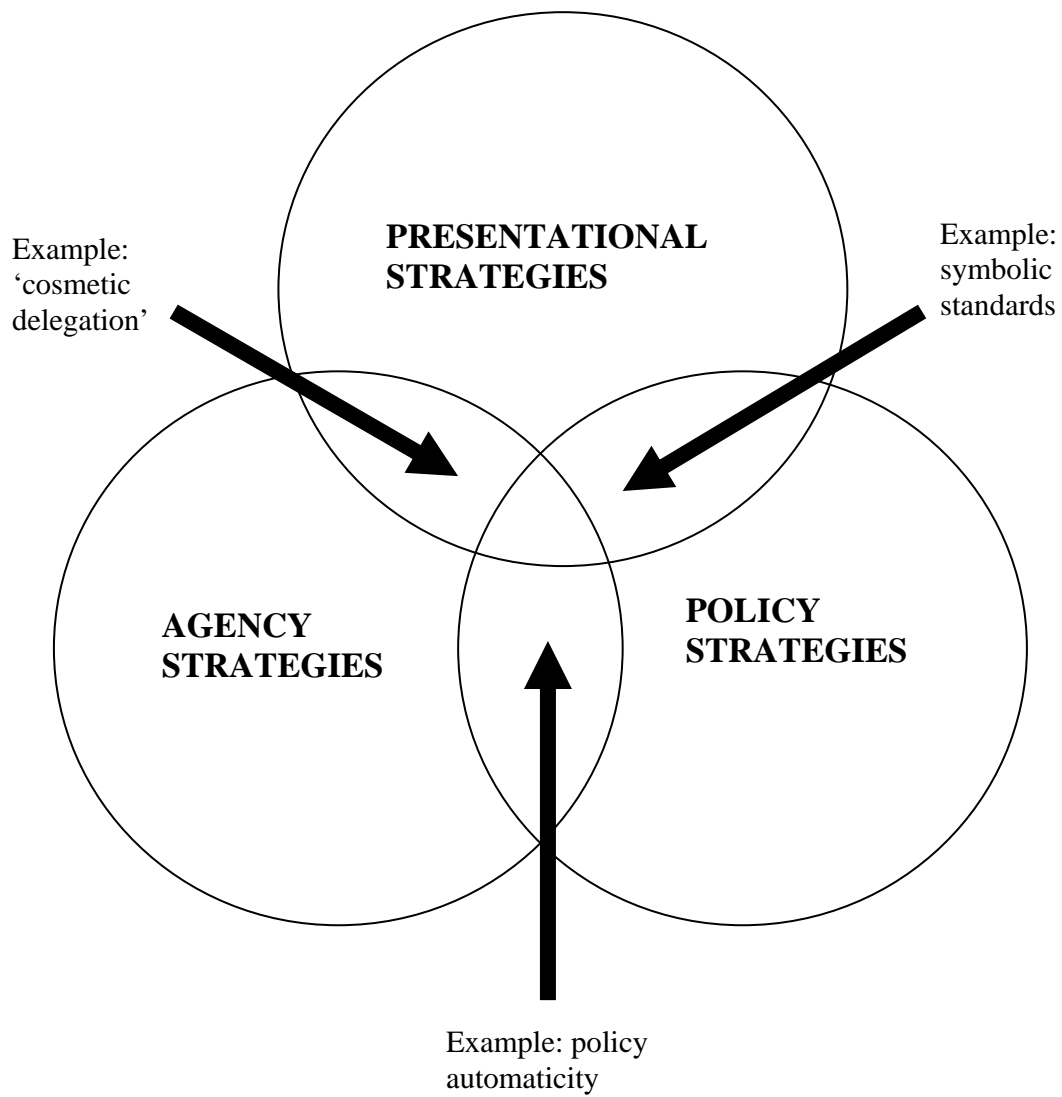
Example:
'cosmetic
delegation'

**PRESENTATIONAL
STRATEGIES**

Example:
symbolic
standards

**AGENCY
STRATEGIES**

**POLICY
STRATEGIES**

Example: policy
automaticity

**FIGURE 1: SOME HYBRIDS   OF
BLAME AVOIDANCE STRATEGY**

Notes

[i] . See Bloom and Price 1975; Kernell 1977; Weaver 1986; 1988; Baumeister et al 2001; Rozin and Royzman 2001. Slovic's (1993) observation that favourable traits require more confirmation than unfavourable traits (what he calls 'trust asymmetry') is a related observation, and Kahneman and Tversky (1979) and others have also observed human tendencies to incur greater risks when faced with a choice among potential losses than occurs when faced with a choice among equivalent potential gains.

[ii] . See Lau 1982; 1985. Radcliff (1994) argues that the electoral effect of dissatisfaction is muted by reduced turnout among those reporting they are worse off.

[iii] . The argument, originally developed by a group at Clark University in the 1980s, is that the signals about hazards that shape individuals' perceptions of risk are filtered through 'social amplification stations' (including politicians, bureaucracies, scientists, mass media and activist groups) that amplify or attenuate risks in ways that are predictable from the social circumstances of those stations.)

[iv] . In earlier work on 'defensive risk management' with Henry Rothstein (Hood and Rothstein 2001), I identified seven strategies for avoiding blame by personal or institutional alibis or excuses, comprising rebuttal (problem denial), prebuttal, delayed response, reorientation (by patterns of organization designed to dissolve blame), protocolization, data fabrication and service abandonment. Those seven types cut across the tripartite division of presentational, agency and policy strategies used here

[v] . See Posner 1986: 147-51. Judge Learned Hand's argument (much criticized for its ambiguity in practice) implies that legal liability for negligence in the causing of injury should lie with those who face the lowest costs in preventing it, as with the case of loss from an automobile collision that driver A could only have prevented by driving a tank but driver B could have prevented by driving more slowly.