Good Governance:
Rule of Law, Transparency,
and Accountability

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Executive Summary

Improved governance requires an integrated, long-term strategy built upon cooperation between government and citizens. It involves both *participation* and *institutions*. The Rule of Law, Accountability, and Transparency are technical and legal issues at some levels, but also interactive to produce government that is legitimate, effective, and widely supported by citizens, as well as a civil society that is strong, open, and capable of playing a positive role in politics and government. This paper considers goals for better governance, key challenges confronting efforts at reform, examples of successful good-governance efforts, and action steps for improving both participation and institutions.

<u>Goals</u> identified are:

- Legitimate, effective, responsive institutions and policies ("embedded autonomy")
- Understandable processes and outcomes:
- Transparency:
- Incentives to sustain good governance:
- Vertical accountability:
- Horizontal accountability and leaders, and among segments of government:

<u>Key challenges</u> that must be addressed include:

- Avoiding excessive legislation and regulation
- Giving politics its place in good governance
- Building broad-based support for reform
- Paying close attention to incentives for leaders and citizens

- Assessing public opinion

- Strengthening checks and balances, both administrative and political

- Recognizing opposition to reform

- Thinking regionally

- Staying focused on the long term

Action steps are proposed for both the participation and institution dimensions of governance:

Participation:

- Rule of law: A frank, broad-based assessment of representation, civil society, social support and compliance with policy

- Accountability: Public opinion, consultation, evaluations of government

- Transparency: Public education

Institutions:

- Rule of Law: Clear institutional standards and enforcement

- Accountability: Responsibility, checks and balances

- Transparency: Open and understandable rules, procedures, information

The emphasis is not on novel ideas so much as sustained, coordinated effort that brings leaders and citizens together in support of common goals.

I.   Introduction: Goals for Governance

Good governance involves far more than the power of the state or the strength of political will. The rule of law, transparency, and accountability are not merely technical questions of administrative procedure or institutional design. They are *outcomes* of democratizing processes driven not only by committed leadership, but also by the participation of, and contention among, groups and interests in society—processes that are most effective when sustained and restrained by legitimate, effective institutions.

Never have these concerns been linked to more momentous opportunities. In the Fall of 2002 the 191 Member States of the United Nations committed themselves to eight Millennium Development Goals: eradicating extreme poverty and hunger, achieving universal primary education, promoting gender equality and empowering women, reducing child mortality, improving maternal health, combating HIV/AIDS, malaria, and other diseases, ensuring environmental sustainability, and developing a global partnership for development. [1] As daunting as these goals are in technical and resource terms, they are no less challenging to Member States' abilities to mobilize people and resources, to make and implement difficult policy choices, and to involve their citizens in initiatives that will shape their futures.

In this paper I suggest that good governance, the rule of law, transparency, and accountability embody partnerships between state and society, and among citizens— partnerships sustained not by good intentions alone but by lasting, converging incentives and strong institutions. Let us begin with some basic definitions:

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[1] UN Millennium Development Goals (MDG): http://www.un.org/millenniumgoals/

Good governance: legitimate, accountable, and effective ways of obtaining and using public power and resources in the pursuit of widely-accepted social goals

Rule of law: the exercise of state power using, and guided by, published written standards that embody widely-supported social values, avoid particularism, and enjoy broad-based public support

Transparency: official business conducted in such a way that substantive and procedural information is available to, and broadly understandable by, people and groups in society, subject to reasonable limits protecting security and privacy

Accountability: procedures requiring officials and those who seek to influence them to follow established rules defining acceptable processes and outcomes, and to demonstrate that they have followed those procedures

While the language and some of the ideas in these definitions draw upon the Anglo-Saxon tradition, the fundamental concerns they embody—justice and the search for a good life—are universal concerns. These values must be pursued and protected in different ways in various societies. They are interdependent as well: accountability requires transparency, both function best where laws are sound and widely supported, and the equitable enforcement of those laws raises major questions of accountability and transparency—to cite just a few interconnections. Upholding these values requires a delicate but durable balance between self-interest and cooperation: citizens and officials must see good governance not only as an ideal, but also as improving their own lives.

Rule of Law. Where rule of law is strong, people uphold the law not out of fear but because they have a stake in its effectiveness. Virtually any state, after all, can enact laws; corrupt and repressive regimes can legislate at will. Genuine rule of law, by

contrast, requires the cooperation of state and society, and is an *outcome* of complex and deeply rooted social processes.[2] Wrongdoers face not only legal penalties, but also social sanctions such as criticism in the news media, popular disapproval, and punishments from professional and trade associations. An approach that relies solely upon detection and punishment may work for a time, but will do little to integrate laws and policies with social values, or to create broader and deeper support for the system.

Transparency. Transparency too rests on a partnership: officials must make information available, and there must be people and groups with reasons and opportunities to put information to use. Chief among those are an independent judiciary and a free, competitive, responsible press, but an active civil society is critical too. Rules and procedures must be open to scrutiny and comprehensible: a transparent government makes it clear what is being done, how and why actions take place, who is involved, and by what standards decisions are made. Then, it demonstrates that it has abided by those standards. Transparency requires significant resources, may slow down administrative procedures, and may offer more advantages to the well-organized and influential interests than to others. It also has necessary limits: legitimate issues of security and the privacy rights of citizens form two such boundaries. But without it, "good governance" has little meaning.

Accountability. Accountability is partly a matter of institutional design: formal checks and balances can and should be built into any constitutional architecture. But accountability requires political energy too: people, interest groups, civil society, the courts, the press, and opposition parties must insist that those who govern follow

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2 My thanks to Mtro. Antonio Azuela, Instituto de Investigaciones Sociales, Universidad Nacional Autonoma de Mexico, for his comments on these points.

legitimate mandates and explain their actions. The same is true *within* governments: horizontal accountability (Schedler, Diamond, and Plattner, 1999) depends upon the ability of one part of government to find out—and, where necessary, to stop or correct—what other sectors are doing. Those demanding accountability must be confident that they can do so safely, that officials will respond honestly, and that social needs and demands are taken seriously.

Participation and Institutions

Developing societies possess formidable social energy, and their undeniable problems create strong demands and grievances. How can we harness those forces to build good governance while maintaining the balance between openness and effectiveness noted above?

The answers, fundamentally, have to do with democratization and justice. Years ago Rustow (1970: 341-350) pointed out that the factors that *sustain* democracy—literacy, affluence, multi-party politics, a middle class, and so forth—are not necessarily the ones that *created* it. Democracy, he argued, emerges out of "prolonged and inconclusive political struggle…[T]he protagonists must represent well-entrenched forces…and the issues must have profound meaning to them" (Rustow, 1970: 352). In those struggles, "Democracy was not the original or primary aim; it was sought as a means to some other end or it came as a fortuitous byproduct of the struggle" (*Ibid*.,: 353; see also Roberts, 1966; Peck, 1990; Johnston, 1993). Similarly, checks and balances, public accounting procedures, open but orderly markets, competitive politics, and administrative transparency are institutions and values essential to good governance, but

citizens and officials both must have a stake in making them work. Good governance is thus inseparable from questions of power and justice.

Most of the emphasis in the aftermath of political and economic transitions has been upon *participation* in liberalized economies and politics. But *institutions* are essential to sustain and restrain orderly competition within, and essential boundaries between, politics and the economy, and to enable developing societies to shape their own destinies in an increasingly interdependent world. Many such institutions will have the task of checking the excesses of the powerful in the name of ordinary citizens: courts, for example, must enforce laws of fair play, such as honest elections and basic business transparency, as well as enforcing contracts. That potential mismatch means that institutions must not only be well designed, but must also have solid support at all levels of society. State and society must be able to influence each other, within limits: policies must respond to social realities and demands, just as participation must be subject to the rule of law. Legitimate paths of access between state and society are just as important as boundaries between them; where legitimate access is insufficient it will become an illicit commodity to be bought and sold. Here too there are questions of balance: accountability must be balanced by the ability to govern authoritatively—what Evans (1995: 12) calls "embedded autonomy".

But the problem with establishing such institutions *de novo* is often that leaders and citizens do not have a sustaining stake in the reforms. That is in part a matter of incentives, both positive and negative. Good governance is not just a matter of deciding to be good people; instead, officials and citizens must believe they will be better off under a reformed system of governance. Reforms have their costs, too: old partnerships

and privileges, and cozy public-private linkages, may be disrupted while taxes may be collected and regulations enforced more effectively. Sometimes the early winners under reform may seek to halt further changes (Rose-Ackerman, 1999). Political and administrative leaders must believe they stand to gain from, or at least are not directly threatened by, new ways of doing things. For citizens, better and more reliable services, trust in government, and confidence that others also support new laws and procedures are all important. These things take time to achieve. Where circumstances allow, the best approach is to build broad-based coalitions that work in partnership with public officials to support good government (Johnston and Kpundeh, 2002). Even where political realities make openly democratic strategies unrealistic, leaders who can claim credit for enhanced services, increased morale among officials, and more effective development efforts can still have a stake in reform.

The Regional Dimension

Just as good governance raises important issues at the level of civil society, it is a regional and international issue too. Nearly all of the Millennium Development Goals have international dimensions. To achieve them, governments and citizens must be able to cooperate with, and to trust, their neighbors. Moreover, neighboring countries often share historical, social, cultural, and other characteristics, and can exchange critical insights about how to improve governance and pursue development in the context of regional realities.

One of the most important and promising regional initiatives is NEPAD: The New Partnership for Africa's Development. On July 3, 2001, the Millennium Partnership for the African Recovery Programme (MAP) and the OMEGA Plan were merged into a new

regional partnership that has come to be known as NEPAD. Under its overarching goals of promoting sustainable development, ending poverty and integrating Africa more fully—and on more favorable terms—into the world economy, NEPAD embodies a shared commitment among the leaders of African states, with the backing of the G8 countries and major international and intergovernmental organizations, to improve the quality of governance and coordination among states in the region. Political and economic governance issues head the list of NEPAD action plans, but access to markets, human resources, infrastructure and the environment are also major "sectoral" initiatives.[3] Particularly important to those efforts will be the African Peer Review Mechanism. I will have more to say about NEPAD below, but it is an important example of the good-governance opportunities that exist at the regional level.

Setting Goals

The risk, of course, is that "good governance" can become a one-size-fits-all buzzword lacking specific meaning. Therefore, I conclude this section with a list of specific goals for governance—one that will not satisfy all citizens and officials everywhere, but that does remind us of the issues identified so far, and of the benefits that can be attained:

Goals for Governance

- Legitimate, effective, responsive institutions and policies ("embedded autonomy")

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[3] See the NEPAD "Summary of Action Plans" at http://www.nepad.com/

- Understandable processes and outcomes:

  --with visible results in citizens' lives

  --with clear standards for success or failure

  --with clear lines of responsibility and accountability

- Transparency:

  --openness from above

  --participation and scrutiny from below

  --honesty from all

- Incentives to sustain good governance:

  --for leaders: the opportunity to take credit

  --for citizens: a credible chance for justice and a better life

  --for neighboring societies: sharing insights, experiences, expertise, values

- Vertical accountability:

  --government that answers to citizens

  --citizens who accept and abide by laws and policies

- Horizontal accountability and leaders, and among segments of government:

  --access to information

  --the right to be consulted

  --the power to check excesses and abuses

II.   Key Issues and Challenges

In practice the governance movement will encounter major pitfalls. While we know bad governance and its effects when we see them, good governance has no universally

accepted definition, much less an agreed master plan. Some efforts have been strikingly effective, while others have had little benefit, have wasted finite resources and opportunities, or have done more harm than good. What are the major challenges to be anticipated, and what mistakes must we avoid?

Avoid excessive legislation and regulation. In attempting to improve policy and implementation it is tempting to rely too much on laws and top-down policymaking. Controls on administrative, fiscal, and personnel systems can become so strict that managers cannot manage and elected officials cannot get their programs implemented. Discretion can be reduced to such a minimum that cases with any unusual aspects take weeks and months to be resolved. The resulting inflexibility wastes resources and opportunities, produces policies that are unresponsive to social realities (thus eroding the credibility of good-governance efforts), and can increase incentives to corruption. There is a need for policies that increase the space for debate and consultation, encourage innovation, and pursue desired outcomes with positive incentives rather than through prohibitions alone. Procedural controls may generate massive amounts of information, but if it comes in forms that only other officials can understand, or if it is generated predominantly by citizens' giving information to government rather than government opening up to citizens, transparency is not aided and people are unlikely to develop a personal stake in reforms.

Remember that politics is a part of good governance. The controversy and delay that often accompany open political debate may seem an unaffordable luxury, or indeed a serious problem, in societies seeking to enhance the rule of law. Too many reformers view governance primarily as a set of technical administrative tasks, and public

participation as either a *pro forma* exercise or a process to be orchestrated from above via high-profile, but short-lived, mass campaigns. In either scenario citizens have little opportunity or incentive to participate in any long-term way, or to link official promises to the problems of their own communities. Civil society, where it exists, can and should help define the ends and means of governance reform, benefit from its successes, and claim part of the credit for initiatives that turn out well. Open debate airing real differences, while engendering some controversy, can elicit sustained participation—particularly if it has clear-cut effects upon the decisions and policies eventually implemented. In both established and renewed democracies citizens will be the final arbiters of what is, and is not, credible governance reform; thus it is important to involve citizens and NGOs in the shaping of reform agendas from the start.

Build broad-based support for reform. There is no doubt that governance reform requires lasting leadership and commitment from above, and that identifying reform "champions" is an important early stage in providing such leadership. But such initiatives cannot be effective if they are confined to blue-ribbon commissions that hand down proclamations, or to a "one-man show" model of reform. Even though it takes time, effort, and resources, and even though it will involve sharing the credit for improved governance, it is far better to get out into communities, learn about popular concerns, and build a broad base of support. *Pay close attention to problems and controversies*: as suggested in the opening section, those issues can mobilize popular energies and commitment far more effectively than can "good ideas" alone. Without those sorts of connections, citizens will see few links between the rule of law, transparency, and accountability on the one hand, and the concrete problems of everyday life, and they will

not develop a sense that change for the better requires their own support, participation, and compliance. Reform leaders who cannot demonstrate broad-based and deep social support will find it all the more difficult to sway officials and interest groups skeptical about, or openly opposed to, reform. Actively corrupt figures will take such a lack of support as evidence that the reform movement will be short-lived—and often, they will be right. Over time, high-profile efforts that do not succeed will lead to public cynicism, and will make the next round of reform even more challenging.

Pay close attention to incentives. Governance reforms often emphasize public goods, such as efficiency, honesty, cultural empathy, and the like, to the exclusion of private benefits. Other kinds of appeals—that better governance would cut taxes, make it easier to find jobs in a revived economy, protect one's family and property—receive too little attention, even when the goal is enlisting the participation and support of civil society. As a result, good-governance efforts encounter collective action problems: people decide that if reform improves governance for anyone it will do so for all, and thus that their own efforts are inconsequential or even unwanted. Extensive efforts must be made to persuade citizens, government functionaries, and political leaders that they stand to benefit from reform—that is, to create the sort of sustaining stake in reform noted above.

Public opinion matters—in many ways. All of this suggests that even in emerging democracies reformers ignore public opinion at their peril. Surveys and community meetings to identify what people believe about the current state of affairs and expect of reform are essential. So are sustained efforts to educate the public about key problems, the justification for proposed changes, the costs of better governance, and

actual results. Public education can also change citizens' conduct by encouraging them to resist exploitation by officials or by other citizens, to file useful reports of problems, and to obey new laws and procedures. Technical improvements to government operations such as new budgetary and procurement procedures may be impressive. But if people do not think such measures will give them better police service or cut down on time lost in dealing with bureaucrats, then key sources of support will have been lost. The public's reform criteria may well be achievable: better road repairs, an end to demands for bribes by the police, and fairer and more equitable tax assessments might be examples. Moreover, success at those levels can win support for more ambitious governance reforms, and the patience and tolerance needed for them to take full effect. But if reform leaders are not aware of what citizens think of when they hear words like "reform" and "good governance", credibility may quickly be lost.

Strengthen checks and balances. While a measure of coordination among segments of government is essential, it is only part of the picture. Government must also be able to check its own excesses. The judiciary is essential to interpreting and enforcing new laws and standards, and if it is not independent of the government of the day it will be ineffective. Similarly, executive agencies require oversight, and here legislative scrutiny and credible external "watchdogs" can enhance effective policy implementation and check abuses. An ombudsman system to which citizens can make complaints and reports may also be valuable, but citizens must be confident that they will not face reprisals and that their reports will be taken seriously. (Even then, in some societies citizens will resist filing reports for cultural or historical reasons). These sorts of

oversights and controls must be active, consistent, and sustained; if invoked only in emergencies or in the wake of failures they will be of little benefit.

Never underestimate opposition to reform. Many governance problems result from a shortage of resources or a lack of state technical and political capacity. But others persist because someone benefits from them, a fact that reformers cannot ignore. Serious reforms may encounter increasing resistance within government, or from segments of the public, to the extent that they begin to gain "traction"; yet it will be at precisely those points that active support from top leadership and from civil society may be most important. Transparency and accountability problems are particularly likely to persist because of vested interests in government and society, and reformers must be aware that at times those resisting enhanced transparency and accountability will go through the motions—filing reports, producing data, carrying out reviews and assessments—in ways that actually conceal rather than revealing and attacking governance problems. Here too, outside monitors—auditors, legislative oversight bodies, investigating judges—will be essential.

Think in regional terms. Neighboring societies and governments may well be coping with similar problems and constraints, and may be finding ways to adapt rule of law, accountability, and transparency mechanisms to new and complex situations. In addition, few of the problems good governance is intended to attack are contained within national boundaries. Sharing ideas, experiences, and resources, coordinating rule-of-law functions on a regional basis, and peer review of governance procedures can all contribute to reforms appropriate to social realities, and can make better use of scarce resources.

Stay focused on the long term. Too often governance reform is a short-lived issue. This is particularly the case following a crisis or scandal; once matters settle down it is easy to conclude that all is well and governance problems have been fixed. Particularly with respect to the rule of law and its social foundations, governance reform will take a generation or more, not just a few months or years. Much the same is true of transparency and accountability too, in the sense that agency, political elite, and civil service "cultures" may need to be changed. More rapid progress may be possible in those areas to the extent that individuals can be replaced and the incentive systems of institutions overhauled. Even then, however, bureaucrats will need periodic retraining, elected officials will need continuing information on governance problems (and continuing incentives to fix them), and citizen support will be required over the long term. Here too, public education will be an integral part of any effort to deepen the rule of law, and to improve transparency and accountability.

III. Successful Governance Efforts

Despite all of these difficulties and challenges, significant success is possible. Here are just a few efforts that have turned out well.

<u>Bangalore: Bringing Citizens and Government Together.</u>[4]   The capital of Karnataka State, Bangalore is India's fifth-largest city with a population of about 6 million. Located in the South about midway between the two coasts, it has long been a center for managerial and technical education, and in recent years has become a focus of India's burgeoning computer software industry.

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[4] This account draws upon Johnston and Kpundeh, 2002, and Paul, 1995.

In 1993 a market research agency based in Bangalore began gathering survey data, informant interviews and statistical indicators focused upon the performance of local government, an effort supported by funding from the World Bank. The data were compiled into "report cards" assessing the quality of a variety of city government services. Corruption, efficiency, quality and timing of services delivered, responsiveness to citizen views and complaints, and other issues were among the evaluation criteria. Extensive bribery and demands for payments were reported, along with waste and inefficiency. These results drew extensive attention and debate within local government, in the press, and among the public at large.

Three years later a second series of report cards were drawn up to assess trends. Prior to publication, senior officials of the major public agencies covered in the second round discussed the findings. A mini-report for each agency outlined the key indicators of service quality and public satisfaction. Citizens were then brought into the discussions and public meetings were held to consider the results and options for improvement. Agency heads listened to the citizens' reactions, examined their organizations' performance, and considered ways to improve responsiveness. More important, all the public agency heads involved in the report, without exception, commended the initiative and acknowledged the value of popular feedback.

A new Chief Minister of Karnataka took office around the time the second report card was released. He made a public commitment to improve state governance, and in particular to upgrade local infrastructure and services. He established the Bangalore Agenda Task Force (BATF), consisting of prominent citizens, with a mission of getting industry and civil society more involved in the city's rejuvenation. This was the first time

that the state's chief executive had openly responded to demands of the citizens, the media, and public interest groups to increase city service providers' accountability. A major public event—"The Bangalore Summit"—followed; in addition to pledges of improvement from the heads of public agencies, industrialists and businesspersons made public commitments of funds to improve or develop specific public activities or infrastructure.

BATF met with all the service providers on a regular basis to track their resulting action plans. The initiative has demonstrated some "quick wins", such as developing a system for the self-assessment of property taxes. Rather than relying on tax collectors, who traditionally have levied property taxes arbitrarily and taken advantage of the citizenry, the new system has easy-to-follow, verifiable criteria that citizens can apply themselves. Grievance procedures are also open and clearly defined. Information has been disseminated through meetings in different parts of the city, held in cooperation with citizen groups and other NGOs.

Bangalore illustrates the value of reinforcing links between government and civil society, and between self-interest and reform. Citizens were able to express their concerns and see results; agency heads were able to target energy and resources to key issues, and to take credit for improvements. As noted, agency heads welcomed citizen feedback and judgments on those issues, and support from the new Karnataka state executive played a critical role. BATF's growth was built upon a diverse repertoire of incentives. Purposive goals (Wilson, 1973), such as improved services and institutional performance, are clear, and the links between civil society and governmental leaders provide clear political incentives too. But business, and leaders in both government and

civil society, were able to affiliate themselves with a popular, prestigious body and to share in the credit for improved local services. Similar incentives extended to citizens too: taking part in community meetings, and the satisfaction of taking action against local problems, can be important rewards—as can the sense that someone in local government cares enough to listen.

Botswana: Social Foundations for Rule of Law. Botswana, located in Southern Africa, is a large but lightly populated country whose economy is built upon farming and raising cattle. While it faces significant development challenges, it is nonetheless one of Africa's success stories in terms of governance. For example, when scandals broke out regarding housing-related corruption in Gaborone, the capital, early in the 1990s, a new anti-corruption agency was established and public inquiries held. Both legal and reform responses were quite effective overall. Botswana's government has been careful to preserve, and to build upon, traditional family-based authorities and values that have deep roots in society. As a consequence laws have a legitimacy, and links to established social values, that they lack in many other developing societies. Moreover, law-breakers encounter social sanctions along with legal penalties, and find it difficult to justify their actions in terms of traditional values or the alleged arbitrariness of a distant, culturally foreign legal framework.

Botswana's solid social and political framework has facilitated innovative efforts to attack poverty through improvements of governance at the local level.[5] National administrative agencies are complemented by four bodies charged with devolution and

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[5] This discussion draws upon "Local Governance for Poverty Reduction: The Case of Botswana." Country Report Prepared For The Fifth Africa Governance Forum: AGF–V, Maputo, Mozambique May 22 – 25, 2002:
http://www.undp.org/rba/pubs/agf5/AGF%20V%20Botswana%20CP.pdf

the decentralization of planning: the District administrations, District and local councils, Land Boards, and Tribal Administration. District and Village Development Committees, and a variety of other organizations, also participate in setting priorities and building public support for policy. Public education efforts are a part of the local governance improvement strategy; a 2002 report[6] indicates that "public education is spreading gradually and the administrative capacity of local level organizations of governance is improving steadily." These developments have helped Botswana and its international partners reduce poverty gradually but steadily, although the scope and severity of poverty problems in the society should not be underestimated. Future priorities for governance improvement reflect the need for broader participation and for state-society partnerships; notable initiatives include ideas for "bottom-up planning", the continuing participation of traditional local leaders, and efforts to redress gender imbalances. Much work clearly needs to be done, but Botswana's sustained commitment to the rule of law, transparency, and accountability, and its emphasis upon broad-based processes, illustrate the importance of several key themes of this paper.

<u>Mexico: Enhancing Transparency</u>. Not so long ago, Mexican presidents possessed large secret funds they could use for any purpose, national elections were an exercise in vote buying and intimidation, and public procurement procedures were a mystery to all except those taking kickbacks. While its social and economic problems remain formidable, Mexico has moved faster than any other large country in recent years to make transparency a reality in politics and government. Secret presidential funds have been abolished. Many government procurement processes take place on the Internet, with bids

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[6] *Ibid.,* p. 6.

and prices trackable in real time. The 2000 presidential election, building on previous reforms in 1994 and 1988, not only produced the country's first handover of power at the ballot box but also featured transparency and monitoring procedures—including ballot boxes that were literally transparent—worthy of emulation in many other countries. Some of the world's best surveys on the incidence and effects of corruption at the household level are now being conducted in Mexico. The result is a system in which people, opposition parties, and the press can push for accountability more effectively, and in which a climate can be built in which laws and policies enjoy broader social support.

A major new initiative, launched in 2003 with World Bank support, is the Laboratory of Documentation and Analysis on Corruption and Transparency in Mexico. Based at the Instituto de Investigaciones Sociales of the Universidad Nacional Autónoma de México, the Laboratory will analyze procurement procedures within 22 Federal agencies as well as supporting research and seminars. Of particular interest are proposals to study the views and activities of civil servants as they deal with private bidders and purchase contrasting kinds of goods and services. Through surveys and other techniques it will be possible to learn how procurement problems arise and what their actual effects are upon various public programs and functions, so that governance improvements to procurement procedures can be tailored and targeted to the most critical issues.

Hong Kong: A Social Partnership. Hong Kong's Independent Commission Against Corruption (ICAC) is the world's best-known anti-corruption agency. Its work to build public support for, and participation in, its efforts holds lessons for those concerned with a range of governance issues. The ICAC story has been told many times (for a short history, see Johnston, 1999); among the most notable aspects, however, was the way the

agency first won public credibility by capturing, and winning a conviction of, a corrupt police commander whose escape from jail had led to massive demonstrations demanding reform. From the beginning, public education was one of the three main elements of the ICAC strategy. Publicity efforts, school programs, television dramas and advertisements, and a range of other sorts of messages were aimed at breaking through the sense that corruption was inevitable, reducing public tolerance for it, and encouraging citizens to make reports of even relatively small abuses of power.

Those efforts have been sustained for three decades;[7] now, citizens report corruption, confident that their action will remain confidential and that they will get a response. Even more impressive have been attitude changes toward corruption: by the 1980s Hong Kong had become one of the few societies where young people held more strict views about corruption than did their elders—a major accomplishment in terms of rule of law and accountability. Such a long-term change means that ICAC and citizens have become anti-corruption partners, each drawing impetus from the other, and that large segments of society feel a stake in the reduction of corruption and enhanced transparency and accountability. Another aspect of the ICAC's mandate with particular implications for the rule of law is that the agency has jurisdiction over business as well as government corruption, and that its efforts include training and advice as well as investigation and enforcement. As a result it is a positive force for better corporate as well as public governance.

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[7] For an overview, see http://www.icac.org.hk/eng/main/

<u>NEPAD: Cooperation among Societies and Organizations</u>

As noted in our introductory discussion, the New Partnership for Africa's Development (NEPAD) has embarked on an impressive political and economic governance agenda, as well as major sectoral initiatives aimed at attacking urgent problems and improving the quality of life in African states. In this and other regions of the world, there have been numerous promising beginnings that have withered away for want of resources, coordination, and sustained political backing. In this case, however, long-term goals are backed up by the African Peer Review Mechanism (PRM), a voluntary agreement launched by African Union member states to monitor and evaluate good-governance and development efforts collectively. The PRM promises to encourage experience- and resource-sharing among African states, to spur continued commitment to governance and sectoral goals, and to provide frank, regionally appropriate assessments of progress and shortcoming.

NEPAD is important in part because of the new commitments that brought it into being, but also because it is aimed at the shared problems of the continent—problems that are increasingly regional and international in scope, yet require remedies appropriate to local social realities and values. Thus it has been able to speak with a particularly powerful voice on issues of concern to the South African Development Community (SADC)—recently, for example, AIDS problems and policy, and the continuing deterioration of conditions in Zimbabwe—in ways that single states, or global organizations, cannot. NEPAD's links to other initiatives have received a significant boost from the fact that South African President Thabo Mbeki simultaneously holds leadership roles in NEPAD, the African Union, and SADC. Even without that unique

circumstance, however, the NEPAD strategy may represent a promising for governance initiatives and peer monitoring in a variety of regions.

Regional intergovernmental cooperation and evaluation are in some respects well-removed from level of social values and participation discussed earlier in this paper. Over time, however, such strategies may hold the promise of developing legislation, and of implementing mechanisms of transparency and accountability, that are targeted upon the most pressing concerns in citizens' lives, that are congruent with social values, and that enjoy widespread understanding and support because of efforts to educate and involve the public. None of this is to minimize the immense problems facing African states; indeed, many NEPAD signatories face even greater challenges because of the sense of failure and bad faith created by past policies. Regional cooperation among governments also raises particular problems of incentives: what will lead sovereign states to stand by their commitments, particularly when they are often in competition for scarce capital and development support? Peer evaluation is one promising approach to that dilemma: all countries will be evaluated, and all will be evaluators too with the opportunities to share their ideas and expertise. The world community, however, must be prepared to provide resources and recognition to promising national and regional governance efforts.

Council of Europe/GRECO. The Council of Europe's *Groupe d'Etats Contre la Corruption* traces its origins back to 1994, when the European Ministers of Justice recommended to the Committee of Ministers that it establish a Multidisciplinary Group on Corruption. By the late 1990s it was clear that corruption was both increasing in complexity and acquiring an international or regional character, necessitating more extensive cooperation among states. GRECO, a collaborative mechanism to implement

and evaluate anti-corruption problems, was established in 1999 with an initial membership of seventeen countries.[8] Since that time membership has doubled, and the organization has completed an extensive First Round of peer-review consultations and evaluations.

The Council's anti-corruption "Guiding Principles" form the core of the process, but evaluations and consultations often look at governance in broad terms—not only at prohibitions and penalties, but at the effectiveness of enforcement and detection efforts, the independence of bodies charged with carrying out anti-corruption policies, and at the effectiveness of cross-border cooperation, among other concerns. By the end of 2002 a total of 27 Evaluation reports had been completed, effectively concluding the first round for countries then involved in the process. The 2003 agenda will focus on follow-up to the first round, and will launch a second round of peer reviews that will last until the middle of 2005. GRECO has been a pioneering effort in terms of peer reviews of governance—a central issue in the OECD Anti-Bribery Treaty process and in the OAS Anti-Corruption convention. In effect it has been able to diffuse knowledge on governance improvement, and to accumulate a critical fund of experience with the possibilities and challenges of effective peer reviews among sovereign states.

Better Governance in Ukraine. A major UNDP initiative has linked accountability to human rights and economic development goals in Ukraine. One of several efforts to enlarge and deepen civil society in that nation (USAID has mounted similar efforts with an anti-corruption focus), "Integrity in Action" focuses upon non-governmental

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[8] See "What's the GRECO?" and related documents at http://www.greco.coe.int/info/AproposE.htm, and the "Programme of Activities for 2003" at http://www.greco.coe.int/docs/2002/GRECO(2002)34E.pdf

organizations, and in particular upon those groups' leaders, as ways of spreading new attitudes and knowledge. The project has links to government as well, including Parliament, the Accounting Chamber, and Ombudsman programs. One goal is to make human rights a continuing theme across many areas of policymaking and implementation, and to broaden consultation on human rights issues. Success in that area will both strengthen links between governments and the NGO sector, and will enhance the ability of the latter groups to provide information and effective advocacy services to the emerging civil society. A National Human Rights Plan, coordinated with the extension and regionalization of ombudsman activities, has been one major accomplishment, and has been augmented by national and regional public education programs. Parallel efforts have emphasized transparency in government, as well as enhancing accountability, both of government to society, and of officials to Parliament. Clearly all of these initiatives will require sustained support, but hopeful signs here include the emphasis on NGOs and civil society as active partners in all phases of the transparency and human rights efforts, and the goal, via human rights, of linking improvements in governance to problems and concerns in citizens' everyday lives. There is also some evidence that values of transparency and accountability are attracting more serious attention within other government agencies, such as the Ministries of Finance and Justice.

Mozambique: Poverty and Opportunity. Mozambique's history of civil war, poverty, and natural disaster confronts that country with an exceptionally wide range of challenges, while periods of vigorous economic growth during the past decade make it clear that there are major opportunities for social development and the alleviation of poverty. Both dealing with the legacies of recent history—more specifically, managing

the simultaneous transitions to more competitive markets and politics—and reducing both absolute poverty and the growing economic gaps between the Maputo area and rural areas[9] make improved governance crucial.

Civil service accountability and local governance reform have been strategic points of entry for recent UNDP efforts in Mozambique. In the former area efforts have focused both upon drafting anti-corruption legislation and plans for implementing public-sector management reforms, and upon public involvement through opinion surveys and a 2002 "Participatory Forum" on accountability and transparency. Judges, inspectors, and members of the Criminal Investigation Police have been re-trained on the value of transparency and accountability, and on appropriate procedures. A particularly important parallel effort has involved the training of journalists: in too many societies press reports on corruption are unsophisticated efforts to retail scandal stories, or reflect the political agendas of governments and political factions. If Mozambique can produce and sustain a core group of journalists who can analyze and report on integrity and accountability issues in clear and accurate ways, and who can make the most of opportunities that transparency efforts will produce, efforts to enlist citizens in good-governance efforts can be considerably more effective. As noted at the outset, practicing transparency is but one side of the equation: there must be people and groups outside of government who are able and willing to put public information to use.

For many years, local governance in Mozambique suffered both because it followed a centralized Portuguese model inappropriate for the setting, and because the

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[9]This discussion draws in part upon "Local Governance for Poverty Reduction in Africa: Country Paper—Mozambique", prepared for the Fifth Africa Governance Forum: AGF–V, Maputo, Mozambique May 22 – 25, 2002:
http://www.undp.org/rba/pubs/agf5/AGF%20V%20Mozambique%20CP.pdf

colonial power itself was too weak, economically and politically, to make the most of that model.[10] After independence, local assemblies and other institutions were put in place with a goal of building a less centralized and more responsive structure, but poverty, war, and other problems prevented significant improvement. More recently, municipal governments have been chartered and efforts made to involve citizens in their dealings, and current local governance efforts have focused upon ways for those authorities, and for Territorial officials, to fight poverty both through more effective administration of policy and opening up new opportunities for citizens. A first phase, to last through 2004, is aimed at building basic governmental capacity and effectiveness; a second phase (2004-2011) will emphasize broader-impact anti-poverty and opportunity programs, as well as a reassessment of phase one. Throughout, the goal will be to improve the transparency and accountability of public management and to broaden citizen participation, as well as to design better policy.[11] Mozambique's effort is noteworthy not only because of the potential for broad social benefit, but also for the relatively long timeframe envisioned, and because of its emphasis upon local governance capacity as well as upon sound policy ideas for fighting poverty.

IV.   Next Steps: From Ideas to Action

The specific technical aspects of transparency and accountability are well known. That the rule of law involves a sizeable social component is a familiar notion. The question is how to bring those levels of strategy together in such a way that they draw impetus from each other, become sustainable and effective, and produce visible results in real societies.

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[10] *Ibid.,* p. 9.

Better governance will be attainable where it is not reduced to some sort of institutional "tool kit", or some set of specific policy goals alone, but rather is a long-term strategy to bring state and society closer together to pursue justice and to build a standard of living that permits people and societies to realize their full potential. Enhancements to the rule of law, transparency, and accountability that reflect credible commitments to that long-term agenda will receive the most solid social backing—and, will earn the most sustainable political support for the leaders who pursue them. In that sense good governance is a broad-based partnership created and sustained over the long term by diverse incentives and appeals—and by meaningful results. That sort of effort, as suggested above, requires careful attention to the state of popular participation in society's business, as well as to the strength of institutions.

Such a strategy has many variables and will differ in important details from one society to the next. Any discussion such as this one can only identify a few main themes and common elements. Within the two broad categories of participation and institutions, however, there are ideas that can guide action plans.

Participation: Policies and initiatives should be judged in terms of whether they enhance the *legitimacy* of institutions; receive *popular support* as well as *compliance*; encourage both citizens and leaders to develop *a recognized stake in reform*; help *deepen the strength and complexity of civil society*; and are backed up by long-term efforts at *public education* and *attention to citizen values and opinions*. These initiatives are not

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[11] *Ibid.,* pp. 17-18.

only valuable in themselves, but should be seen as steps toward building a long-term, sustainable foundation for good governance. Specific steps might include the following.

Participation: Building a Social Foundation for Good Governance

•   <u>Rule of law</u>: A frank, broad-based assessment of

    --the legitimacy of representative and policy institutions

    --the effectiveness of their activities

    --the vitality of civil society

    --social support for, and compliance with, major policies

Such an assessment might be the focus of a National Roundtable process,

and, on a longer-term basis, of peer review among states

•<u>Accountability</u>:

    --frequent, open, competitive, honest elections

    --enhanced consultative processes

    --public opinion surveys

    --citizen assessment of public institutions, services

    --cooperative definition of specific service and governance standards

    --enhance transparency mechanisms and citizen use of information

    --long-term support for development of civil society

•   <u>Transparency</u>: Public education

    --on transparency and its uses

    --on public policies, and responsibility for their implementation

    --on options for participation in politics and government

    --on citizen rights and responsibilities

    --on the results of governance initiatives *and of citizen participation*

While these recommendations are grouped under categories of Rule of Law, Accountability, and Transparency, it will be apparent that those aspects of good governance can and should overlap in practice, and that sustained effort in each field will contribute to success in the others.

Institutions. Public institutions will foster good governance to the extent that they ensure *effective, equitable, honest policies and implementation,* and *access to information*, both in terms of popular access to government information, and mutual access within government. Provisions for *horizontal accountability* are critical. An *independent and effective judiciary*, a *free and competitive press*, and a *strong civil society* (both an institution and an aspect of participation) will be essential partners in improving and sustaining institutions over the long run.

An action agenda for institutional aspects of good governance might include the following steps. In and of themselves they are not new ideas; more important than novelty is sustained social and leadership backing. Some can be implemented relatively quickly, while others are long term developments, but all are means to more general ends that, as in our participation category, overlap in many ways. Most of the following proposals will need to be implemented with careful attention to local values and expectations as well:

Institutions: Building Governance Capacity

- Rule of Law: Clear institutional standards and enforcement

  --frank assessment and, if needed, amendment of constitutional framework

  --appoint, *and support*, Inspectors General accountable to political leadership and public

  --assess and upgrade recruitment, training, and retraining of public employees, and pay them appropriately and regularly

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--clear, straightforward legislative policy mandates

--enhance monitoring of policy formation, implementation by elected officials and by experts

- Accountability: Responsibility, checks and balances

--build horizontal accountability, through an honest and independent judiciary and through political checks and balances

--clarify and publicize responsibilities for policy implementation and results

--provide positive incentives for accomplishment as well as negative ones for failure or misconduct

--use intangible incentives too, such as recognition and enhanced status for effective officials and civil servants

--establish a high-profile and effective ombudsman system

•Transparency: Open and understandable rules, procedures, information

--institute, and protect, Freedom of Information policies

--protect "whistleblowers" and citizens who report problems

--develop sustained Citizen Review procedures for major non-technical agencies

--develop similar reviews by independent experts for technical and non-technical functions

--use appropriate and inexpensive technology for distributing, giving access to, information

--simplify, speed up procedures, reduce the number of steps and time required

--establish, and publish, specific policy targets and results

--regularly publish government performance indicators, and solicit public feedback

These action steps are relevant to all policy sectors and all types of good-faith initiatives. They are attainable in a wide range of social settings, not just the relatively benign circumstances of affluent market democracies. Even more important, good governance need not necessarily involve a radical expansion of the role of the state, its resources, or its policy repertoire; the key, instead, is using human and material resources, and scarce opportunities, wisely and with a long-term strategy in mind. But no more do these proposals entail a radical rollback in state powers and responsibilities, particularly in societies where private initiative cannot yet pick up the slack. Instead, the major question is one of balance and integration—how to bring private interests and sound public processes closer together without impairing the integrity or vitality of either sector. The most important first steps will be to make improvements in the areas where governments are already active, and in the functions the state has already undertaken to perform. That will pay major dividends in terms of the credibility of any governance initiatives that follow. All concerned should be aware that improved governance will have a price tag, in terms of the expenditure of political capital as well as economic resources. But over time, sustained improvements can more than compensate for those costs by enhancing the political and economic opportunities available to all society, and the support (and political credit) that will flow to leaders who take governance issues seriously.

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