TRÓCAIRE

Development Review
2006

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Governance and poverty reduction

Editorial Statement

Trócaire, the Irish Catholic Agency for World Development produces the *Trócaire Development Review* as part of its programme of policy research and development education. This programme aims to raise awareness in Ireland and elsewhere of the scale, dimensions and causes of world poverty and to advocate for policies to overcome it.

Trócaire, in producing the *Trócaire Development Review*, draws together policy analysis and research findings with particular relevance to Ireland's evolving role in international development. *Review* articles are on economic, social and political themes related to poverty and injustice in the developing world. A particular focus is the impact on developing countries of aid, trade, financial and other policies adopted by industrialised countries. Ireland's policies in the context of European Union policies are of special interest.

Articles that fall within the remit outlined above are welcome. While analytical, they should not be over-technical in presentation. In general, individual country case studies should only be used to illustrate a general argument. Research findings on pertinent issues would be particularly welcome. All articles are subject to blind peer-review by the Editorial Committee; articles should not exceed 7,000 words. Short notes and comments are also welcome.

The views expressed are those of the authors, and do not necessarily reflect those of the Editorial Committee nor of Trócaire.

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Preface

2005 was an important year for the development community in Ireland and internationally. Through the Make Poverty History Campaign, which brought together all the main development NGOs, the development community sent out a united message to the government. That message was unequivocal: promises to the poor must be kept. There could be no more backsliding on the solemn promise of the Taoiseach to meet the UN target of 0.7% of GNI going to overseas aid.

The Make Poverty History march in June drew an unprecedented crowd of 20,000 people and demonstrated that there is widespread public support for the campaign. That show of support, we believe, played a major role in shifting government policy on ODA. At the start of the year, there was talk of abandoning the 0.7% target. By June, there was talk of it being met by 2015 – the date when the Millennium Development Goals are meant to be achieved. By September, the government agreed on a compromise target of 2012, setting out interim targets to ensure that the goal is kept on track.

Now that the target has been agreed, a much greater task lies ahead: how to ensure that the additional aid is spent effectively and efficiently, in ways that will have a long-term impact in reducing poverty. The substantial amounts of aid being channelled in the aid programme demands that we raise our game in terms of technical capacity through ensuring that our programme has the human resources necessary to deliver a quality aid programme.

Moreover, the rising aid budget requires an informed public debate around sensitive issues such as governance and corruption. Achieving better governance is a central issue domestically as it is essential to ensuring that public funds are well-spent. Public support for higher aid will only be sustained if people can see the impact their money is making. Addressing governance effectively, however, is about much more than that. As the articles in this year's *Trócaire Development Review* demonstrate, the task of achieving better governance is an intrinsic part of development itself. Whilst there are no straightforward answers on how to achieve better governance, the articles in this year's *Review* provide some key insights.

Now is not a time to rest on our laurels, but to rise to new challenges. I hope that this issue of the *Trócaire Development Review* will play a part in addressing what many regard as the critical question for the development community today.

[signature]

Director of Trócaire
3 April 2006

Editor's Introduction

The *Trócaire Development Review 2006* addresses a difficult, but increasingly important issue for the development community: the connection between governance and poverty reduction. The *Review* seeks to explore the link between these two themes both at a theoretical level – exploring the links between the discourses of governance and poverty. It then looks at the issues on a specific level, examining how issues of governance and poverty reduction are played out in relation to natural resource management and trade. The articles in the *Review* draw out some key lessons for development practitioners and policymakers.

Why is governance such an important theme? Over the last decade, the concept of governance has been increasingly used in the discourse and practice of development. The UN Secretary-General, Kofi Annan, has said: "Good governance is perhaps the single most important factor in eradicating poverty and promoting development" (UNDP, 2002). Two other major reports into development in 2005 also illustrate this trend. *Our Common Future,* the Commission for Africa Report, and *Investing in Development,* the Millennium Project Report, both highlight the paramount importance of addressing governance issues. The former report states that "The issue of good governance… is what we believe lies at the core of all of Africa's problems" (Commission for Africa, 2005). The latter declares: "The successful scaling up of investment strategies to achieve the Millennium Development Goals requires a commitment to good governance" (UN Millennium Project, 2005). The predicted increases in aid, therefore, make "good governance" a critical component of the new development consensus. The achievement of the strategies and targets which the international community has set itself for the coming decade is dependent on it.

Despite the rhetoric around achieving better governance there is still little consensus on how this can be achieved. In her article, Sue Unsworth draws on groundbreaking research from the Centre for the Future State, and emphasises the need for a different approach to governance on the part of donor agencies. Currently, the emphasis of donors is placed on putting in place formal structures to enhance the capacity of developing states to achieve greater transparency and accountability. Whilst there is a clear logic for supporting such structures from the donor perspective, such approaches have had limited success in achieving real

improvements in governance. The conclusions of the research from the Centre for the Future State are that donors require a new approach to governance. The key characteristics of such a new approach would be a departure from the traditional emphasis on formal structures to greater engagement with the web of informal relationships that make up the political context in which aid is managed. The research, as Unsworth puts it, "starts with a proposition which is well known to political scientists but less familiar to many policymakers – that the critical issue in state building lies in striking a balance between effectiveness and accountability." (p.19) In other words, reaching better governance does not happen automatically, it flows from improvements in managerial or technical capacity within formal structures. In some instances, such improvements are an important step forward, but not always. The introduction of formal structures, on the contrary, can often undermine less efficient, but more effective governance mechanisms within countries. The message is that reaching better governance will require interim measures that do not sit comfortably with classic Western-style accountability.

The importance of discourse

The meaning of governance cannot be taken as given. It is critical to know exactly what we are talking about when it comes to governance as the term can mean many different things depending on how it is used and who uses it. Both Miguel González and Morina O'Neill tackle the complex issue of how to define governance. The governance agenda, González recalls, is one that has been prominent within the development discourse of the international financial institutions (IFIs) for over a decade. The terminology has a history of its own – one which is largely shaped by the World Bank. In order to clarify the debate, it is essential, therefore, to explore the various meanings given to this term.

González' article traces this history and draws out at least three "connections" between governance and poverty reduction within the contemporary discourse on governance. The first connection is in relation to economic growth, the second is in relation to aid efficiency and the third is in relation to human development. The first of these approaches, he argues, has been driven by the failure of IFI policies (particularly in Russia and Latin America), which neglected the social dimension of economic growth: "Not only did the policies of the consensus fail to bring sustainable economic growth, but in many places they had severe social consequences as a result of neglecting and weakening the institutions that acted as a safety net." (p.37) The response to this policy failure has been the

resurgence of an interest in the role of the state as a development actor.

This renewed interest in the role of the state, however, has not gone uncontested. As González puts it: "this return to the scene does not mean that it occupies centre-stage. This is by no means the resurrection of the developmental state of the 1950s and 60s. The state has to share its prominence with two other key actors: market and civil society" (p.39). The question of defining the role of the state in development, nonetheless, is primarily a political rather than an economic one – and hence, puts governance to the fore of development.

Political engagement

González' key conclusion resonates strongly with Sue Unsworth's conclusions. He argues that whilst there is no blueprint for better governance, and one needs to take account of the unique context of each situation, there needs to be far more attention paid to the actual politics underpinning the aid relationship: "Any strategy on governance and poverty reduction should address two key issues. Firstly, under which conditions of incentives, interests and institutional arrangements will those in control of state power engage in such processes with other groups, especially the poor? Second, how could the political capacities of the poor be enhanced to enable them to take advantage of the opportunities for participation that democratic governance offers?" (p.48). These are deeply political issues that involve both the formal and informal webs of relationships that make up the polity.

In seeking to answer these questions, many of the articles in this *Review* underline the key role of civil society in bringing about more democratic governance. Tom Campbell, in reviewing several large-scale studies on community based natural resource management (CBNRM), argues that decentralised control of resources has brought about some improvements in governance over the past decade. The achievements, however, have not been as great as one may have expected from an inherently participative approach. In part, this would seem to be due to a degree of political naiveté on the part of those proposing such initiatives. In some instances, such approaches have done little to enhance the development of the communities involved – and little to safeguard their environment. Campbell concludes that CBNRM could be a valuable approach, but only if "policymakers pay greater attention to the complex political contexts in which different stakeholders vie for access and control over natural resources." (p.130).

The need to avoid such political naiveté is echoed by Sue Unsworth, when she argues for civil society to be re-interpreted within the governance agenda. She notes the high ambitions that the development community has placed on civil society in recent years as both service providers and advocates at all levels in the development process. She argues that such approaches to civil society often overlook its diverse nature – and the inherent conflicts of interest that exist between different non-state actors. When one examines civil society more closely, one sees a very different picture: "The story that emerges is complex, and challenges simplistic assumptions about the ability of civil society to demand accountability and to give poor people a voice." (p.23). Her argument is that civil society's capacity to advocate is as much dependent on the state as it is on their inherent capacity. Moreover, some of the so-called "new forms of citizen participation" have been overplayed. Nevertheless, she says that there is cause for optimism. Civil society has a key role to play, but perhaps not in the ways that have been conceptualised by northern donors thus far.

Overcoming political naiveté is a point made by many commentators in recent years, including Matthew Lockwood, who makes this point forcefully in his recent book on the political economy of aid in Africa.[1] One of the key conclusions is that NGOs in the North, in particular, require much more rigorous political analysis: "As long as progressive NGOs fail to develop a good analysis of politics and the state in Africa, the agenda will be set by right-wing analysts who have largely made the topic their own"(p.140). NGOs, he argues, need to adopt an analysis that engages with politics in Africa. Lockwood also criticises donors for their reluctance to visibly engage in political analysis, and claims that it is only very recently that donors have started to think about the "political logic underlying the workings of the state, asking why the rent-seeking regime has emerged and why it is so stable, resisting donor pressure for reform" (p.64).

Eilís Ward's article focuses in on one key issue in relation to democratic governance – how to increase women's participation in procedural democracy. There is general agreement within development circles of the importance of women having a greater role in politics. The use of electoral quotas is one practical method that has been tried to improve women's participation in countries where it is weak. Ward's article examines carefully whether such measures have been successful in three African countries – Ethiopia, Uganda and Tanzania. Her conclusions are, not surprisingly, that whilst quotas have increased the visibility of women in the political system, they do little on their own to bring about greater equality between men and women. Rather, they need to be part of a broader approach – one that requires an astute political analysis to be effective.

Global linkages

According to Miguel González, one cannot just look at domestic governance and poverty in isolation – but address the wider structures of global governance. The link to global financial and political structures and their impact on governance is made in Laura Furones' article on illegal logging. According to her, the financial losses to developing countries involved in illegal logging are estimated at $10 billion per year. Illegal logging, moreover, has been implicated in war economies in many parts of the world, including Liberia and Sierra Leone, helping to sustain the conflicts. International initiatives to prevent such activities have not been effective. As Furones says: "illegal logging continues under the noses of donors" in many developing countries. Dealing with this situation requires programmes "which will have an immediate impact on illegal activity, whilst informing long-term policy and legislative reform" (p.137). Her article outlines one effective approach pioneered by Global Witness to this difficult issue – independent forest monitoring.

These global linkages of governance are picked up again in Martin Watson's article on the IP (intellectual property) regime and governance, highlighting the linkages between different sets of international negotiations. IP rights, he argues, are having an increasing impact on all aspects of development – and are key to meeting the MDGs. He looks at three aspects of governance under the OECD guidelines – the rule of law, participation and effectiveness and efficiency – and asks how these are applied within the context of IP negotiations. Watson finds there is a high degree of incoherence and fragmentation between different government departments dealing with development and intellectual property negotiations. His key conclusion is that current global structures are inadequate to deal with the "wider debates about the hierarchy of international laws." (p.105).

Ireland's role

Morina O'Neill's article asks which definition of governance Development Cooperation Ireland (DCI, recently renamed Irish Aid) has been adopting in its own policies and strategies. Through an analysis of DCI strategies and policies, she traces the historical development of DCI's discourse on governance. Whilst she reaches

no definitive conclusions on the issue in her research, she did detect a trend in the way that governance is addressed. This trend seems to suggest that the DCI approach in many instances is being led by a narrow definition of governance, which is more to do with domestic constituencies than the broader agenda of democratic governance. She argues that such media debate "has largely been at the expense of any public debate on governance as a means to engage with the broader political issue of the exercise of power in society and the challenges it poses for development" (p.67). She concludes her article by warning against governance becoming "a tool for addressing donor interest rather than recipient need" (p.69).

The articles in the *Trócaire Development Review 2006* would suggest that it is incumbent upon DCI to develop a policy on governance as soon as possible and they highlight the complexity involved in drawing up and operationalising such a policy. Governance is not only, or even primarily a question of how to react to recipient governments when there are allegations of corruption made against them. Governance has to shape the approach to development that permeates the whole of a donor's work. It is about first acknowledging, taking account of, then addressing the unequal power distribution in societies. It is our hope that the articles in this *Review* will provide some insight into this critical theme.

Notes on Contributors

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Sue Unsworth was formerly Chief Governance Adviser at the UK Department for International Development (DfID) and now works for the Institute of Development Studies, University of Sussex, where her remit is to help make current research on governance issues accessible and relevant to policymakers.

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[1] Lockwood, M. (2005), *The State They're In*, London: ITDG Publishing

Getting Better Governance:
Insights from new Research

● Sue Unsworth[1]

There is widespread agreement that better governance matters for growth and poverty reduction, but little consensus on how to achieve it. Attempts by the development community to promote better governance in developing countries have had limited success. New research shows how effective public institutions evolve through a political process of bargaining between the state and organised groups in society. They cannot be constructed by simply transferring institutional models from rich to poor countries. The focus should therefore be not so much on capacity building of formal institutions, as on the informal relationships that underpin them. Policymakers should think less about what ought to be happening, and more politically about what is actually happening, what works and why – and build on that.

Introduction

How can developing countries build more effective, accountable states that are responsive to the needs of poor people? Few within the development community would disagree with the UN Secretary-General that "good governance is perhaps the single most important factor in eradicating poverty and promoting development in Africa or elsewhere". Yet despite years of effort

to promote better governance, progress (with some exceptions) has been meagre, and hard to sustain. There is still remarkably little consensus about what works.

New research by the Centre for the Future State (CFS), based at the Institute of Development Studies at the University of Sussex, provides some vital insights into the processes involved in building more effective public institutions, and the underlying causes of bad governance. It shows how institutions evolve through a political process of bargaining between the state and organised interest groups in society. They cannot be constructed just by transferring institutional models from rich to poor countries. This has important implications for policymakers, suggesting that they need to focus less on capacity building of formal institutions, and more on the informal arrangements and relationships that underpin them.

The quest for better governance

The focus by policymakers on governance is welcome, but it has resulted in overload. Donors, in particular, have been capricious in advocating a succession of different institutional "fixes": state-led development, then marketisation and the retrenchment of government from non-core functions, followed by democratisation, decentralisation, the establishment of autonomous agencies, the creation of public-private partnerships, and civil society participation in the delivery of core services. All this has been imposed on poor countries, with weak institutions, many of them still in the process of state building, and in the context of a rapidly changing global environment.

The development community has been consistently unrealistic about the capacity required to manage complex processes of change, and has virtually ignored the need to build social and political consensus for such change. It has expected poor countries to put in place a range of best practice institutions which are far more sophisticated than those present in OECD countries at a similar stage of economic development. And it has assumed that creating those institutions involves little more than the supply of material resources and technical assistance. In the latest big push for achieving the Millennium Development Goals (MDGs), poor countries are expected, as a matter of priority, to promote: the rule of law (through properly resourced, adequately staffed legislatures, judiciaries and executives); political and social rights; accountable and efficient public administration; sound economic policies; corruption-free delivery of public services; and support for civil society.[2]

Many efforts to promote better governance have had limited impact because they address the symptoms of bad governance rather than underlying causes. The development community finds it difficult to conceive of legitimate public authority in developing countries except in terms of models that have worked relatively well in developed countries – a merit-based bureaucracy, an independent judiciary, programmatic political parties. So it has focused on capacity building of formal institutions rather than on the informal relationships that shape the way they work, and the historical processes that created them.

A different approach

New research undertaken by the Centre for the Future State (CFS) offers a different approach. It starts with a proposition – well known to political scientists but less familiar to many policymakers – that the critical issue in state building lies in striking a balance between effectiveness and accountability. The challenge was eloquently expressed by James Madison in the Federalist Papers no.51: "In framing a government to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

The CFS research suggests that, historically, this has happened through a process of interaction, bargaining and competition between holders of state power and organised groups in society. This has often involved violent conflict, but it can also produce positive sum outcomes, if the parties involved can identify common interests and negotiate arrangements to pursue them. Over time this may lead to more civic ways of managing competing interests, and result in the creation of legitimate, stable institutions: arrangements that are valued – and thus become institutionalised – because they are seen to serve a common purpose. A prime example of this in the history of state building in Western Europe was the process of bargaining which took place between rulers and organised groups over the payment of tax.

Many countries in the global South today have formal institutions of representation, accountability and administration built on models transferred from OECD countries. But they work very differently, and often lack legitimacy and effectiveness,

because they were not forged through a political process of state/society negotiation, and are not supported by economic structures which encourage organisation around broader, common interests. States in the South have – and will – follow paths towards state building that are often very different from those taken historically by states in Western Europe. It may therefore be unhelpful to make formal institutions in now developed countries the starting point for thinking about how to achieve more effective public authority in the South, or to expect poor countries to be able to put in place at all quickly Weberian institutions that draw clear boundaries between public and private interests.

This research also provides insights into underlying causes of bad governance, especially in Sub-Saharan Africa. For complex reasons explored more fully below, governments in the South often have weak incentives to engage in bargaining with their citizens. In particular, the access of political elites to external rents from natural resources or aid weakens the need for them to earn revenue by engaging with taxpayers, and reduces their interest in nurturing the broad prosperity of their citizens.

Although the research shows that the causes of bad governance are very deep-seated, the overall message is one of optimism. There is scope for more positive engagement between the state and organised interest groups, and there are things that policymakers could do to encourage this. Moreover, in line with findings by other scholars, the CFS research suggests that progress does not depend on having the full range of formal institutions in place. Unconventional arrangements that provide the right political signals, or that bring public and private actors together around common interests, reinforced by informal relations of accountability, may offer the best available solution for the time being. While there are no prescriptions for getting better governance, the research shows that there are some *signposts*, pointing to factors that might help nurture more constructive engagement between state and society.

Tax and accountability[3]

The first "signpost" relates to tax. Tax is often seen primarily as a fiscal issue, and the preserve of economists and subject specialists. The CFS research suggests that it should be seen as a key governance issue. There are strong, direct connections between the ways in which governments raise revenue and the quality of governance that they practice.

Historically, tax played a central role in the creation of representative legislatures and effective bureaucracies in Western Europe. Against the background of interstate warfare, some governments (notably Britain and the Netherlands) negotiated with taxpayers to create joint gains for both parties. Since tax was negotiated, tax collection became less costly to administer, less onerous, and more predictable. This encouraged governments to undertake long-term planning, and business to invest. Rulers had incentives to strengthen the bureaucracy to collect and administer taxes, and to extend its reach. Taxes were negotiated in the legislature, which encouraged taxpayers to get involved in policymaking, and rulers to adopt policies that were mutually beneficial. Taxpayers in parliament adopted mechanisms to oversee revenue raising and public expenditure management. Rulers had a stake in the prosperity of their citizens, and incentives to nurture that prosperity to generate more revenue.

Today in OECD countries, the tax relationship underpins formal mechanisms of political accountability and public financial management. Tax is a major issue at election time. The situation is very different in many developing countries, where there is little public debate linking revenue and expenditure, little organised public action by taxpayers, and little legislative control over government revenue. This has negative implications for governance.

There are good reasons why the tax relationship is often weak in developing countries. A complex set of historical factors has resulted in the concentration of political and economic power in the hands of small elite groups. Huge, and historically unprecedented differences in income levels between rich and poor countries have given those elites access to very large rents from control of oil and mineral resources, as well as from other relationships with rich countries. Many countries have received external military support and large amounts of aid. All these factors have limited the need of political elites in the South to bargain with their own citizens over tax.

The historical experience of tax and state formation in Western Europe is not directly replicable in developing countries. But there are good reasons for thinking that tax still matters for governance. It has the potential to mobilise a relatively large group of citizens who have shared interests as taxpayers in how governments spend their money and manage the economy, and some power to make their views count. Mobilisation by taxpayers can help take debates out of the realm of patronage politics and into the realm of interest group bargaining. Interest group

politics around taxation and public spending can strengthen the role of legislatures, giving them increasing influence over fiscal matters.

There are however no quick fixes. The tax relationship in poor countries is often coercive, especially in agrarian environments, and at local level. Wealthy elites can evade tax, or ensure the burden falls elsewhere. But there are reasons to think that tax may be coming up the political agenda.

The CFS research explores the implications for governance of recent tax reform in Latin America and elsewhere. There has been a marked shift from indirect taxes (for example on trade) to more direct or visible taxes, such as VAT. There have been reductions in high marginal tax rates, simplification of taxes, reductions in exemptions, some broadening of the tax base, greater transparency, and strengthening of administrative capacity of revenue authorities. Some of these reforms have been difficult to sustain, and most address issues of efficiency rather than equity. But, taken together, they do mean that more taxpayers now face a common, simplified tax regime, with more opportunity and incentive to engage in public action over tax, and less to gain from lobbying for special interests through private networks. There is growing interest in fiscal pacts (for example in Latin America); there are moves in many countries to increase budget transparency; and ex-Communist countries joining the EU have transformed their tax relationships. Taxing the informal sector remains a major challenge, but the research points to innovative approaches that may be emerging – for instance in Ghana, where collection of taxes from vehicle operators has been franchised to the main transport union.

The overall message is that processes of bargaining between states and organised groups in society remain central to the construction of legitimate public authority, and that tax matters for accountability because of its power to mobilise interest groups in particular ways. External actors need to be particularly alert to the way in which their dealings with poor countries – over trade, business, military support or diplomatic relations, as well as aid – have the potential to weaken incentives for local accountability to citizens. There are also things that local reformers as well as donors could do to increase public debate about links between tax and spending, and to enhance the chances of constructing a fiscal social contract.

Rethinking civil society: the state creates opportunities for poor people to organise

The second "signpost" relates to civil society. The development community has ambitious expectations of civil society. It advocates involving civil society organisations in policymaking, service delivery and monitoring as an important part of strategies to achieve the MDGs. Direct popular participation at local level is seen as offering new ways for poor people to acquire a voice, t h rough networks of associations linked to decision-makers. There is a profusion of projects designed to "strengthen the capacity" of civil society (often advocacy NGOs – non-governmental o rganisations) in order to make the state more accountable.

What this activity tends to overlook is the diversity of actors and interests involved in civil organisations, and the many different ways in which they relate to each other, the state, politicians and political parties. One component of the CFS research investigates those relationships, through case studies and comparative cross-country surveys. The story that emerges is complex, and challenges simplistic assumptions about the ability of civil society to demand accountability and give poor people more of a voice. But the findings also provide cause for optimism.

First, what the state does, how it is organised, and how public policy is designed and implemented all have an important bearing on the ability of poor people – or organisations claiming to speak for them – to organise and make demands on elected officials and government agencies. The effects of government action can be deliberate, or completely unintended. But in a variety of ways, and at different levels, the state has a powerful effect on incentives and opportunities for mobilisation, for example:

a) The long-standing Employment Guarantee Scheme in the state of Maharashtra, India was carefully designed to stimulate mobilisation of potential beneficiaries, and engage support f rom a range of important stakeholders, as well as encouraging involvement by political activists.[4] The scheme benefits the rural poor, providing a legal guarantee of work for destitute people provided that 50 register to demand work. Significant design features of the original scheme include the fact that it had a reliable source of funding (from a hypothecated tax), p rovided a formal guarantee of work that could be contested in a court, and was mandatory and universal (thus allowing

potential beneficiaries to be easily identified). This encouraged activist organisations to become involved in mobilising people to claim their rights, while the secure financial and legal basis made it worthwhile for activists – but also bureaucrats and poor people themselves – to invest the necessary time and effort to organise.

While the legal underpinning of the scheme was important in creating incentives for mobilisation, the research suggests that how it was implemented locally may have been as important as legal rights in securing benefits for poor people. The careful design of the scheme, and its mandatory provisions, were not sufficient to prevent its deterioration in the late 1980s when political power shifted from a rural-based coalition to an urban one; this, together with a fiscal crisis, led to a steep decline in expenditure. Nevertheless, unlike other public works schemes, it has survived, and elements of the design have recently been adopted nationally.

b) An example of unintended effects of changes in state institutions on political participation comes from rural Karnataka.[5] A constitutional amendment in 1992 set up a range of elected local government bodies throughout India. It gave no recognition to the informal, village councils found in most of Karnataka (and elsewhere in India). However, far from formal, modern institutions supplanting traditional councils, as might have been expected, the creation of locally elected formal institutions (grama panchayats) seems to have provided traditional groups with new opportunities. There are high levels of interaction between the formal and informal institutions, and the latter remain active, influencing elections to the grama panchayats, participating in decisions about development projects, and monitoring performance. Indeed, there is evidence that traditional organisations are most active: 1. in wealthier, more developed districts; 2. where they are physically close to the headquarters of the grama panchayat; and 3. where grama panchayats are most effective (judged by their revenue-raising capacity).

This could just be the effect of modernity but it also suggests a powerful institutional effect, i.e., that good formal institutions are providing incentives for traditional, informal ones. The effect of this on poor people could be negative in so far as traditional councils are hierarchical and exclusionary, but there is also evidence that traditional councils provide political space for poor people, and channels for them to influence elected bodies.

Second, the relation of civil society to state institutions and political parties, and its role in providing a voice for citizens, need re-conceptualising. Many scholars and policymakers tend to think of civil society as isolated from the state, and value its supposed autonomy as a source of restraint on state power. But in practice there is much blurring of the boundaries between different actors. Detailed surveys of civil organisations in São Paulo show that, more often than not, it is organisations well connected to government and political parties, and with access to information, expertise and networks, that are giving the poor a voice in policymaking. The fact that they are also the ones most active in public demonstrations outside participatory fora suggest that they have not, however, been co-opted. In Karnataka, the overlap of leadership between elected bodies and traditional councils may be enhancing the influence of traditional institutions. So autonomy of civil society is not necessarily the key to its effectiveness. This and other aspects of the research show how interaction, over time, between the state and organised groups in society can enhance the effectiveness of both, through the construction of common interests.

Third, many of the claims made about the ability of new forms of citizen participation to give poor people a greater voice are overplayed. The research finds that it is often collective actors rather than individuals who are involved in participatory processes. For example, participatory budget mechanisms in São Paulo were designed to provide space for *direct* participation by individual citizens, but in practice they give an important platform to leaders of community or neighbourhood associations, who see themselves as speaking on behalf of those organisations. Most of these associations have no formal membership (but do attract high levels of participation from poor people); nor do they have formal mandates or accountability mechanisms based on elections.

This raises the question of who they speak for or represent when they are invited into policy dialogue by government or donors.[6] The research concludes that the political and institutional changes introduced in Brazil over the last two decades have altered the dynamics of representation among civil organisations. This could be positive or negative for the quality of democracy: the important thing is that judgements about this should be made not by reference to conventional models of representation, but by looking at what is actually happening, whose interests are served, and how far this is in keeping with democratic principles.

An overall message for policymakers is to stop thinking about civil society as a sector, populated by formal associations that share a progressive agenda. Instead they should think much more broadly about the impact of state institutions and policy interventions on the ability of different interest groups to mobilise and influence public policy.

New approaches to delivering public services

The third "signpost" suggests that policymakers should not be bound by preconceived models of service delivery, but should be open to building on unorthodox arrangements that work.

The challenge of delivering basic services to poor people is central to achieving the Millennium Development Goals. The *World Development Report 2004* (*WDR*)[7] records some success stories, but also some miserable failures. The CFS research aims to expand understanding of the factors that make for success or failure, and the range of options that might be available for delivering services to poor people.

The *WDR 2004* represents an important advance. It emphasises that improving services is not just about providing resources, skills and technical solutions. It puts the spotlight on politics, and on the institutional arrangements that create incentives for different stakeholders. But the approach is also limiting.

The principal/agent framework that underpins the WDR is based on the assumption that separating and formalising relationships between policymakers, providers and citizen consumers will improve accountability for delivery of services. This fails to capture many other important dimensions of these relationships, including ways in which *informal* relations of accountability operate to affect design and implementation of services. It underestimates the way in which politics shapes the incentives for action. And, in placing a lot of weight on direct action by poor people to strengthen the power of citizen consumers vis-à-vis providers, it plays down the associated risks and costs.

The *WDR* framework is also limiting because it looks at different configurations of service provision in different contexts, from the perspective of identifying best practice. This leaves out of the picture a great variety of existing arrangements that do not fit into any of the suggested categories. The CFS research explores some very unorthodox arrangements for service delivery, which appear to be working. Two of them described

below are striking because they involve direct participation by private actors in areas normally considered core state functions: policing and tax collection. These are not ad hoc arrangements, but have been sustained over 15 years or more, have become institutionalised, and involve a major, ongoing commitment of resources by both parties.

Cases from the research suggest that:

a) *Unorthodox arrangements for service delivery can work, underpinned by informal relations between key stakeholders*

In *Karachi* a group of 40 wealthy businessmen from a small ethnic minority community have come together to form the *Citizen-Police Liaison Committee* (CPLC).[8] It is directly involved in core policing activities, including funding and managing the main databases on crime and vehicle theft. This is a highly unorthodox arrangement, violating the basic principle of separation of public and private interests in a very sensitive area of government business. It works because it is founded on strong common interests between the provincial authorities (keen to protect federal revenues), the municipal authorities, the business community, the police, and increasingly, ordinary citizens (including poor people) who enjoy the benefits of improved security. Careful design and management – for example, of recruitment – have contributed to its success: lawyers, journalists and former public servants are excluded from membership, and thus view CPLC with some suspicion, and keep it under scrutiny. But above all a strong web of *informal* relationships maintains accountability, despite the absence of any formal contractual arrangements. These include internal ties of mutual obligation and reputation within the business community; and long term relationships with the police based on trust rather than recrimination.

There are clearly risks in this kind of direct engagement of private interests in such a highly sensitive area. But the arrangement brings in significant private resources that are badly needed, while protecting against the abuse of power that often accompanies such provision of resources. It may thus offer the best interim solution in a very difficult environment.

Ghana presents another example of unorthodox public-private partnerships. As mentioned above, the Ghana Public Road Transportation Union (GPRTU), a private association of owners and employees in the road transport business, is collecting income tax from its own members on behalf of the government.[9] This arrangement has survived the transition to democracy, because it serves the interests of all parties. It allows government to tap into an important source of revenue in the informal sector. It gives status and privileges to the union. And it benefits GPRTU members, most of whom are small (one vehicle) operators. They value the services provided by the union at lorry parks, funded by part of the revenue collected. They benefit from the fact that, since income tax is levied per journey or per day, and paid on the spot (with receipts), it is affordable. Moreover, tax receipts and the power of the GPRTU help to protect members from harassment.

The arrangement is far from ideal – administrative costs are still high, much of the tax levied does not reach the public treasury, and there is intimidation of smaller, rival transport unions. So informal relations of accountability are operating, but are not without problems. Nevertheless, this case suggests that innovative approaches to taxing the informal sector can work if they take account of the interests of taxpayers.

b) *Contracting out and community participation may not be the answer if politics get in the way.*

A second case from Ghana highlights the role of politics in service delivery – especially where public funds for construction contracts or maintenance are involved, or a significant stream of revenue from user fees.

The research followed attempts in Accra and Kumasi, over a period of some 20 years, to find satisfactory alternatives to full public provision of sanitation and waste collection services. The background is a huge and increasing public health problem in both cities brought about by the failure of urban infrastructure to keep pace with a rapidly growing population; decentralisation in 1989 of responsibilities for sanitation and waste management to municipalities with wholly inadequate funding and staffing; and pressure from donors for privatisation (initially as part of structural adjustment programmes), and for community participation.

Following mixed experience during the 1980s with management by local Committees for Defence of the Revolution, a twin-track approach was adopted in the 1990s, with contracting out to private managers complemented by involvement of community groups in local cleaning and maintenance. Essentially, these efforts were derailed by politics. Contracts were supposed to go to registered local companies with proven capacity. Instead, they came under the control of members of the Metropolitan Assembly, who set up front companies to win the business. Control of toilets was a vital source of money and patronage, allowing Assembly Members to reward supporters with jobs and other favours. Hopes that community-level participation would provide pressure for improved service delivery proved elusive: most of the active groups were created by or dependent on local politicians – in effect, they too were part of the urban political machine.

In this case, privatisation fuelled patronage politics. It is a warning against treating service delivery purely as a principal/agent problem, without thinking about how politics might shape the incentives of key players, or testing assumptions about the capacity and independence of community groups. However, another case study from Pune in India suggests that contracting out the construction and management of public toilets can work relatively well, given strong political leadership, skilful programme design, and well-established NGOs able to organise effectively.

c) *The motivation of front-line workers is crucial to successful service delivery.*

The principal/agent framework presented in *WDR 2004* fails to take account of relationships *within* the three categories of policymakers, providers and citizen customers. It also assumes that public officials are not to be trusted, and need to be closely monitored. Two case studies from the CFS research suggest that this may be too limiting, and pessimistic.

In the case of urban sanitation programmes in Accra and Kumasi, factors such as good working relationships, shared professional values, a positive organisational culture, and a feeling of being valued by the public all helped to maintain the motivation of front-line workers, in spite of appalling working conditions and political interference.

In the case of Metro Water in Hyderabad,[10] India, service delivery reforms were successfully initiated in the late 1990s. The story is a complex one, but the aspect highlighted here is that the reforms created major, positive changes in

accountability relationships between a great many stakeholders, including much greater engagement by the media, citizen consumers, and local politicians with both front-line workers and senior managers. The reforms also transformed relations between managers and front-line workers, with positive impacts on performance – reinforced by changes in organisational culture.

None of this is intended to suggest that formal public institutions and procedures should not be the ultimate goal. But achieving clear distinctions between public and private roles (as advocated by Max Weber) may be a distant prospect in many poor countries, and arrangements that evolve based on informal practices and relations can sometimes offer the best interim solution. At the very least it underlines the importance of looking at what is actually happening in an open-minded way.

Implications for policymakers

This research challenges policymakers – both local reformers and external actors – to think differently about the processes involved in building more effective, accountable public authority. Accountability is not just about formal institutions and contractual relationships. Governance is not a self-contained sector, revolving around the reproduction of institutional models borrowed from OECD countries. Improving governance involves a complex range of state-society relations across the whole spectrum of public action.

This means that policymakers need to be much more alert to the way in which seemingly technical issues – such as tax, or the institutional design of public programmes – can influence opportunities and incentives for different interest groups to organise. The focus of reformers, both internal and external, needs to shift from formal institutions and a preoccupation with a specific policy agenda, towards exploring local incentives for progressive change, and the scope for negotiation around (potential) common interests.

Tax is not just a fiscal issue. The research highlights the critical importance of the tax relationship for governance and the potential role of a fiscal contract in constructing new relations of accountability. This has three major implications for external actors.

They need to assign much greater urgency to action already on the international agenda to restrict access of political elites from developing countries to external military support, and rents from aid and natural resources (including action on money laundering, anti-corruption, controls on arms and diamonds, and measures such as the Extractive Industries Transparency Initiative). They should pay much more attention to tax, and do more to encourage public debate about links between revenue and spending (donors tend to be preoccupied with budgeting and spending, including Poverty Reduction Strategies and mechanisms to support disbursement of financial aid, and to neglect tax). Finally, external actors need to be much more alert to the problems of aid dependency, and to the potential of different aid modalities to weaken domestic accountability.

The relation of civil society to the state, and its role in providing a voice for poor people, need rethinking. Civil society is a highly diverse universe. In designing programmes of support, policymakers need to pay more attention to which groups are getting access, whose interests are being represented and how, and whose voice is being heard. Moreover, the research suggests that the common view of civil society as an autonomous, democratic sphere, standing in opposition to an authoritarian state, is simplistic. The state itself plays a critical role in the constitution of civil society. In turn, the ability to aggregate interests and channel them through representative institutions is an essential ingredient in creating state capacity to respond. Donors, in particular, tend to design separate programmes to strengthen state capacity on the one hand, and to increase demand for change on the other. They should be taking more account of the dynamics between the two, and the way in which state action (or inaction) creates opportunities and incentives for different groups to organise.

The case studies on service delivery suggest that policymakers should not be bound by preconceived models, but should look in an open-minded way at what is actually happening, and build on that. It may be unrealistic to expect many poor countries to put in place effective Weberian institutions at all quickly. So it may be worth paying more attention to the great diversity of arrangements that exist and seem to work because they bring together public and private actors in ways which serve the interests of both, while creating wider public gains. The argument here is not that unorthodox arrangements should necessarily be encouraged, or that a preference for formal public institutions and procedures should not be the ultimate goal. But in poor countries with weak institutions, arrangements that have evolved based on informal practices and relations can sometimes offer the best interim solution.

All this is very challenging for policymakers. For external actors, it implies accepting that their capacity for direct action may be more limited than is often supposed. Understanding the complexity and diversity of informal relationships is difficult, even for local policymakers.

But overall the message is one of optimism. Understanding the underlying causes of bad governance does offer insights into strategies for progress – notably the scope for more negotiated relationships around tax, and action to limit access to external rents. Donors in particular could give higher priority to interventions at a global level which they can influence directly. At a country level, they could look for more indirect ways of supporting an enabling environment for constructive engagement between local state actors and organised groups, by supporting better data collection and dissemination, more local policy analysis, more transparent and institutionalised budget and policy processes, and access to good ideas.

The opportunities to make a difference are there, but are often obscured by limiting options in advance to oversimplified models, or by trying to act on the symptoms of problems rather than address underlying causes. Perhaps the single most important message for policymakers is to think less normatively about what *ought* to be happening and much more politically about what is actually happening, what works and why – and to build on that.

Footnotes

[1] This article was prepared by Sue Unsworth based on research undertaken by the Centre for the Future State at the Institute of Development Studies, University of Sussex. Professor Mick Moore, Institute of Development Studies, directs the Centre and principal managers of the research included Joseph Ayee (CEPRESE), Steven Friedman and Shaun Mackay (CPS), Peter Houtzager and Anuradha Joshi (IDS) and V.K.Natraj (MIDS).

The article highlights findings from a five-year research programme undertaken by the Centre for the Future State. For a more detailed account, see "Signposts to More Effective States: Responding to Governance Challenges in Developing Countries" at www.ids.ac.uk/gdr/cfs.

[2] The UN *Millennium Project Report* (2005) *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals;* www.unmp.forumone.com

[3] See Moore, M. (2004a), "Revenues, state formation, and the quality of governance in developing countries", *International Political Science Review*, vol. 25 no. 3, July, pp.297-319; Moore, M. (2004b), "Taxation and the political agenda, North and South", *Forum for Development Studies*, vol. 31, no. 1, June

[4] See Moore, M. and Jadhav, V. (forthcoming), "The politics and bureaucratics of rural public works: Maharashtra's employment guarantee scheme", *Journal of Development Studies*

[5] See Ananthpur, K. (2004), "Rivalry or synergy: formal and informal local governance in rural India", *IDS Working Paper 226,* Brighton: Institute of Development Studies

[6] Gurza Lavalle, A., Houtzager, P., and Castello, G. (June 2005), "In whose name? Political representation and civil organisations in Brazil", *IDS Working Paper*, Brighton: Institute of Development Studies

[7] *Making Services Work for Poor People: World Development Report 2004*, New York: UNDP

[8] Masud, M. (2002), "Co-producing citizen security: the Citizen-Police Liaison Committee in Karachi", *IDS Working Paper 172*, Brighton: Institute of Development Studies

[9] Joshi, A. and Ayee, J. (2002), "Taxing for the state?: Politics, revenue and the informal sector in Ghana", *IDS Bulletin*, vol. 33, no. 3, Brighton: Institute of Development Studies

[10] Caseley, J. (2003), "Blocked drains and open minds: multiple accountability relationships and improved service delivery performance in an Indian city", *IDS Working Paper, 211,* Brighton: Institute of Development Studies

Governance and Poverty Reduction:

Paths of Connection

● Miguel González Martín[1]

Good governance is crucial to address poverty reduction and strengthening the link demands a balance between state efficiency and accountability. Economic growth, aid efficiency and linking governance with human development will contribute significantly to poverty reduction. This will involve taking account of formal institutions and their underlying power relationships. External actors who promote governance as a means to reduce poverty should be aware of how their actions can affect the political capacities of the poor. They also need to employ a case by case analysis to avoid a normative and formalistic approach.

"Good governance" appears to be the missing link in the road to development and poverty eradication. Furthermore, promoting good governance is part of the deal developing countries have undertaken in the framework of the "global partnership for development" enshrined in the Millennium Declaration and ratified at the Monterey Financing for Development Summit.[2] Currently, the relationship between governance and poverty reduction is practically taken as given. It is so deeply rooted in the discourse of multilateral institutions, bilateral donors and even non-governmental organisations (NGOs) that we need to scrutinise it carefully in order to identify

its rationale, coherence and the evidence supporting it. This task is of great importance, since the way that link is understood is shaping the overseas development assistance (ODA) agenda, including its justification, tools, actors and methodologies.

This article aims to examine critically three ways of making the connection between governance and poverty reduction. First, by way of economic growth; second, through aid efficiency; third, through the link between governance and human development. Each of the three has different underpinning ideas of what governance is, what the role of the state should be, what is most relevant to lifting people out of poverty and what the external supports for that might be.

The emergence of the governance agenda

The statement that governance and institutions matter for development could hardly be challenged today. But that was unclear not so long ago. It is well known that the strategy promoted by the international financial institutions (IFI) during the 1980s and part of the 1990s was based on the central tenet that free markets are the main and foremost tool for growth, development and welfare. Those beliefs were summarised in the so-called Washington Consensus. The idea of getting prices right was at the centre of that strategy. For that to happen, markets need to suffer no distortion that hinders their free operation. State institutions and policies were seen to be part of the problem and the root of all evil, impairing the expansion and proper functioning of markets and therefore policies were adopted to minimise state input.

Within a short time, however, governance has risen to the top of the development agenda. How can this change be explained and what are the factors which prompted it? Two elements help explain the shift: practical and theoretical. In reality, both are intrinsically connected, but for analytical purposes it is useful to separate them. In terms of practical reasons, it is obvious that policies inspired by this consensus did not work and failed to spur growth and poverty reduction in the way they were intended.[3] Rodrik (1999) points out three specific situations that made policymakers rethink the role of governance and institutions:

(i)   the failure of privatisation and price reforms in Russia in the absence of a political, legal and regulatory framework;

(ii) the disappointment with the results produced by market reforms in Latin America; and,

(iii) the Asian financial crisis, that shows how liberalisation before regulation leads to disaster.

Not only did the policies of the consensus fail to bring sustainable economic growth, but in many places they had severe social consequences as a result of neglecting and weakening the institutions that acted as a safety net during the adjustment programmes. Little by little it became clear that the lack of consideration for institutional arrangements was one of the most prominent flaws in economic and development policy design. Mainstream economists took for granted the existence of those institutional requirements without which no market can work. The collision of neoliberal economics with developing countries shed light on, for instance, the relevance of a legal framework that protects property rights and on the need for a judicial system that enforces contracts.

It is now widely recognised that the absence of reflection on institutions and, more specifically, the weakening of the state, was a mistake (Fukuyama, 2004). But there is no agreement when assessing the scope of that mistake. For some, there was a failure in the *implementation* of the "consensus", but nothing wrong *per se* in its content. Fukuyama argues that the problem lies in the confusion of two dimensions of statehood: scope and strength. Whereas consensus policies were intended to reduce the role of the state, they ended up eroding its strength. More adequate measures would have been to limit the scope of the state whilst simultaneously strengthening it. There is no need for a minimum state; development requires an effective state. For others, the problems of the consensus were not only of implementation, but of content too. According to this opinion, state regulation is needed where the market on its own is not able to promote development. Stiglitz (2002) is one of those who think that markets which function well require more than keeping inflation under control. Tax policies, transparency, policies for competitiveness and so on were beyond the scope of the consensus but are nonetheless extremely important for development. Finally, there is another set of critiques that more profoundly challenge the idea of development underlying the consensus, namely, the identification of development with efficiency and economic growth, raising questions about the goals of this consensus; we will get back to this topic later.

At the theoretical level, the influence of neo-institutional economics, and especially the work of Douglass North has been particularly important. This school explains the historical process of market extension as one of institutional improvement. Institutions matter because their level of development determines the costs of exchange. The more developed the institution, the lower the transaction costs and the uncertainty. The idea of a regulatory state, acting as an arbitrator of the rules of the market stems from this perspective. However, nothing about political regimes can be derived from this theory[4] as we are in the area of bureaucratic and administrative effectiveness.

Another theoretical contribution that has helped raise the question of institutions and political arrangements is the human development paradigm, nurtured by the work of Amartya Sen, who argues that "individuals live and operate in a world of institutions. Our opportunities and prospects depend crucially on which institutions exist and how they function. Not only do institutions contribute to our freedoms, their roles can be sensibly evaluated in the light of their contributions to our freedom. To see development as freedom provides a perspective in which institutional assessment can systematically occur."[5] Sen contends that democratic rights and participation are part of the very definition of development. Therefore, the mission of the state is not simply to provide a hot-bed for the market, as state institutions are responsible for the fulfilment of citizens' rights and for providing basic services. While neo-institutionalism stresses the "effective state", the human development approach underscores the "accountable state" which is subject to citizens' demands, some of which are articulated as rights.

In short, after two decades of neglect, the state is once again receiving attention as an important actor in development. Nevertheless, this return to the scene does not mean that it again occupies centre-stage. This is by no means the resurrection of the developmental state of the 1950s and '60s. The state has to share its prominence with two other key actors: market and civil society. It is precisely in this context of rethinking the role of the state that the term governance enters the debate. It had been employed in different areas of social and political sciences, especially in a Western context, to refer to the various dimensions of state crisis: the crisis of the welfare state; the blurring of limits between public and private; the incapacity of the state in the face of emerging global and local powers, etc. (Graña, 2005). Hence, governance is used to mean horizontal and participatory modalities in management, as opposed to the centralised and interventionist state. According to this vision, several actors (private sector, experts, civil society) take part in decision-making, along with public officials, to tackle a range of problems of growing complexity and interconnectedness.

It is probably this mixed array of theoretical and practical sources that makes the term governance so difficult to grasp.[6] In spite of some good definitions and research highlighting its relevance for development,[7] we cannot avoid the strong impression of being dealt another buzzword in development jargon with different actors investing the term with different meanings. As Cornwall and Brock (2005) have pointed out, particular combinations of buzzwords appear linked together in development policies. As a result of this phenomenon, the meaning of the terms relies heavily on the words accompanying it, the connection amongst them and on who is voicing them. The case of governance is a clear example. Configuring governance along with participation, democracy and rights evokes a completely different set of meanings compared to talking about governance and property rights, or governance and corruption. Similarly, governance sounds different – and legitimises different practices – in the reports of the World Bank, the UNDP, bilateral donors or NGOs.

Therefore, when governance and poverty reduction come together it is necessary to examine the other words and ideas forming the link between them. How are the connections between both terms made? The following sections give an account of three ways of connecting governance and poverty reduction: 1. economic growth; 2. effectiveness of aid; and 3. human development. A number of other ways could be found such as concern over security and failed states which would certainly be relevant, but due to constraints this article focuses on poverty reduction specifically.

1. Governance and economic growth

Over the last few years, empirical research intended to show the correlation between quality of governance and economic performance in terms of growth has proliferated. "Good governance spurs economic growth that consequently reduces poverty", could be a simple formulation of the idea. These studies have demonstrated that the higher a country ranks in governance indicators, the higher is its growth ratio or per capita income. However, showing this correlation says nothing about its direction of causality. It can be argued that governance is the

factor explaining this economic performance, or that a better economic record produces better institutions. One could even find a third factor conspiring in favour of a positive relationship between them.

World Bank Institute researchers, especially Kaufmann and Kraay, have devoted much energy to understanding the causal relationship between governance and economic growth. In their last revision of governance indicators (Kaufmann, Kraay and Mastruzzi, 2005) – for more that 209 countries and based on 352 variables with 32 sources – they maintain the existence of a clear development dividend of good governance. They have devised a figure for that dividend: a positive deviation of one point in a given governance indicator produces an increase in per capita income in the long run.

World Bank researchers are not the only ones sustaining the thesis of a positive causal relationship. Although it is not within the scope of this article to develop their ideas, among the most relevant studies are those by knowledgeable economists such as Rodrik (1999) and Acemoglu et al. (2004).[8]

Some other prominent researchers have challenged the approach of "governance first" to development, pointing out there is an actual relationship, but its causal arrow runs the other way around. That is, it is good economic performance which leads to better governance. Chang is probably one of the best known proponents of this and through an historical analysis he tries to dismantle the hegemonic discourse of institutional development.[9] His conclusions are important, not only theoretically but for their policy implications. Chang argues that: (i) today's developed countries were less institutionally advanced when they were at the same stage as today's developing countries; (ii) in spite of this, developed countries have grown faster during the last two decades than developing countries – a period where institutions in these countries have improved substantially; hence, (iii) it took a long time for developed countries to set up a proper set of institutions. Requiring developing countries to create western style institutions in a very short time is thus unrealistic.

Sachs also opposes the idea of governance preceding economic growth. That is implicit when he argues that comparing the performance in governance of African countries with other regions or countries is unfair unless a discount is applied to compensate for low African income (Sachs, 2004, p.120). Once this is taken into account, the quality of governance in Africa and other developing countries tends to be similar.

As well as refuting the direction of causality in the relationship between governance and economic growth, it is worth considering at least another two critiques of this theoretical approach.

First, such a theoretical position takes for granted the automatic translation of economic growth into poverty reduction. In a well known piece of research, *Growth is Good for the Poor,* Dollar and Kraay (2000) gather evidence on the benefit economic growth brings for the poor. Based on a sample of 80 countries over four decades, the study shows how the income of the poor increases at the same pace as general growth: one point for one point. In the official discourse it is generally accepted that growth is good for the poor. In fact, growth is currently regarded as the most effective way of pulling people out of poverty and use of the expression "pro-poor growth" is now widespread, although its meaning is disputed. For some, "pro-poorness" will be a feature of growth, provided the poor benefit from it (Dollar and Kraay, 2000). Others point out that growth will be pro-poor only if it benefits poor more than non-poor people. Nonetheless, other researchers (see Dagdeviren, Hoeven and Weeks, 2002) reject the notion that in its own right growth is good for the poor. According to their data, poverty reduction is better explained when growth comes with progressive changes in income distribution. In the absence of equitable distribution, growth will be more effective in reducing poverty where initial inequality is lower. Therefore, a regressive change in distribution of income can offset the positive effects of growth in poverty reduction and reduce the impact of future growth on poverty. Growth alone does not suffice and following the thread of redistribution must lead us to considerations on tax policies: Who makes those policies, whose interests are protected, and so on.

The second additional critique is the underlying idea of poverty that fits into the rationale of this section: income poverty. Whereas nobody will challenge the relevance of income as one of the components of poverty, it has to be put into perspective in relation to the increasing awareness of the multidimensionality of poverty. Income, Sen argues, plays a fundamental role in the access by individuals to different opportunities and capabilities. But the relationship between income and freedoms and achievements is not constant nor automatic. Several other factors contribute to systematically alter the conversion of increased income into pro-poor change (Sen, 1999b, p.139). Institutions, of course, are among those factors.

There are a number of important policy implications of this approach to governance and poverty reduction. On the one hand, governance interventions will be focused mainly on economic institutions. There will be an attempt to emulate institutions that have worked well in western countries, in the hope that they will spur economic growth. One of the features of these institutions is their independence from politicians. Accordingly, there is a clear risk of a one-size-fits-all approach to institutional development, regardless of the historical, cultural and political background of the country. Aid will be dedicated to improve government financial management through technical assistance. The government will be incentivised through the mechanism of conditionality. This is a market oriented and technocratic governance model, inspired by the idea of reduced but effective market-friendly state institutions.

2. Governance and aid effectiveness

The late 1990s witnessed strong criticism of the usefulness and efficacy of ODA as after four decades of aid, slim results had been achieved between aid on the one hand and growth and poverty reduction on the other. Concerns around aid fatigue prompted a reaction in the form of research addressed to assess aid effectiveness and under which conditions it could be increased (World Bank, 1998). The approach of these studies has sought to show, on the one hand, the connection between aid and economic growth and, on the other, how that link becomes more robust when recipient countries enjoy an adequate level of institutional quality. Currently this debate is on the rise, since ODA flows are expected to scale up in the coming years as result of MDG commitment.

To a great extent, the analysis applied to the second section could be considered as a variant of the previous one, for both share the common link of economic growth. In essence, foreign aid is regarded as any other foreign investment. Hence, the factors taken into account when investing resources (risks, returns, etc.) will have weight in the decisions about aid allocation. According to the *World Development Report 2005* dedicated to Investment Climate, governance quality is among the most relevant factors contributing to an improved investment climate in a country (World Bank, 2005).

The literature on aid and economic growth has reached three different conclusions. For some researchers, aid always generates economic growth, regardless of recipient countries' features, yet conversely, others do not find any positive impact of aid on growth, pointing out that aid could even be harmful. Finally, a third position maintains that the effect of aid on growth depends heavily on recipient countries' characteristics, especially those with reference to governance and today this is the most popular among multilateral and bilateral donors.

Burnside and Dollar (2000) carried out the most influential research supporting the third conclusion. As suggested, the main contention is that aid is effective, but in a conditional way as it depends on domestic variables. Further research has tried to find the relationship between aid effectiveness and political stability or aid effectiveness and democracy. The major finding of Burnside and Dollar is that political instability hampers aid effectiveness. Instability (measured against regime changes and coups d'état) also has a direct impact on growth, but this effect is not as strong as aid effectiveness. As far as democracy is concerned, Svensson (1999) argues that democratic institutions implement checks and controls on the government, making it harder for them to waste foreign aid. Measuring democracy with the indicators of *Freedom House* (civil and political rights), he concludes that democracy makes it easier for aid to have a positive impact on growth. However, he does not find such a sound direct connection between democracy and growth.

Alongside the macroeconomic approach outlined so far, a microeconomic approach can help to highlight the importance of institutional quality as a factor contributing decisively to the success of development projects (Dollar and Levin, 2005). These researchers find there is a positive relationship and refer, for example, to projects in China which have worked well regardless of the sector, while most projects failed in Sub-Saharan Africa on grounds of poor governance.

Finally, several researchers point to the issue of absorptive capacity of aid in recipient countries as another important factor in governance. This is especially important when it is foreseeable that ODA levels will soon increase so much. There is no doubt that the absorptive capacity of aid has to do with governance and institutional capacity. This analysis has tabled the idea of an aid "saturation point". That is, at some point between 15% and 40% of GDP, aid returns become negative (de Renzio, 2005). At this threshold aid dependence erodes governance quality, as a recipient government is held accountable more by foreign agencies than by its own citizens. At the same time, aid dependence encourages corruption and can unleash the fight for control of resources. It can also produce "brain-draining" from

state institutions to the "aid industry". Knack (2000) observes that whereas the impact of aid on growth depends on the institutional gap, the latter widens in line with rising aid levels.

However, a subsequent study by Ear (2002) reaches the opposite conclusion: governance improved where more aid as a percentage of GDP had flowed. As in the first section, the arrow of causality is also challenged here.

In terms of policy implications, the reflections on aid effectiveness and governance have given rise to the selectivity approach to aid allocations. According to this, only poor and well-governed countries are suitable for receiving aid.[10] Of course, there are various levels of selectivity. Performance on governance is not only used to determine if a country is included or excluded from aid, it also can shape the instruments, tools, agents, duration and other modalities of aid. Nevertheless, this also gives rise to some questions. First, if as Ear's research shows, aid helps improve governance, excluding poorly governed countries does not seem to be the best way of proceeding. Second, it is no easy task to design criteria and apply them with consistency across different countries. Kaufmann and Kraay (2002), referring to the US Government Millennium Challenge Account, have warned about the risk of using indicators that suffer from a significant margin of error. Third, selectivity leaves unanswered the question about poor countries with bad governance. In these cases, donors tend to bypass governments, providing assistance to populations through NGOs or promoting an independent service authority[11] that in turn might happen to further erode the institutional capacity. Therefore, this can only be a temporary solution.

3. Governance and human development

The area of human development presents a completely different range of meanings about governance and poverty reduction. Through this section, governance will be accompanied by words such as democracy, rights and participation. In fact, governance is usually characterised as democratic. A good point of departure in our reflection is to recall the three dimensions that, according to Sen, democratic institutions and political rights have in relationship to human development. First, there is an *intrinsic value* of democratic governance for human development, because of the intrinsic value social and political participation have for human wellbeing. People not allowed to participate suffer from poverty. Second, there is an *instrumental value* in democratic

governance. It allows citizens to voice their demands before decision-makers, so that the latter can provide a consistent response to the former's needs. Third, democratic governance also presents a *constructive value* by which citizens engage in an open debate about the definition of social needs and priorities. Democratic governance not only favours a response to social needs, but is indispensable to conceptualising and defining them.

In this article there is no scope to develop further intrinsic or constructive values but this paper will focus on the instrumental value of democratic governance, since it represents another popular way of linking governance and poverty reduction. The main thesis can be formulated in either a positive or a negative way. The positive way argues that democratic governance makes institutions responsive to poor people's needs. The negative formulation states that lack of democratic governance hurts the poor especially. More sophisticated statements with this underlying idea can easily be found in multilateral and bilateral donors' documents and reports. This article indicates in more detail how damaging poor governance is and how democratic governance is healthy for poor people.

Addressing the topic of failures in accountability, Goetz and Jenkins (2005) point out four ways that poor governance exacerbates the deprivations of the excluded. First, it weakens their ability to benefit from markets and achieve sustainable livelihoods. Second, it aggravates the institutional obstacles that hamper full access to services such as health and education that enhance their capabilities. Third, poor governance obstructs access to adequate accommodation. Finally, it threatens the physical safety of poor people as they are easy prey for both criminals and the police and never receive redress since access to justice is also often denied. Moreover, when poor people come up against the wall of institutions, it reinforces their sense of inferiority and limits their ability for collective organisation.

There are, at least, three commonly used arguments to show how democratic governance can help reverse these trends. Firstly, it allows poor people to express their needs and organise themselves politically to defend their interests. In other words, it gives them a voice. Secondly, and related to this, one of the main features of democratic governance is that those in power can be held accountable. Accountability mechanisms allow people to withdraw their support for politicians who do not meet the demands of the people. Given that poor people are usually the majority of the population in developing countries, they are in

the position to take full advantage of democracy. Their demands, needs and priorities will inform policymaking, ensuring policies are more "pro-poor". For their interests, as UNDP (1997) puts it the voices of the poor must be heard in the corridors of power.

Despite these general principles, democratic governance does not have an automatic effect on poverty reduction. The mere existence of democratic institutions does not improve the lives of the poor (UNDP, 2002). This is a voluntaristic approach that does not take into account the phenomenon of *institutional capture* and *internalised bias* in institutions. The former describes the process by which powerful groups take control of institutions in order to benefit from their policies. They develop undue influence on such institutions – not always unlawful – so that instead of serving the general interest, they are placed at the service of a particular minority group, be they domestic elites or international corporations with excessive influence on the orientation of laws, policies and regulations. If institutional capture is not easy to deal with, *internalised bias* is an even more deeply rooted factor, since it is not seen as pathological but is normalised. For example, there is a bias when basic services provided by state institutions do not reach the rural poor and instead focus on urban middle classes. There is also gender bias when justice systems do not value women's testimony equally with men's and there is an ethnic bias when indigenous languages are not permitted for communication between citizens and the administration.

These questions lead to what is probably the core issue of governance problems: power distribution in societies. The social distribution of power is reflected in formal institutions. Voice and accountability mechanisms and institutions cannot shift the balance of power on their own. An exclusive focus on those mechanisms might lead us to forget about the unequal and asymmetric power relationships within a society. That underlying reality may well erode all the efforts devoted to improve democratic institutions.

There are similar considerations with the third argument which makes the case for political decentralisation on the grounds that proximity to citizens favours participation, accountability and more adequate service provision through better detection of needs. Decentralisation appears to be immediately pro-poor. Nevertheless, several case studies underscore the idea that decentralisation sometimes enhances the power of local elites which manage to capture local institutions.[12] The pro-poorness of local institutions, it is argued, will increase where there are

pro-poor political groups at national level offering external support to local groups who face those elites.

Although at policy level, the human development approach to governance tends to focus on formal institutions such as parliamentary and electoral programmes, access to justice initiatives and the capacity building of local authorities, it has helped raise the question of political power as a core issue of governance. In fact, it has opened the space for such concepts as citizenship, rights and empowerment. Through them, the governance agenda is moving from a technocratic towards a political approach to development and poverty reduction. But such a transition is not without its opponents and critics. The controversy over the meaning of concepts and the scope they adopt also impacts on participation, rights and empowerment.[13] Ultimately, an often neglected dimension of poverty is its origin (Oyen, 2005) and the groups and political processes involved in its creation have much to do with the "rules of the game".

Moving forward: governance and political actors

The previous sections have pointed out how the discourse and strategies with regard to governance and poverty reduction have points of convergence and divergence. Some stress the need for both effective and accountable state institutions, others emphasise economic growth as a starting point. Underlying each, there is a different perspective on the role of the state, markets and civil society, resting on diverse understandings of development.

Whilst in the first perspective there is little direct conceptualisation of the impact of governance on the poor, the latter perspectives both deal with the state institutions' effectiveness and accountability and are of great relevance for the poor. For some authors (Centre for the Future State, 2005), the critical point is how to strike a balance between efficiency and accountability. Historically, they argue, this balance has been achieved through a process of interaction and negotiation in society. Negotiation between state power holders and other organised groups.

At the heart of this reflection there is the view that building an efficient and accountable state takes more than transferring technocratically formal institutions, be they financial or political. Institutional designs alone cannot produce pro-poor policies but

institutional arrangements are, of course, relevant. The existence or absence of a legal rights framework matters. The electoral system matters. The party system matters. The very existence of a legitimate state acts as a precondition for the political organisation of the poor, otherwise from whom do you demand your rights? But saying that is far from accepting that there is a pre-existing (western) institutional design that works everywhere. Interventions on governance for poverty reduction should be based on a very good knowledge of the cases, and not on previous normative recipes. Basically, institutional reform has to do with the political actors who use institutions and take advantage of them.

Therefore, any strategy on governance and poverty reduction should address two key issues. First, under which conditions of incentives, interests and institutional arrangements will those in control of state power engage in such processes with other social groups, especially the poor? Second, how could the political capacities of the poor be enhanced to enable them take advantage of the opportunities for participation that democratic governance offers?

Notwithstanding the enormous complexity of each question, and accepting that every situation is unique for historical, cultural and political reasons, there are some general points to take into account when working in governance and poverty reduction.

Firstly, what prevents powerful social groups from engaging with excluded groups? We have said that democratic institutions do not on their own always push through pro-poor reforms. One reason for this is the existence (or absence) of certain global governance regimes that permit elites to find external support (Moore, 2002). The following reflect some examples of that support. They can easily transfer their savings abroad, wealth which may have been generated from exploitation of the poor. They can trade domestic natural resources and can be bribed by transnational corporations, evading the obligation to report such payments to public officials. They may benefit from policies imposed by IFIs or international trade bodies or can blame those bodies for the policies they adopt. Certain modalities of aid can even contribute to this problem. The point here is that, unlike the usual discourse on governance and poverty reduction – which locates the problems exclusively at the domestic levels – one needs to be aware of the global connections of governance shortcomings, and its relationship to global governance issues.

The second point is how the political capacities of the poor need to grow stronger. They have to compete and negotiate with wealthy and elite groups so they need to be well equipped for this purpose. Political capacities of the poor refer to institutional and organisational resources, including collective ideas, available for effective political action (Whitehead and Gray-Molina, in Moore and Houtzager, 2003). By way of political action they are able to put poverty issues onto the country's agenda. A very relevant dimension of poverty is the lack of resources for getting involved in politics, such as time, money, education, ideas, connections, etc. The two are, according to the aforementioned authors, the most crucial political capacities for the poor. An autonomous organisation, with the ability to table its own political initiatives – meaning that it is ideologically independent from definitions and proposals made by others – needs coalition building capacity with other groups in order to promote pro-poor policies.[14]

What are the policy implications arising from these questions?

The emergence of efficient and accountable states is to a great extent an endogenous process. Therefore, it is first of all very important to be aware of the limitations of external interventions (Unsworth, 2005), be they in the form of institutional transferring or incentivising institutional reform through aid.

Having said that, we cannot forget that "bad" or "poor" governance has causes as well as consequences. A careful analysis is required to find out which connections can be made between poor domestic governance and poor global governance. All the incentives established through aid towards good governance might be offset by the existence of access to rents by the elites permitted by shortcomings in global governance arrangements.

Another consequence of the endogenous nature of those processes is the fact of institutional pluralism as opposed to a one-size-fits-all approach to institutional design. Institutions emerge, take shape and are reformed as a result of political and social processes of bargaining and competition among social groups.

The way aid is delivered (instruments, actors, etc.) may well have an impact on governance. There is a need for specific assessments of how governance might be affected by different aid amounts and instruments. Aid can be given in ways that enhance the capacity of poor people to organise and identify common interests. Whilst NGOs do much good work in strengthening the political capacities of the poor, too often well-meaning interventions hinder the emergence of collective political actors.[15] The identification of relevant processes and actors for change and the brokering of coalitions among supporters of pro-poor reforms should be an important item when considering an intervention on governance.

Conclusion

This article has analysed how governance has become a central issue when addressing poverty reduction, through the most popular connections that link both governance and poverty. The first two connections – spurring economic growth and improving aid efficiency – to a great extent share the idea of governance as something related mainly to state efficiency. The third, governance and human development, stresses the need for state accountability to poor people, and paves the way for a more political understanding of governance and poverty issues.

This article argues that moving forward an agenda that strengthens the link between governance and poverty reduction requires a balance between state efficiency and accountability. Such a balance is achieved through interaction among different social groups. This means the focus should be not only on formal institutions but take into account underlying power relationships, since democratic institutions by themselves do not necessarily achieve benefits for the poor. Institutional design certainly matters, but what is needed is fresh attention to who uses these institutions and how, i.e. political actors.

As a result, external actors, especially those promoting aid focused on improving poverty reduction through governance interventions, should take into account how these interventions affect the political capacities of the poor, state capacity and the incentives of powerful groups to engage in negotiation processes with poor people's groups. This requires a contextualised and case-by-case analysis to avoid normative and formalistic approaches to the issue.

Footnotes

1 The author expresses his gratitude to Ben Ramsden who revised and corrected the text.

2 See paragraphs 4 and 11 of the final document, A/CONF.198/11.

3 See SAPRIN (2002)

4 For instance, the *World Development Report 1997* addresses the issue of the state and development. No position is taken about the desirability of democracy, since no clear link is found between democracy and development outcomes. Only four years later, the *World Development Report 2000/01* declares that democracy is intrinsically valuable for human wellbeing, and a good in its own right.

5 Sen (1999b), p.142

6 A careful look at all the development issues clustered under the heading of governance reveals a number of reform proposals in a tremendously heterogeneous range of areas. Indeed, the governance agenda has been constantly growing, becoming amorphous and without clear limits. Judiciary reforms, citizen participation, anti-corruption measures, empowerment, bureaucratic effectiveness, private property protection legislation, accountability, dialogue with private sector, citizens' rights…everything is governance.

7 Recommended is Hyden et. al. (2004), *Making Sense of Governance*. Its definition of governance is "the formation and stewardship of the rules that regulate the public realm. The space where state as well as economic and societal actors interact to make decisions" (p.16).

8 See Rigobon and Rodrik (2004) and Acemoglu, Johnson and Robinson (2004). Instead of using aggregate indicators for governance, other research disaggregates them, and looks for the positive relationship between economic growth and a particular indicator. This is the case with Evans and Rauch (1999) and Keefer (2004).

9 See Chang (2002).

10 The US Government's Millennium Challenge Account applies the selectivity approach based, among others, on governance indicators; see Radelet (2005). IDA's Country Policy and Institutional Assessment, while not exactly adopting selectivity (it is a performance-based allocation system), takes governance as the more prominent factor to explain aid allocations.

11 This is the case with the World Bank for countries classified as LICUS: Low Income Countries Under Stress.

12 For example, Osmani (2000) and Crook and Sverrisson in Moore and Houtzager (2003)

13 The case of PRSP (Poverty Reduction Strategy Papers) illustrates this point. While in some countries the PRSP process has helped raise the profile of poverty on the domestic political agenda, there are serious doubts about who shapes that poverty agenda. In some cases urban and international NGOs are reported to have acted as representatives of the interests of the poor but others show how the participatory process bypasses domestic political institutions (e.g. parliament), apparently contributing to their further weakening. See Stewart and Wang (2003), Booth (2003) and Alsop (2004).

14 It is interesting to see how this coalition building ability of the poor is sometimes conceptualised as "bridging social capital" (see Narayan, 1999). However, the social capital discourse has been criticised on the grounds of depoliticising development (Harris, 2001).

15 For instance, when NGOs replace the state's role in service provision, it may be difficult to use the category of "rights" to mobilise people. In fact, NGOs are not responsible for achieving rights and good service delivery by an NGO may even increase the credibility of a government.

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The Discourse of Good Governance in Development Cooperation Ireland:[1]

From Constructive Ambiguity to Written Policy

● Morina O'Neill

It is important to analyse donors' discourse on good governance, as their interpretation effects development policy and practice. The author looks at World Bank discourse on governance and its influences on development aid and examines Development Cooperation Ireland's (DCI's) discourse, in light of its forthcoming policy on governance.
The absence of a written policy allows some ambiguity. DCI's commitment to tackling poverty, inequality and exclusion, and the issue of accountability to the Irish taxpayer in the context of debates on corruption are significant factors.

Introduction

Since its emergence in the new policy agenda of donors after the end of the Cold War, "good governance" has been increasingly

used as a condition of development aid. This use of governance has prompted analysis of different interpretations of the term because, as Kirby points out, "different understandings… motivate different practices of development" (Kirby, 1997: 3). For example, the idea of good governance is held up by some as a transformative concept that can facilitate poverty eradication. Kofi Annan has stated that "Good governance and sustainable development are indivisible…Good governance will give every citizen, young or old, man or woman, a real and lasting stake in the future of his or her societies – politically, economically, and socially".[2] As a dominant theme in development aid, however, it is often used by donors in a narrow, technocratic sense, with an emphasis on the facilitation of economic growth. The World Bank's view of governance, for example, prioritises "sound economic management" (World Bank, 1998). This article examines DCI's discourse on governance to date, and explores some of the factors that may influence DCI's policy elaboration on governance in recipient countries, particularly its commitment to tackling poverty, inequality and exclusion, the influence of the dominant actors in development aid and the issue of accountability to the Irish taxpayer vis-à-vis the debate on corruption.

Why is it important to attend to discourse?

Development discourse plays a powerful role in framing and constructing the relationship between aid donors and recipients in development cooperation.[3] Although aid by its very definition is a manifestation of inequality (Robb, 2004), there is a widely held view that aid interventions are addressing this inequality. These interventions are "so characterised by rhetoric and persuasion [that a] critical awareness of ideological processes in discourse is essential" (Porter, 1995: 63), especially given the sense of "self-evident-ness and normalisation of the development rhetoric" (Crush, 1995) generally present in the discourse of aid donors.

Apthorpe and Gasper (1996) define discourse as an ensemble of ideas, concepts and categories through which meaning is given to phenomena: they act as an intellectual framework. In linguistics, discourse relates to the stretch of language rather than simply the sentence, and draws out what has been connoted in what has been denoted. Apthorpe and Gasper point out that a combination of these two components results in an "extended

discourse within a particular framework". In this sense, discourse is not just a set of words, it is "a set of rules about what you can and cannot say and about what you can and cannot discuss". Issues of power are central to any analysis of development aid (Escobar, 1995). A critical approach is useful here. This differs from non-critical approaches: it involves "not just descriptive discursive practices, but also showing how the discursive is shaped by relations of power and ideologies and the constructive effects discourse has upon social identities, social relations and systems of knowledge and belief…" (Fairclough, 1992: 13). A critical analysis of the discourse of aid donors can, by interrogating the dominant language and concepts used in this "ideological and political battlefield" (Moore, 1995: 7), reveal how this discourse can both mask and sustain the underlying power relations in the aid relationship.

A framework for analysis

To provide a framework to examine good governance in development discourse, I have built upon a distinction highlighted by Crawford (2001) between a narrow and a broad interpretation of the term. The narrow interpretation emphasises effective public administration management and institutional development, with associated measures to strengthen the capacity and efficiency of executive institutions. The broader interpretation includes this narrow dimension – as Leftwich asks: "Who could possibly be against good governance in its limited administrative sense?" (Leftwich, 2000: 123). But it is also openly political and normative, focussing on the importance of the democratic accountability of a country's governing institutions to its citizens, and the realisation of human rights and social values. While the first interpretation is possible without a democratic regime, there is clear overlap between the broader interpretation of good governance and democracy itself (Crawford, 2001).

World Bank's role in shaping discourse on good governance

The emergence of World Bank discourse on good governance can be traced back to its 1989 report *Sub-Saharan Africa: From*

Crisis to Sustainable Growth which stated that what was needed was "not just less government but better government – government that concentrates its efforts less on direct interventions and more on enabling others to be productive" (World Bank, 1989: 5). According to Abrahamsen, the World Bank's discourse on good governance started here as a rejection of the development models of the recent past. Africa's development failure was blamed upon "a fundamental flaw in the prevailing development paradigm" (World Bank, 1989), and the new good governance discourse served to dissociate the World Bank from these development failures (Abrahamsen, 2000). According to Leftwich, a "veritable torrent of pronouncements on governance, democracy and development" followed from a number of sources, including the OECD (1989); the Nordic Minister of Development (1990); the US, British and French governments (1990); *Africa Confidential* (1990); the EC Commission (1991) and the UNDP (1991), (UNDP, 2000: 116). As a dominant force in the framing, of development discourse the World Bank has been a driver in using the concept of governance in development aid since that 1989 report.[4] The influence of the World Bank has increased as donor harmonization and alignment become the norm in aid delivery. Donors take the lead of the World Bank and the International Monetary Fund (IMF) in the Poverty Reduction Strategy Papers (PRSPs). The World Bank is seen as a repository of development and finance expertise, although donors are also aware that it "is an exceptionally powerful institution, which has in the past been accused of dominating borrowing countries and, at times, of ignoring wider donor views" (Ireland Aid Review Committee: 2002: 98).

Governance as a conditionality in development aid

The World Bank has replaced the highly interventionist Structural Adjustment Programmes (SAPs), or as it refers to them "the now-retired adjustment lending with a policy based lending approach". This World Bank report, *Review of World Bank Conditionality*, states that in relation to governance "in recent years, the content of conditionality has strongly emphasized improvements in public sector governance [which] now account for the largest share of conditionality" (World Bank,

2005: 11, 39). Aggregate governance indicators, covering more than 200 countries and based on more than 350 variables, are captured in the Bank's six dimensions of governance (see Table 1). Aid donors have tended to "define governance as both politically and culturally neutral, as calling simply for the efficient and optimal management of a nation's resources and not prescribing a particular system of rule" (Abrahamsen, 2000: 11), and largely present interventions in this area as simply technical in nature. However, once governance is used as a conditionality in development aid to this degree, donors' involvement in domestic affairs at the highest level is inevitable, as demonstrated by the range and nature of the indicators used by the World Bank. What is significant about these indicators is their narrow focus on the facilitation of economic growth, leading to criticism that the World Bank is concerned "with the effectiveness of the state rather than the equity of the economic system and the legitimacy of the power structure" (Santiso, 2002).

Table 1: World Bank's six Clusters of Governance

Cluster	*Specific indicators*
1. Voice and accountability	Measuring political, civil and human rights
2. Political instability and violence	Measuring the likelihood of violent threats to, or changes in, government, including terrorism
3. Government effectiveness	Measuring the competence of the bureaucracy and the quality of public service delivery
4. Regulatory quality	Measuring the incidence of market-unfriendly policies
5. Rule of law	Measuring the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence
6. Control of corruption	Measuring the exercise of public power for private gain, including both petty and grand corruption

World Bank (2005)

A neutral economic agenda in relation to governance?

Although use of the narrow interpretation of governance by donors and the World Bank in particular is presented as neutral and non-political in its nature,[5] I would argue that in practice it is highly political in its impacts. While the broader interpretation of governance emphasises the importance of a downward accountability[6] to the citizens of recipient countries in aid, the narrow interpretation, such as is characterised in the World Bank's policy based lending approach, privileges the requirements of the aid donor. It focuses more on governance as a tool for upward accountability to donors and taxpayers in developed countries, as well facilitating its economic policies which effect the lives of millions of people in recipient countries on a daily basis. The direction of accountability in development aid has significant implications for governance: there is a clear tension between the nature of emerging democracies on the one hand, and the need to instantaneously "obey the dictates of international organizations" on the other (Stiglitz, 2003: 117). It must be asked which of these is of greater concern to aid donors in their approach to governance in development aid.

A selectivity strategy to achieve governance

The World Bank's growing usage of a selectivity strategy in development financing (World Bank, 2001) is significant in relation to governance (see Table 2). This strategy picks development winners and grants aid as a reward to countries with a proven record. This differs inherently to a capacity building approach: a focus on a state's weak governance capacity allows for the use of aid to strengthen governance systems, whereas the selectivity strategy may in fact deny aid based on the very reality of weak governance. As Hout points out, the "poor countries that would need enhancement of their governing capacity may be exactly the ones that are punished by the application of an *ex ante* governance criteria…the governance criterion in development assistance policies may thus easily turn out to be its own worst enemy" (Hout, 2002).

Table 2: Possible donor strategies to achieve improvements in governance

Persuasion strategy	Donors can use their formal and informal contacts with recipient countries to persuade them to improve their governance.
Capacity building strategy	Donors might channel some of the aid into projects whose objective is to build up the capacity for good governance within a country.
Conditionality strategy	Donors could impose conditions on the aid that countries receive to the effect that they reform their policies and succumb to specified criteria.
Selectivity strategy	Donors can try to allocate non-conditional aid as rewards to countries with a proven record of good governance, and to punish those with bad governance.

Source: Neumayer (2003)

DCI and good governance

DCI's current lack of a written policy on governance is noteworthy given that the concept has been in general use in development discourse and practice for over 15 years, and that DCI itself has been using the concept for much of this time. In practice, Ireland is a member of a number of donor coordination groups working specifically on the issue of governance[7] and there is a governance team within its staff in Ethiopia,[8] and a number of governance advisors in other programme countries. Governance is a key issue in donor harmonization groups, in PRSPs, and in multi-donor arrangements for general budget support, an aid modality in which Ireland is becoming increasingly engaged.[9]

The fact that DCI has no written policy nor articulated common understanding of good governance has allowed flexibility and ambiguity to prevail in its use of the concept. In analysing a number of DCI's Annual Reports, Country Strategy Plans (CSPs), website text and some newspaper articles in relation to governance, it becomes clear that the term is used in a number of different ways, in different contexts, for different purposes. Building on Crawford's framework of broad and narrow interpretations, along with Neumayer's distinction between donor strategies, I have evaluated the emphasis given to

the narrow and broad interpretations, and the key factors shaping those interpretations.

DCI Annual Reports (1993–2004)[10]

The 1993 Annual Report shows the origins of governance related funding as being "in line with EC policy[11] (p.18), resulting from an EU resolution which included the concept of good governance.[12] DCI's own "recognition of the importance attached to the promotion of good governance and participatory development" (1994), however, was grounded in a broad interpretation, allied with the concepts of human rights and democracy. It continued to be associated with these concepts, and in 1997 under the heading of good governance, Liz O'Donnell, then Minister for Overseas Aid, stated that "productive economic activity cannot flourish in an atmosphere of oppression.… In recognition of the importance of politics in the development process, a concern about democratic principles permeates all Irish Aid's actions",[13] thus linking the importance of economic growth to a broad, political interpretation of development generally and governance specifically.

In 1998, DCI's "growing awareness of the essential need for good governance as a pre-requisite for real development",[14] was demonstrated by a study which showed that 15% of priority country expenditure was allocated to support participatory development and good governance. Over the next two years, discourse points to the emergence of a capacity building approach to conditionality with partner countries: "Building good governance capacity in poor countries is central to their development"[15] and issues relating to human rights, democracy and governance "now form a key element of the policy dialogue process which is undertaken with partner countries".[16]

The 2001 and 2002 Annual Reports state that public concern about accountability and corruption are addressed through DCI's work on good governance in programme countries. The 2001 Report does state that while "Doubts about the effectiveness of aid also helped give credence to the view that aid should bypass governments in poorly performing countries.…[this view] fails to address the vital question of how dysfunctional governments in poor countries can be reformed and transformed into developmental rather than anti-developmental forces",[17] supporting a capacity building approach. However, concern with corruption seems to be the driver in this 2002 statement:

Corruption can pose problems anywhere…. In addition to implementing a range of financial controls and other safeguards, Development Cooperation Ireland, in line with international best practice, funds a range of programmes to promote good governance in developing countries. Governance relates to the way in which power is exercised in the management of a country's economic and social resources for development. In particular, programmes promote respect for human rights and for the rule of law; political openness and participation; accountability and transparency, and administrative capacity and efficiency.[18]

This latter interpretation mixes both a narrow and broad definition of governance, using the World Bank's narrower interpretation in relation to corruption. In 2003, the Report states: "To many developing countries, General Budget Support is the preferred aid modality.… However, donors must have confidence that a basic level of governance, public administration and accountability exists *before* they can channel aid in this way"[19] (emphasis not in original). This indicates potential use of a selectivity strategy in the context of the risks inherent to general budget support, and that the perceived need for upward accountability to donor publics is increasingly influencing DCI's presentation of governance issues.

Good governance on the DCI website

Although DCI's website generally lacks policy information, there is a section on governance. In this text, DCI again draws on the World Bank interpretation of good governance and associates it with "strategies for pursuing accountability reforms and improving institutional capacity" indicating a narrow, technical definition. However, it also asserts good governance to have principles that are "universal: they include respect for human rights; respect for the rule of law; political openness; participation and tolerance; accountability and transparency; and administrative and bureaucratic capacity and efficiency. Clearly then, it must be recognised that governance has many attributes". In this, DCI shows a mixture of usages of the concept of good governance, without explicitly "owning" any of them itself. This text also associates governance with aid modalities, stating that it "increasingly inform[s] and shape[s] the nature of Development Cooperation Ireland interventions.…"

Country Strategy Plans (CSPs)

The CSPs are of interest as they are not designed for public consumption, but are rather working documents agreed between DCI and its key partners, national governments, along with a number of other donors. The three CSPs reviewed clearly have DCI's overarching aim of poverty reduction as their focus and are firmly grounded in the strategic plans of the national governments.[20] A link is made to varying degrees in each CSP between governance and poverty eradication, citizen accountability, and democracy and issues of power, as well as the need for efficient administrations. For example, the Ethiopian CSP states: "governance seeks to bridge the gap between people and power in Ethiopia" going on to state "the basis of our investment in governance [is] both political (in terms of supporting progressive forces – both governmental and non-governmental – who are promoting the democratisation and participation agenda) and economic (in terms of improving capacity for accountability and the transparent stewardship of national resources)". DCI is concerned with issues of "voice" – how effectively Ethiopian women and men can articulate their needs (and views), and how proactively government responds to these voices.[21]

The Tanzanian CSP refers to the "the ideal of ordinary citizens taking lead roles in matters of governance and their [own] development" and notes "a sense of growing African nationalism in Tanzania with an increasing tendency to criticise donors and accuse them of undue interference in internal affairs".[22] The Ugandan CSP uses the definition of Professor Apollo Nsibambi, the Prime Minister: "the efficient, effective and accountable exercise of political, administrative and management authority to achieve society's objectives including the welfare of the whole population, sustainable development and personal freedom".[23] What must be considered in analysing the CSPs as part of this exercise is that without a written policy on governance, the CSP in any given country may rely heavily on the personnel responsible for drawing up the document. Without an overarching policy to underpin and mandate a particular approach, any change of personnel may result in a change of approach in such a policy vacuum.

Risk management in the context of general budget support as an influencing factor

It is to be expected that DCI should use a mixture of interpretations of governance in its discourse, as illustrated above. However, the increasing instrumental use of good governance in its public discourse is significant. An assumption can be made that as the volume of the DCI programme continues to grow, the discourse of governance as a mechanism for donor accountability may increase. This will be particularly so if the shift to direct budget support continues, as "these new aid modalities, the ones where we work hand-in-glove with governments carry new risks…in effect the more harmonised the engagement, the more pooled the financing, the more the risks arising from misbehaviour transfers to the donor".[24] This trend would lead to a use of the concept of governance more as a tool for donor assurance than as a development end in itself.

Irish public debate on corruption in development aid

Without doubt corruption is a real issue in development cooperation: effective systems of oversight and accountability are vital, and donors need to apply fiduciary conditions to ensure their money is being used for the purposes for which it was intended (de Barra, 2005). However, newspaper articles show that, in the media, DCI has been using good governance in a predominantly narrow, reactive way as a safeguard against corruption, rather than pro-actively pushing a broader progressive dimension. In 2003 one article reported that the government was becoming increasingly sensitive to criticisms of the aid programme to Uganda in relation to the issue of corruption, adding that "Government aid will rise from ?450 million this year towards ?1 billion by the end of the decade. This will result in more questions being asked about where Irish aid is being directed".[25] Tom Kitt, then Minister for Development Cooperation, defended the programme, and used the concept of governance. In an article subtitled "Good governance is an integral part of Ireland's approach to development", he stated: "Investing in development is not without risk: we are constantly vigilant that Irish taxpayers' money is not misused…. Ireland has systems for accounting for funds expended and for measuring their impact. This is achieved

by annual external audit and frequent internal audit of programme funds, together with a stringent monitoring system backed by a rigorous evaluation system".[26] Viewed in context, this narrow interpretation of governance was an unsurprisingly reactive response to the media debate. The point is that this and other similar debates in the media have largely been at the expense of any public debate on governance as a means to engage with the broader political issue of the exercise of power in society and the challenges it poses for development.

A move towards selectivity as a donor strategy?

In a recent public speech, Conor Lenihan, Minister for Development Cooperation, pointed to a potential use of the upcoming governance policy: "A policy for the promotion of good governance is being developed [in DCI] to bring together in a strategic way all of our engagement in this area, to increase the assistance being given to help partner governments to lift their game and, where they fail to move with us or to meet their commitments on democratisation, to use the leverage of the aid programme to put them under significant pressure".[27] Given that "the present tendency on the donor front is to move…to selectivity",[28] a question arises as to whether DCI, which currently "places emphasis on capacity building at all levels of government" (OECD: DAC, 2003), will also move in this direction.

The pliability of the concept of good governance

Summarising DCI's various uses of governance, the CSPs, designed primarily for use in programme countries, show a predominantly broad, political interpretation of the concept in its work at programme level, rooted in the aim of poverty reduction and social inclusion. This broad interpretation also applies when DCI is working at programme level with actors such as the like-minded group of donors.[29] However, in looking at the Annual Reports and the website text on governance, both aimed principally at the Irish domestic audience, a trend towards a narrower interpretation of the concept is evident in recent years, and this is supported by analysis of newspaper coverage of DCI's approach to governance.

Based on the exploration above, it appears DCI has to date used a form of constructive ambiguity in relation to its approach to governance in programme countries, using different interpretations in different contexts. There are three key drivers currently shaping the discourse which will influence the forthcoming policy. First, the strategic aim of the programme: a real commitment to poverty reduction and social inclusion; second, the nature of DCI as a relatively small donor on the international stage amongst other, more powerful donors; and thirdly, the need for upward accountability in the context of the Irish public debate on corruption and an increasing aid budget.

The question is which will be the strongest driver in shaping DCI's forthcoming written policy on governance? To what degree will DCI reconcile the different uses of the concept to produce a coherent policy framework for good governance in development cooperation, and will one interpretation be favoured over the others? A mixture of interpretations is to be expected. In the context of the dominant discourse of powerful donors such as the World Bank, it remains to be seen if DCI can resist the increasingly narrow, instrumental, discourse of the World Bank and many international donors. Will the policy consolidate the broad progressive use of governance at the programme level, prioritising capacity, democracy and accountability to citizens within partner countries, or will it curtail it, focusing predominantly on upward accountability to the Irish taxpayer?

Conclusion

This article argues that the good governance concept being used in donors' development discourse in an increasingly narrow, technocratic sense is in danger of losing its potential to transform the aid relationship into more equal terms by enabling partner countries to be not only efficient administrations but self-determining actors in the global arena. In this shift, good governance is in danger of becoming more a tool for addressing donor interest rather than recipient need. Although many countries remain dependent on aid as a financial foundation for their development, donors surely should not have the right to dictate the architecture of their economies and societies.

In a recent article relating to governance Minister of State Lenihan states:

> Those challenges [of delivering development aid] underline the reasons we are working in those countries in the first place…. Ultimately, we want to equip governments to provide the services and supports demanded and needed by their citizens…. Uganda ranks 117th on Transparency International's Corruption Perceptions Index. It also ranks 144th on the UN Human Development Index. The first statistic tells us it is hard to work there. The second underlines just how important it is that we do.[30]

It will be interesting to see if this proactive, broad approach to the concept of governance in development aid signals the tone of the forthcoming policy.

Footnotes

[1] Development Cooperation Ireland became Irish Aid from 27 February 2006. However for most of the period covered by this article the organisation was known as DCI and so this name has been retained in the text.

[2] http://magnet.undp.org/icg97/ANNAN.HTM

[3] See, for example, Crush (1995), Moore (1995), Escobar (1995) and Sachs (1992).

[4] Mawdsely and Rigg (2002); Escobar, (1995); Sachs (1992)

[5] Abrahamsen (2000); Storey (2004)

[6] For a discussion on accountabilities in development aid see Dillon (2004).

[7] For example, DCI is member of the Donor Democratisation and Governance Group (DDGG), Uganda *(DCI Annual Report 2004).*

[8] See DCI, *Country Strategy Plan for Ethiopia*, 2005-2007 available from DCI.

[9] *Report of the Ireland Aid Review Committee, 2002*

[10] The first annual report issued by DCI was that for 2002. Prior to this date the programme was known as Ireland Aid and after 27 February 2006 the name changed to Irish Aid.

[11] As outlined in the resolution of the Development Council on 28 November 1991

[12] http://archive.idea.int/lome/bgr_docs/resolution.html

[13] *Foreword to Ireland Aid Annual Report 1997*

[14] *Ireland Aid Annual Report 1998:* 16

[15] *Ireland Aid Annual Report 1999:* 2

[16] *Ireland Aid Annual Report 2000:* 56

[17] *Ireland Aid Annual Report 2001:* 7

[18] *DCI Annual Report 2002:* 36

[19] *DCI Annual Report 2003:* 61

[20] The CSPs of Ethiopia, Uganda and Tanzania were reviewed.

[21] *DCI Country Strategy Plan for Ethiopia:* 20, 26

[22] *DCI Country Strategy Plan for Tanzania:* 5, 6

[23] *DCI Country Strategy Plan for Uganda:* 5

[24] Development Cooperation Ireland (2005)

[25] *Sunday Business Post*, 17 August 2003

[26] *The Irish Times*, 11 July 2003

[27] Speech by Minister of State, Conor Lenihan, to the Oireachtas Joint Committee on Foreign Affairs on 14 June 2005

[28] Doornbos (2003): 14

[29] The like-minded group includes the Nordic countries, Canada, Ireland, the Netherlands, Switzerland and the United Kingdom.

[30] *The Irish Times*, 14 December 2005

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Real or Illusory Progress?

Electoral Quotas and Women's Political Participation in Tanzania, Eritrea and Uganda

● Eilís Ward

Women's participation in political life is widely regarded as an important dimension of achieving better governance. A striking feature of women's political profile in Sub-Saharan Africa is the high rates of their participation in elected government. This can be explained to a significant degree by the use of quotas as an affirmative action tool. However, numerical gain through quota use may not necessarily lead to transformation in gender relations in the political sphere and modes of governance or in the social or economic sphere and may be counterproductive, stigmatising those women who have gained office through their use.[1] This article draws on field research in Eritrea, Tanzania and Uganda, to argue that a range of supports and mechanisms are required if quotas are to go beyond "optics".[2]

Introduction: The debate about quotas

The goal of greater participation by women in elected politics constitutes an integral part of the international agenda for

women's human rights. Women's movements have identified political participation as critical to women's advancement in all spheres. This focus is reflected in the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) which states, in Article 7, that states parties are obliged to take all appropriate measures to eliminate discrimination against women in public life. The Beijing Declaration on Women goes further by linking women's political participation to transparency and accountability in government and to sustainable development. In addition, democratic institutions are strengthened and promoted with women's equal participation. Without women's active participation and the incorporation of women's perspective at all levels of decision-making, the goal of equality, peace and development cannot be achieved.

The aspirations of CEDAW, the Beijing Declaration and indeed, of women's movements, contrast starkly with the picture of women's participation in parliaments the world over. The global average for women is 15.5%. Arab states have the lowest regional variation at 6.4%, where both upper and lower houses are combined, and 6% for single or lower houses. As Table 1 illustrates the regional differences are quite significant. Not surprisingly, perhaps, the Nordic countries top the polls for rates of women's participation.[3]

Table 1: Percentage of women elected to parliaments by world regions[4]

	Single house or lower house, %	Upper house or Senate, %	Both houses combined
Nordic countries	39.7	—-	39.7
Americas	18.5	18.4	18.4
Europe/OSCE including Nordic	18.3	16.2	17.69
Asia	15.1	14.5	15.1
Europe/OSCE (excluding Nordic)	16.2	16.2	16.2
Sub-Saharan Africa	14.6	13.0	14.5
Pacific	11.1	20.5	12.3
Arab states	6.0	7.5	6.4

One mechanism used to speed up women's participation in political life is gender quotas understood as a "quantitative prescription for the minimum representation of either sex".[5] The persistent under-representation of women in all levels of government and the extent of the barriers that operate against them are such that quotas as a fast-track promise are highly attractive. Their use has, in turn, been championed by the women's movement internationally and nationally. Amongst other strategies prescribed to increase women's representation are reforming electoral systems to adopt proportional representation, multi-member constituencies and party lists and the creation of women's policy machinery such as ministries for women's affairs or administrative units for women's advancement within existing government structures.[6]

As the experience of quota use is growing and deepening, detailed evaluations are now possible. For states recently embarking on democratisation processes, African experiences, in particular, can provide important learning about what can be done in times of change or transition. The use of quotas in Rwanda, for instance, resulted in that country topping the world league for women's rates of participation when after the 2003 elections, women constituted 48% of the lower house and 30% of the upper house. In South Africa the ANC adopted a voluntary quota system (largely as a result of internal pressure from women members and activists) of 30% in the 1994 elections. By the next round of elections in 1999, the party did not have to alter its lists for the national parliament elections by quota-use as women constituted one third of the candidates.[7]

This article will explore the lessons learned for women's participation by focusing on three Sub-Saharan countries where quotas have been used. The first section briefly discusses the use of quotas in general. The second section presents an overview from Africa before moving into the three case studies: Eritrea where a 30% quota applies, Tanzania (20% in national parliamentary elections and 33% in local council elections) and Uganda (30%). The third Section concludes with general comments and conclusions.

Quotas: An overview

The first and most important element to quota use is that, however applied, they are a temporary measure. The logic here is that once women's participation is numerically improved, the

mechanism will no longer be needed. Here it is interesting to note that in Eritrea, the Tigreyan word *hizue* is used for quotas – a term for the special attention a sick animal needs to nurse it back to health.

Secondly, quotas can be applied in three different ways: through constitutional decree, through legislation (or a combination of both) or through voluntary measures adopted by political parties. All three options have been used to various degrees in different places. Voluntary quotas can also be linked to state funding, thus providing a significant incentive to political parties at election time to boost parity at the polls. They were used by the ANC in South Africa and are the preference within Francophone Africa.[8] The Dutch government offers financial support for strategies which seek to improve women's participation – including quotas. Where quotas are enshrined in the constitution or in legislation, this normally translates into the reservation of a percentage of seats for women who may be either elected or selected through diverse mechanisms. This could include a separate women's list placed before the voters at election time. Both France and Belgium have imposed quotas on parties through legislation. In 1993 India adopted a one third quota for women at village and urban local government level to great effect.[9]

Thirdly the nature of the electoral system whether it is multi-party or single party and whether there are proportional representation (PR) and majoritarian or first past the post systems ought not to impact on the efficacy of quotas. However, as the PR multi-party system is widely acknowledged as being best for women's electoral gains generally one could expect that using quotas in this system might generate the best possible recipe imaginable for increasing women's participation.

However, although their use has grown world wide, the debate about quotas is by no means over. There is little disputation about the fact that quotas work to get an improvement in numbers. There is less clarity about how they should be used and whether there are other ways of achieving the same goals, in a perhaps more sustainable way. The differential outcome of quota use in different political systems and cultural contexts must be noted. The debate about quotas focuses now on their use as one mechanism amongst many that might be needed to change the profile of women and politics. In other words, quota use is increasingly seen as one important but not sufficient mechanism. It is useful here to isolate the arguments ranged in favour and against quota use in order to understand the elements of those debates.

The arguments for quotas

- Given the actual barriers that exist (structural, cultural, economic), quotas are a just compensation for women's structural exclusion by ensuring that they get their fair share of seats.

- Women are as well qualified as men, in general, but their talents and qualifications are often downplayed and minimized and quota use overcomes that.

- The profundity of the barriers to women's participation (to include prejudice within the party structure and reluctance of male elites to acknowledge women's value) is such that change will not occur naturally or at least with any reasonable speed.

- Using quotas allows women create the critical mass whereby their presence can have a sustained and profound impact on policy in relation to women's issues. In a development context this could include incorporating gender sensitive planning and budgeting to improve women's participation in the labour market and gender impact assessment at all planning stages.

- The increased presence of women in parliament, effected through quotas, can act as a powerful model for other areas of public participation, thus breaking through long-set traditional values at critical periods of intense democratic change. Hence their use can have a hugely positive impact within wider issues of society and governance.[10]

The arguments against quotas

- Quotas can be considered undemocratic in that they restrict and/or perhaps manipulate the choices facing the electorate. It can be argued that voters should be able to decide who gets elected without any external constraints or controls on that choice.

- Quotas can be seen as against the principle of equality of opportunity because women *qua* women are given preference over men *qua* men.

- The use of quotas may imply that as a woman gets elected, an otherwise qualified candidate might lose out.

- It can be argued that many women do not, themselves, want to attain a seat through a special measure and that women elected through special measures can be undervalued or stigmatized because they have not fought it out with the men.[11]

- The use of quotas can be counterproductive in that they may act not as a platform but as a ceiling for women's participation – it can be made harder for women to go beyond that reserve number once the quota has been achieved.

- Where quotas are applied in single member constituencies, requiring the creation of additional or extra constituencies, they can be seen to create over-bloated parliaments which in turn can be a financial strain in already-poor countries.[12]

- In an African context particularly, the principle of providing special seats based on difference could feed harmfully into ethnic and regional divisions.[13]

- While quotas may produce a numerical gain, this outcome does not necessarily translate into a qualitative gain for women's political participation.

Finally, it is worth restating why it matters that women are under-represented in political life. Four distinct consequences to women's under-representation can be cited. Firstly, women lack role models; secondly, the development of a just and equal society is hindered; thirdly women's interests remain unfulfilled; and fourthly, democracy is likely to become atrophied by their absence.[14]

Africa in the global pattern

As we have seen, the African profile for women's representation in political institutions is impressive – specifically in Sub-Saharan Africa. Once we exclude the Nordic states, six African states have a significantly better record of returning women parliamentarians than those in the Europe/OSCE category. While the average rate for women's participation (in both chambers) in Sub-Saharan Africa is 14.5% some major variations exist. Topping the record in the continent is Rwanda whose upper house is comprised of 48% women. South Africa comes next at 32.8% (in the lower house), Mozambique is at 30%, the Seychelles at 29.4%, Namibia 26.4%, Uganda 24.7%, Eritrea 22%, the United Republic of Tanzania 21.4% and Burundi 18.4%. South Africa stands out furthermore for the speed with which it increased women's participation in the post-apartheid era – from 2.4% before democratisation to 32.8% in 2004. At the lowest end of the scale, Niger has one woman in its 83-seat parliament (1.2%), Mauritania has 3 out of 81 seats (3.7%) and Madagascar has 6 out of 160 seats (3.8%).

An important aspect of the African story has been the opportunity for a clean break with past traditions provided in the post-colonial period across the continent, particularly when revolutionary and nationalist movements took on the reins of power or after civil wars. In periods of rupture it is easier to rewrite the rules of the game and apply quotas or other special measures to great effect. Not only are new norms in evolution but the problem of the incumbent, and his resistance to change does not arise.

The pattern of high rates of women's participation is not, however, exclusively a function of quota use. In the Seychelles, where women are just below 30% in the lower house, no quota system has ever been used.[15] In Senegal, where women's representation stood at 20% in 2002, the party which returned the greatest number of women did not adopt a quota system, unlike others parties in that election. Mali has also made progress without a quota system.[16] Table 2 illustrates the pattern in Sub-Saharan Africa through a selection from the country profiles based on highest, middle and lowest percentages.[17]

Table 2: Percentages of women elected to parliament in Sub-Saharan Africa[18]

	Single or lower house	Upper house or senate
Rwanda	48.8	30.0
South Africa	32.8	31.5
Seychelles	29.4	N/A
Uganda	24.7	N/A
Tanzania	21.4	N/A
Burundi	18.4	18.9
Angola	15.5	N/A
Gambia	13.2	N/A
Swaziland	10.8	30.0
São Tome and Principe	9.1	N/A
Madagascar	3.8	11.1
Mauritania	3.7	N/A

Quotas and their expanded use are an important part of the African story, however. The Rwandan case, where quotas were introduced in the form of reserved seats in the 2003 elections and immediately saw women's political representation at 48.8%, is a good example.

Where gender quotas are used in Africa, they frequently go hand in hand with quota use for other historically disadvantaged groups. In Eritrea the equality code enacted by the liberation movement, the Eritrean People's Liberation Front, led to, *inter alia*, a quota policy for women across all elected bodies in the new state. In Uganda and Tanzania the practice of reserving a number of seats for women is linked to a wider goal of mass political participation as a means of, amongst other things, enhancing the legitimacy of national liberation movements.

A further characteristic of the use of gender quotas in Africa is that they have largely emerged in a top down (or state led) manner and are not necessarily related in any causal way to wider factors such as the electoral system (PR multi-party or otherwise) or the nature of the women's movement. Neither is there any clear pattern between, for instance, regime type (authoritarian, semi-authoritarian or democratic), and state ideology (left leaning or not) and the use of quotas. The only pattern is, as we have seen, that quotas are more likely to be used in states which have found themselves with an opportunity to draw up the rules for representation *ab initio*.[19]

Finally the use of gender quotas in Africa has been validated in regional intergovernmental organisations such as the ECA Sixth Economic Commission for Africa and SADC which recommended that by 2005, 30% of seats in its members' legislatures should be held by women.[20] In 2002 the African Union adopted a gender equality rule which set a goal of 50% participation by women in its Commission.[21]

The case studies: Eritrea, Uganda and Tanzania

This article now turns to the case studies of quota use in Eritrea, Uganda, and Tanzania. The close study gives us some insight into how quota mechanisms are devised, operationalised and what their impact has been. The case studies allow us deepen the debate about the effectiveness of quotas by looking at issues of patronage, the risk of purely symbolic gain and the relationship between quotas as a tool for women and the existence or otherwise of an independent women's movement within civil society.

Any attempt to evaluate the impact of quota use, once we go beyond purely numerical gain, is a challenge. What criteria can we use to measure success? Is it possible to isolate quotas from the complexity of political life where cause and effect are difficult to ascertain at the best of times? As we have seen, quotas are understood to be a means towards more substantive ends. In the short to medium term success might be the promulgation of legislation and policy outcomes to substantially improve women's status or position in society. In the long term, a successful end might be the transformation of societal gender structures so that quotas and special measures will no longer be needed. So we might like to include in our scope legislative changes or proposals targeting women's interest which might emerge after quotas have been applied. We might also expect to see gender emerging as a category of analysis (such as in gender budgeting proposals) in parliamentary and policy debates. Here then we need to be able to say something about the role of quota women in bringing about these changes, directly or indirectly, through their party structures or across party structures. In addition, the use of quotas must be understood through the instrumental interests they serve to a variety of political actors. Political parties may introduce them to keep up with competitors, governments may do so to open up new lines of patronage.[22] It is clear then, that measuring the effectiveness of quotas vis-à-vis the wider goals of gender transformation is not a straightforward task.

While the outcome in each of the three countries has been similar and the use of quotas successful from a numerical point of view, each has developed a model which is particular to its political circumstance and institutional arrangements. Thus particularities of political culture and historical context also mediate. As the state of Eritrea came into being only in 1991, and the use of quotas in 1997, the quota experience is both short lived and recent. Furthermore Eritrea is highly authoritarian and normal politics have been in suspense since 1998 when a state of emergency was declared (and has not been lifted). In contrast, quota use is more consolidated in Uganda and Tanzania where political life is stable and national elections have had several tests of time.

However, patterns and commonalities do also emerge. The next section deals with each case study separately before drawing general conclusions. I first present the situation in relation to quotas and go on to discuss context, implementation and outcomes.

The case of Eritrea

Eritrea is a single party state[23] with a majoritarian electoral system. Following independence from Ethiopia in 1991 a provisional government, appointed by the President and leader of the resistance movement, Isaias Afworki, gave way to a transitional government in 1997. The declaration of the state of emergency the following year resulted in that transitional government remaining in power and the suspension of the National Assembly. Elections due to be held in 2001 are still pending and the constitution is in suspense. Eritrea's constitution was adopted in 1997, and the use of quotas was enshrined at that point in *The Gazette of Eritrean Laws*.

Affirmative action applies, in principle, in Eritrea's electoral system through a 30% quota for women in national, regional and local elected offices. The absence of national elections has meant that quotas have been applied in local and regional elections only. In the regional council (Zorba) election of 1997, the percentage of women elected across the six councils stood at just slightly over 30%.[24] Lower level elections held subsequently have shown that the quota is still producing high numbers of women taking seats. Quotas have been operationalised through the creation of a process which parallels the mainstream elections at each level. Constituencies are drawn up nationally based on geography and population numbers and, following the 30% quota, an additional number of seats are reserved for women.[25] The election to these quota seats is held the same day and in the same manner as the mainstream elections.

In the national elections this means, for instance, that the reserve seats for women will come from specially created constituencies drawn from the entire national territory. In practice, this will mean that quota-candidates will seek office in constituencies that are larger than mainstream constituencies, will represent larger constituencies and that these constituencies will overlap mainstream constituencies.

The provenance of quotas in Eritrea can be traced back to the ideological foundations and organisational principles of the EPLF (Eritrean People's Liberation Front). The mass organisation of women into the revolution was understood to help create a society which would break with traditional social and cultural modes and deliver a popular movement for change. The impact of Eritrean women in the liberation movement (as fighters, as political leaders and in the international solidarity movement) cannot be underestimated. Traditionally, Eritrean women did not have the right to vote in or to be elected to village councils – the

form of local governance. Women had to work through a male relative when dealing with the councils.[26] During the war of independence, women were organised into popular assemblies, on the basis of a quota ranging from 15 to 30%, and supported by a political education programme.[27] The strength of the women in EPLF leadership and the commitment to gender equality is perhaps reflected in the gender balance in the Commission appointed by the President in 1994 to draw up the new constitution. Of the 50 members, 22 were women.

The use of quotas for women can be understood then as a continuity of revolutionary principles and strategies of the socialist liberation war and of creating a new social order. Today, however, patriarchal conditions are still deeply rooted in Eritrean society. For former female combatants, return to civilian life has sometimes meant a return to a society where they are expected to obey their husbands and parents and undertake traditional tasks. For this reason, the number of single women living apart from their families and in urban areas is high[28] and women fighters have found it difficult to re-integrate into Eritrean life.[29] Given the limitations referred to earlier, an assessment on the use of quotas in Eritrea beyond the numerical impact must be modest.

That aside, quota use has produced a direct positive gain in local and regional elections. The field research carried out with high-ranking party women and women in local government (quota beneficiaries and mainstream women), revealed an unequivocally positive appraisal of the use of the mechanisms. There were now women elected to local and regional councils in all districts. The presence of these women in local government opens up the possibility for women's greater participation in many other aspects of public life and affirms their contribution. These women felt they could make a difference in office notwithstanding the traditional Eritrean resistance to equality for women. The use of quotas and other special measures (such as quotas for girls in education) was linked to some change in societal perception of women and their capacities. For instance, given Eritrea's traditional proscribing of women's involvement in aspects of public life, the nomination of female judges in recent years is significant.[30] However, that research also revealed several salient, less positive themes. Firstly, many of those interviewed expressed confusion as to the identity and nature of their electoral constituency, and therefore issues of representation (who they represent and which interests) and accountability (to whom they were accountable) were ambiguous. Secondly, despite their overall evaluation of positively confronting inequality

through their very presence, many of those interviewed did not see their role as quota-beneficiaries as having any necessary link to the aggregation and presentation of women's interests. In the context of the Eritrean state ideology of national unity, which leaves no room for sectoral identities or claims for particular interests, such a view is, perhaps, not surprising and may indeed not be particular to these women.

The case of Uganda

Uganda's gender quota system is based on a 30% quota for national and local elections, enshrined in the 1995 Constitution.[31] Reserve seats by which electoral colleges elect candidates provide for quotas for women. Uganda's political system, based on the National Resistance Movement (NRM) which came to power in 1986, until recently operated a no-party democracy[32] and elections take place in single member constituencies based on a first past the post system. The reserve seats process runs in parallel to this.

Despite the constitutional decree, national elections have produced a result which is just below the quota – in 2003 Ugandan women held 24.7% of the seats in parliament. However, the trend, across all levels of governance, has been for a continuous rise in the number of female representatives and before affirmative action, the number of women in parliament ranged from one to two.[33]

A particularly striking aspect of women's profile in Uganda has been not just the dramatic growth of the women's movement there since the NRM came to power, but also that the movement has managed to maintain autonomy from the NRM. This may be a function of the history of women organising independently in Uganda, dating back to the establishment of the Uganda Council of Women in 1946.[34] The dictatorship of Idi Amin (1971-79) banned all independent organisations and founded the National Council of Women as an arm of the regime. The tradition of an autonomous organisation, re-emerged under the NRM and is reflective of the wider legitimisation of civil society within Uganda's polity. Quota use therefore is embedded in a culture in which women are organised politically and seek policy change to advance their identified interests.

What evaluations can we make from the Ugandan case on the impact of quota use? The literature produces two apparently contradictory evaluations. On the one hand, it has been argued that women's increased numerical profile has had little impact on the overarching patriarchical political culture in Uganda. Despite their presence, women are still considered intruders. The politics of patronage and the elitism of those women who do make it to political office, further reduce the power of women legislators to make a difference.[35] At the same time, however, there is an increased awareness among women in politics (whether quota or mainstream women) about the idea of women's political interests.

A second less negative view acknowledges difficulties and limitations but concludes that, to a great extent, quota use has been successful in both bringing women into politics and in representing women's needs there. While the number of gender-responsive policies has not matched the numerical growth of women's participation, there has been an improved legitimisation of women's rights in legislation. The new Constitution is considered a watershed in this regard – here women legislators allied themselves with progressive male legislators to influence opinion.[36]

In addition, changes in the Land Act of 1988 and the Universal Primary Education Programme of 1997 have meant very significant improvements for women and female children. Violence against women has been addressed in the Parliament. Gender planning has been incorporated into planning requirements at national policy level. A number of women's organisations have targeted electoral politics in their activities and the links between women parliamentarians who benefited from the quotas is markedly closer than that of non-quota women parliamentarians. The latter do not believe that it is their task to represent women and such a relationship is therefore not deemed necessary.[37] Finally, the numerical profile has had a transformative effect over time on other spheres both public and private and in the words of one Ugandan commentator, it has become difficult to present a case against women's involvement in any sector or activity.[38]

One challenge that the Ugandan case throws up relates to accountability. Women who benefit from the quota system come to power through male dominated electoral colleges. Constitutionally, they are deemed responsible to their districts. So although they have gained seats because of the need to create a gender balance their constituency is not made up of women's interests nor of women. Therefore, it is not clear to whom they give feedback nor who they consult in their work: the colleges, the entire district or the women of their district.[39] In other words, the construction of quota seats is not presumed on the

development of strategic gender interests but rather is an entirely practical mechanism to solve a challenge: how to increase women's profile. This contradiction has been characterised as representing a "hollow shelled victory".[40]

Women who have come to power through quotas also find the way that their constituencies are drawn up means they have a bigger geographical area to represent and are sometimes seen as a threat by the mainstream candidates with whom they share some geographical constituency space.[41] This finding speaks of a core difficulty when a quota system is added to an electoral process.

A final difficulty confronted by quota MPs in Uganda is a public perception that they are in power because of a favour bestowed by the NRM, or to be more precise, by President Museveni. This perception has been internalised by quota beneficiaries themselves. The majority of district women in particular feel that their loyalty is pledged not to women nor to their constituents, but to the President. Related to all of these points is the role of the media in representing those women who come to power and the challenge to overcome negative media representation of women's work[42] and the attendant portrayal of women parliamentarians as an aberration, thus perpetuating a gendered public/private divide.[43]

The case of Tanzania

Tanzania's political system is still undergoing transition from a single party to a multi-party state. In May 1992, a constitutional amendment provided for a multi-party system to replace that which had been entirely dominated by the party of the liberation movement, Chama Cha Mapinduzi (CCM).[44] However, although there are now over a dozen political parties in Tanzania, the CCM continues to dominate and draws on its historical structures, deeply embedded in civil society, to hold on to its power.

Tanzania currently operates a system of quotas through reserve seats, enshrined in law, at 20% in the national parliament and 33% in local councils. The political parties apply the quotas internally, following the electoral result, proportionate to the number of seats gained. However, parties apply the quota in different ways according to a system loosely based on a complex medley of electoral colleges and a formula of proportionality. All reserve seats candidates must go through the party system and unlike in Eritrea and Uganda the quota recipients therefore are not elected by universal franchise.

Given its dominance in the ballot boxes, all women currently in the national parliament are from the CCM. This dominance is repeated at local elections where, for instance, in the 2000 local government elections the CCM held 863 seats of the total of 926 reserve seats. At national elections, Tanzania has in fact exceeded its quota of 20% as the current number of women, 63, in the 295 seat assembly amounts to 21.4% of the total. However, 12 of those women were elected through the mainstream process and hence the quota system itself has not yet produced its targeted outcome.

The roots of the quota system, like in Uganda and Eritrea, are found in mass movement politics. The CCM reserved seats at party and parliament level to bring in voices of sectors, such as youth, women, the army and workers and ensure wide political participation. The quota philosophy is based, not on an attempt to structurally redress an imbalance, but to maintain national support for the post-colonial movement across the major sectors of society.[45] Furthermore, the quota-beneficiaries are known as national members of parliament (MPs) whose constituency is understood to be national rather than sectoral, notwithstanding the fact that this constituency is not clearly defined[46] and in fact exists only notionally.

What evaluations can we make of the effectiveness of quotas in advancing the cause of women in Tanzania? Although the target of 20% for the national parliament is still distant, quota use has increased women's presence there. Despite the low numbers, those women in office have been successful in addressing a number of key women's concerns: land reform, enrolment practices for third level education and a sexual offences bill.[47] Furthermore issues have been pushed upwards from the polity by women's NGOs[48] providing a route that might not have previously been so open.

However, the transformative impact of the quota system has been negligable if not entirely absent. Specifically, it has been argued that the use of reserve seats for women has taken the pressure off political parties to place women on the ballot and may have eroded the competitive power of women to enter parliament through the "normal" routes. The manner in which quotas are effected (through party leadership largely) has also led to a sense that the women handpicked by the parties may be there as a result of favouritism rather than ability.[49] Although the mechanism of implementation is different, critiques also isolate a difficulty evident in the Ugandan study – that of accountability. It is not clear exactly who the beneficiaries of the quota system

represent and this translates into confusion as to whom they are accountable – the electoral colleges, their parties, their geographical constituencies, or women, whose absence their presence seeks to address.

Furthermore the investing of power of nomination in the parties has meant that they can select women who will not necessarily threaten male power bases and can act as a subtle mechanism to prevent certain women from entering politics. While adopting gender quotas to enhance women's participation there is no single party that has introduced positive measures internally in party hierarchies.[50] This point alone serves to flag the risk of symbolic instrumentalism as against using quotas as a positive tool for transformation.

Conclusion: evaluating the impact of gender quotas

The three case studies have clearly and unambiguously identified that quotas can certainly produce a numerical increase in participation by women. Although the case is not conclusive, that increased profile is linked to legislative and policy changes for women in Uganda and Tanzania and in all three cases, the importance of quotas in creating positive role models was emphasised. On the other hand, a further conclusion must be that, if used in isolation or understood as being sufficient to facilitate or bring about women's wider equality, the mechanism is vulnerable to political manipulation and is of limited transformative power.

While care must be taken to compare like with like, the experience in the Nordic countries illustrates that when embedded in a number of contexts (the evolution of democratic institutions over long time, the evolution of a welfare state, the presence of a dynamic and autonomous women's movement) and of other mechanisms, (the development of women's policy machinery, equality legislation) quotas are an extremely powerful tool for both change and transformation.[51]

Notwithstanding the fact that that model is not applicable in an African context, we can still usefully keep the Nordic experience in mind when exploring what happened with the introduction of quotas in our three cases. As we know quotas did not emerge from a long tradition of independent women's movement activity on the ground or as a policy tool from a kit bag of other complimentary equality measures. In one case, the state is itself authoritarian and democratic norms such as national elections do not apply. So reflecting the realities of life in Eritrea, Uganda and Tanzania, where can our case studies lead us?

They reveal a very ambiguous record on the role of quotas in changing public perception and attitudes of mainstream politicians or on shifting the values in the system. In other words, there's no evidence that quota-use breaks down the existing gendered order ensuring that, over time, women will no longer need special supports to get into power. In Uganda, the NRM brought women into parliamentary politics without advancing strategic gender interests and prevailing gender relations have not been fractured. It has been argued that the quota system does not go beyond a sex-gender redistribution to tackle underlying structural inequalities, including class inequalities, which leave poorer women particularly disenfranchised.[52] In Tanzania, although political parties consider the mobilization of women important to their strategic needs, the use of quotas has not brought about any concomitant attempt by the parties to transform how they work so that women could hold positions of power within the organisations. In addition links with women's organisations and elected women are weak and few strategies for collective action have emerged from within civil society to support parliamentary initiatives for women.[53] In Eritrea, the use of quotas rests alongside a state ideology of unity which acts against the advancement of women's special needs or interests or indeed, the recognition of the specificity of women's economic, political or cultural location. Overall, perhaps the best we can conclude here is that quotas can in fact be incorporated into the existing gendered order, if used in isolation, without any necessary transformation.

A striking problem identified by all research participants in the three case studies is problems with accountability. In Eritrea, quota-beneficiaries had no clear picture as to who they represented and therefore to whom they were accountable. The lack of clarity extended to knowledge of geographical boundaries of their physical constituencies. The beneficiaries interviewed did not see the need for women's interests to be expressed or aggregated outside those of the state and did not articulate a vision of how their work at a local level linked into national politics, despite the fact that they were brought into power to represent women locally.[54] In Uganda and Tanzania, quota-beneficiaries explained that they were unable to establish the boundaries or exact nature of their constituencies and that because in practice they overlapped with mainstream

constituencies male politicians saw them as a threat. Unlike in Eritrea, however, many of the quota-beneficiaries here understood that they did represent women's interests and needs. While motivated by the need to bring a gender agenda to national and local government, they felt blocked in the absence of clarity as to who they in fact represented and to whom they were accountable.

As the very idea of quotas assumes some interest women qua women share which requires representation in government, the issue of the women's movement must always be brought into debates about quotas. With a support base in civil society and a relationship of collaboration, women in political office can more easily progress a women's agenda. Women's organisations can be understood as constituencies, if not geographically neat, then in terms of interests. In Eritrea, where civil society effectively does not exist, and sectoral interest representation is undesirable, gender quota use is not likely to produce any other outcome than numerical presence. While there is a national women's organisation, it is managed by the state and is also an instrument of state policy.[55] In contrast, a powerful, autonomous women's movement exists in Uganda. Yet our analysis here tends to a conclusion that expanded women's participation will be inadequate to serve women's interests so long as the institutions are configured in such a way as to preclude the expression of that interest. Hence while the political regime has facilitated their increased participation and the women's movement has successfully struggled to remain autonomous from the state, women find that their efforts are easily undermined by powerful, entrenched (male) interests. This was particularly evident in some key local issues where women's struggle for access to health clinics and services and, for instance, to hold onto spaces in market places was met with resistance from entrenched male attitudes.[56]

As we saw, many women in elected political office owe their loyalty to the president and some have voted against legislation that promoted women's rights.[57] In Tanzania a number of women parliamentarians (including quota women) expressed suspicion about the role of women's organisation whom they view as competition[58] rather than as a support. In addition gender role segregation has remained largely untouched despite the history of women's separate organisation in the revolutionary movement and into the new regime through the use of quotas. Married women still do not have rights to clan land (unlike men) and few are able to purchase land. Women still suffer from horizontal and vertical segregation in the labour market and although there are slightly more women than men in urban areas, fewer women there are economically active than men.[59]

On balance, these challenges can be viewed as part of the process towards achieving greater equality for women (to include women's participation in all aspects of governance) and can be addressed. Some of these challenges are a function of the form of quota use – in particular the use of reserved seats to parallel the mainstream elections – and others of culture and history. It is possible, however, to address many of these challenges and below are five recommendations for doing so.

1. Embedding quotas, as much as is practicable, in the mainstream electoral process and system. Where quotas are an add on their very separateness can render them less important than the mainstream elections in the public perception and can produce constituencies and representative roles which may be ambiguous and stigmatise the quota beneficiaries. In this regard, it would appear that the ANC model of adopting voluntary quotas for the internal candidate selection produces the least amount of negative outcomes.

2. The provision of training for the beneficiaries of affirmative action so that they themselves understand the nature of the tool including its desired obsolescence over time.

3. Gender sensitive training for all politicians to ensure understanding of why quotas are needed and their function.

4. The facilitation of the growth or establishment of an independent women's movement – or at least a removal of all barriers (such as legislation) to this.

5. Civic education in relation to representation and, in particular, the need for special measures to bring in groups which have been disenfranchised.

Ultimately social change is slow and change that requires transformation or shifting of gendered orders can not be expected to move any faster. The record in Sub-Saharan Africa is impressive and does act as a model for how radical change can be introduced at times of transition. Quotas are best used, however, if viewed as one of many means towards a goal of greater equality of women in society and in the polity – not just one of greater numerical representation. If viewed in this manner, then the effective embedding of quotas within the range of supports continues to be a valid tool for women's advancement into all aspects of governance.

Footnotes

1 Dahlreup (2002)

2 Field research was carried out by the author in Eritrea in 2002 and was published in Kwesiga, Madanda, Ward and Tanzarn (2003). The research emerged from a collaborative project between the Department of Women and Gender Studies, Makerere University, Kampala, Uganda and the Centre for Advancement of Women in Politics, Queen's University, Belfast, funded by the British Council and the Department for International Development (UK).

3 Gender quotas have been widely used in the Nordic countries to achieve this result. However, commentators point out that the mechanism was used in the context of other structural changes such as the development of an extended welfare state and women's increased participation in the labour force and a long democratisation process which included secularisation of society and women's movements activities. See Dahlerup (2002).

4 The figures are taken from the Inter-Parliamentary Union website and reflect the situation as of September 2004. See www.ipu.org/wmn-e/world.html.

5 Dahlerup (2002)

6 Squires and Wickham-Jones (2001) p.7

7 Myakayaka-Manzini (2003)

8 De Diop (2002)

9 Raman (2003)

10 By governance I signal, broadly, the analytical recognition that state-centric models are not sufficient to explain policy-shaping and decision-making in any society and, normatively, the idea that other non-state actors, such as civil society organisations, should be involved.

11 See Dahlerup (2002) for a good summary of theoretical issues relating to representation and quota use.

12 Tamale (2003)

13 De Diop (2002)

14 Anne Phillips, cited in Squires and Wickham-Jones (2001)

15 Lowe Moma (2003)

16 De Diop (2002)

17 Inter-Parliamentary Union: www.ipu.org/wmn-e/world.html

18 Eritrea is excluded as national elections in the new regime are pending.

19 Tripp (2003)

20 De Diop (2002)

21 Maboreke (2003)

22 Tripp (2003)

23 The party is the People's Front for Democracy and Justice (PFDJ).

24 Statistics provided by the National Union of Eritrean Women (NUEW).

25 During field research in Eritrea, I was unable to establish if any formula existed for determining constituency boundaries.

26 Tzeghereda (2003)

27 Pool (2001), pp.127-8

28 van Lieshout (1997)

29 Hale (2002)

30 Tzeghereda (2003)

31 The constitution was adopted in 1986 following a civil war and the coming to power of Yuweri Museveni.

32 When the NRM came to power in 1986, the leadership argued that multi-party politics were core to the problem of conflict in Ugandan society.

33 Tanzarn (2003), p.31

34 Tripp (2000)

35 Tamale (1999), pp.194-201

36 Tanzarn (2003), p.31

37 Ibid., p.34

38 Ibid, p.32, citing Maud Mugisha, Chairperson of Action for Development (ACFODE)

39 Ibid., p.34

40 Tamale (1999), p.195

41 Tanzarn (2003), p.35

42 Ibid., p.36

43 Tamale (1999), p.196

44 The party formed in 1977 with the merging of TANU led by Julius Nyerere and the Afro-Shirazi Party (ASP) that led to the liberation on the island of Zanzibar.

45 Meena (2003)

46 Ibid. In interviews conducted by the author, women MPs who came through the quota system stated they represented national interests and not women.

47 See Meena (2003) and Madanda (2003)

48 Madanda (2003) p.22

49 Ibid.

50 Meena (2003)

51 Dahlerup (2002)

52 Tamale (1999), pp.194-201

53 Meena (2003)

54 The lack of knowledge about political systems and the relationship between local and national government may not be particular to the women interviewed as the Eritrean state is tightly controlled.

55 The NUEW strives for autonomy but is limited by the regime's control of all civil society actors. For instance, it has been given the task of reporting to the UN under CEDAW, on behalf of government and is also tasked with delivering some government programmes such as literacy campaigns for women. See Stefanos (2002) for discussion on the NUEW.

56 Tripp (2000), pp.216-19

57 Ibid.

58 Madanda (2003), p.24

59 Ibid., p.20

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Governance Processes in Negotiating Intellectual Property at the UN and WTO

⬤ Martin Watson

Global intellectual property (IP) rules have a major effect on all development issues such as health, food, education and poverty. Governance principles are directly relevant to IP policymaking but there is disagreement on whether this is for good or ill. Examining the principles of participation, rule of law and effectiveness and efficiency, it is clear IP global negotiations do not meet the OECD's own good governance standards. All governments therefore have a duty to ensure that IP policies do not undermine or negate their commitment to development.

Introduction

Intellectual property (IP) is rarely seen as a key ingredient in discussions around sustainable development. When put alongside concerns such as health, education, food security, poverty and good governance, the relevance of IP seems to fade. Increasingly however, the global rules governing health, education and other development issues, are being influenced and shaped by IP treaties negotiated at the United Nations World Intellectual

Property Organisation (WIPO) and the World Trade Organisation (WTO).

The importance of global IP rules on development is recognised by a growing number of countries involved in WIPO and WTO negotiations. The UK Government's Department for International Development (DfID) established an independent Commission on Intellectual Property Rights (IPR Commission) in May 2001 to examine the overlap between IP and development. In the first lines of their report, the Commissioners state:

> The Millennium Development Goals recognise the crucial importance of reducing poverty and hunger, improving health and education, and ensuring environmental sustainability…. It is our task to consider whether and how intellectual property rights (IPRs) could play a role in helping the world meet these targets – in particular by reducing poverty, helping to combat disease, improving the health of mothers and children, enhancing access to education and contributing to sustainable development.[1]

Very briefly, IPRs cover a range of legal rights awarded by a country to individuals or organisations involved in creative works. IPRs include patents, industrial designs, trademarks, geographical indications, trade secrets, copyrights and *sui generis* systems such as integrated computer circuits.[2] An IPR gives a creator the right to prevent others from unauthorised use of an invention or artistic work, for a limited period of time.

Within the global IP community there are two broad camps advocating opposing views on the impacts of IPRs on development. These views are summarised in the IPR Commission report as follows:

> Some argue strongly that IPRs are necessary to stimulate economic growth which, in turn, contributes to poverty reduction. By stimulating invention and new technologies, they will increase agricultural or industrial production, promote domestic and foreign investment, facilitate technology transfer and improve the availability of medicines necessary to combat disease…. Others argue vehemently the opposite. IP rights do little to stimulate invention in developing countries,

because the necessary human and technical capacity may be absent. They are ineffective at stimulating research to benefit poor people because they will not be able to afford the products, even if developed. They limit the option of technological learning through imitation. They allow foreign firms to drive out domestic competition by obtaining patent protection and to service the market through imports, rather than domestic manufacture. Moreover, they increase the costs of essential medicines and agricultural inputs, affecting poor people and farmers particularly badly.[3]

Academics, governments, industrialists, lawyers and civil society groups are divided on this issue with no obvious consensus emerging. The only point of agreement is that IP does have an important impact on development.

Governance and IP

Given the relevance of IP to development, governments in both developed and developing countries find themselves in the midst of multi-stakeholder processes when negotiating IP treaties. These negotiations require political compromises between the needs of different constituencies. IP was once a technical domain reserved for patent lawyers and professionals, but today it is a public debate that engages librarians, pop stars, farmers and company directors.

Political processes are complex, but there are rules and guidelines on how governments can ensure best practice. For the countries that make up the Organisation for Economic Cooperation and Development (OECD), these guidelines are often referred to as good governance. The specific role of government in this process is outlined by the World Bank as follows: "The World Bank has identified three distinct aspects of governance: (i) the form of political regime; (ii) the process by which authority is exercised in the management of a country's economic and social resources for development; and (iii) the capacity of governments to design, formulate, and implement policies and discharge functions".[4]

When governments meet at WIPO and the WTO they are discharging their function to *design, formulate, and implement policies* on IP. These policies are translated into the national

management of a country's economic and social resources for development.

The task of implementing the IP treaties to manage economic and social resources falls to civil servants and becomes part of national public sector management carried out by patent offices and other ministries. OECD/DAC good governance principles define public sector management as:

> Art: 37. They [governments] play a key role in providing or assuring the environment for provision of basic services such as education, health, and infrastructure, that are fundamental to a society and its economy.
>
> Art: 39. Experience suggests that public administration should:
>
> - make a clear distinction between public and private resources and public and private property rights;
> - have a predictable, coherent, consistent frame-work of law and government behaviour without arbitrariness;
> - avoid regulations that result in sub-optimal resource allocation in markets and rent-seeking and may foster corruption; and
> - be transparent.[5]

It is doubtful whether the Development Assistance Committee (DAC) of the OECD had IP in mind when defining these good governance principles for public sector management. However, IP has become a central tool for public servants in distinguishing public and private rights and regulating resource allocation in markets. This is increasingly the case when looking at basic services such as education and health.

OECD countries are very serious about the promotion of good governance principles as a necessary condition for development. What however, do good governance principles involve?

UN literature on this subject identifies nine characteristics of good governance[6] although the two UN agencies most directly concerned with IP (United Nations Conference on Trade and Development – UNCTAD and WIPO) do not have a working definition. The nine characteristics apply in different measure to

IP negotiations in WIPO and the WTO. For the purpose of this discussion, the focus is on three characteristics: participation; rule of law; effectiveness and efficiency.

The analysis below does not constitute a comprehensive or exhaustive study of this issue, but serves to highlight some of the more salient overlaps.

Participation

Participation – all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively.

Participation in global governance is covered under international human rights treaties. Article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights (ICCPR) refer to these as "participatory rights".

In its resolution 2004/24, the Commission on Human Rights requested the High Commissioner, "in cooperation with the UNCTAD, the WTO and other relevant international financial and economic institutions, to study and clarify the fundamental principle of participation and its application at the global level".[7] The report of the High Commissioner makes a number of observations regarding the participation of states at the global level that are relevant to WIPO and the WTO.

The first is that economic imbalances between members of global institutions can exacerbate political imbalances in decision-making. This can be seen in WTO formal consensus decision-making which necessitates a parallel process of informal consultation meetings of which the "green room" process is a well known example. These informal meetings are not recorded and are usually organised amongst a select number of the key players where deals are brokered providing the direction for the decision at the next formal meeting.[8] "Thus, while formal structures will include poorer countries in the tabling of negotiation proposals and at the end at the formal decision-making stage, those countries have nonetheless been practically excluded from the important intermediate stages of negotiations".[9]

A further consequence of economic imbalances is how these translate into bargaining strength in negotiations. "In such cases, even where a country might have respected participatory rights at the national level in the development of trade policy, poorer countries might lack sufficient capacity to defend that policy in negotiations".[10]

The High Commissioner also identifies the lack of capacity experienced by many poor countries as a problem for participatory rights: "[M]any poorer countries do not have sufficient representation in Geneva to participate effectively – either due to small numbers of staff or as a result of a lack of diplomatic representation in Geneva. Similarly, even where poorer countries can attend meetings, overburdened staff can lack the technical complexity necessary for effective representation and to undertake research on policy issues".[11]

In addition to the human rights perspective, there is a growing body of literature focused directly on IP negotiations. In a recent paper Ahmed Abdel Latif identifies some problem areas faced by developing countries which adversely impact their ability to participate in negotiations.[12] The first is the proliferation of IP negotiations external to WIPO and the TRIPS Council.[13] Latif identifies nine UN and international organisations currently involved in IP related standard-setting.[14] He also highlights the role of regional organisations such as the Organisation Africaine de la Propriété Intellectuelle (OAPI) and the Andean Community. Lastly, he draws attention to the IP provisions that are key features of bilateral free trade and investment agreements concluded by the United States and EU with developing countries.

For developing countries it is increasingly difficult to follow all the IP related discussions under this continuous forum-shifting. "Although, forum-shifting is not entirely new, it has been mainly instigated successfully, by industrialised countries, which have dominated international IP standard-setting and has been, in general, to the detriment of developing countries".[15] The second is that international IP standard-setting emerging from these diverse forums entails important legal differences that require a high degree of specialised legal interpretation. To start with, the WIPO and TRIPS norm-setting processes are different. The TRIPS Agreement established the minimum substantive standards of IP protection and debates in the TRIPS Council focus on modifying or interpreting these standards.

WIPO rule-making however, is focused on creating new norms in IP protection. This is particularly true for soft law norms that do not require the same level of deliberation by members as a formal WIPO treaty. Soft law norms adopted by the WIPO General Assembly take many legal forms such as agreed statements, recommendations, resolutions, declarations etc. Latif points out that bilateral and regional free trade agreements can incorporate WIPO's soft law norms thereby creating legal ambiguity between treaty law and soft law norms. The bilateral agreements can also contain new IP protections that go beyond the minimum standards in TRIPS. These so called TRIPS plus standards create complex legal hierarchies among conflicting provisions. "The diversification of international IP standard-setting is a further challenge to the limited institutional capacity of developing countries to articulate coherent and well coordinated positions in … IP rule-making".[16]

Third, many developing and some developed countries have fragmented and compartmentalised IP policy-making structures. Typically, delegates attending the TRIPS Council will be from the ministry of foreign trade whereas those attending WIPO will be from the ministry of foreign affairs. The ministry of environment covers the Convention on Biological Diversity (CBD) and the ministry of agriculture the UN Food and Agriculture Organisation (FAO). A national IP office dealing with the administration of patents, trademarks and copyright may not be in a position to address cross-cutting issues of public policy such as agriculture, health, environment and education.

This fragmentation is in part a result of the forum-shifting in IP, but also reflects the expansion of IP into many public-policy areas. The results however, as Latif observes, can be disastrous: "As a result of the lack of coordination at the national level, different government agencies and departments of developing countries pursue their agendas in an uncoordinated manner at the international level… Many developing countries have taken different positions with no other apparent justification than the lack of coordination between their respective delegations".[17]

The points raised above serve to illustrate that *participation* in IP policy-making is a serious problem for many developing countries.

Rule of law

Rule of Law – legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

It is difficult to take issue with such a statement and it would seem uncontroversial to apply this principle in IP. However, the enforcement of IPRs is a major issue for some countries in the TRIPS Council.

At the TRIPS Council meeting on the 14 – 15 June 2005, the European Communities (EC) submitted a communication on enforcement.[18] In the official minutes of the meeting, records show that the EC delegate makes a direct link between enforcement of IPRs and good governance: "He said that effective enforcement of IPRs was also essential to attract foreign investment, transfer of technology and know-how, as well as to protect local right holders in developing countries. It was also an indicator of *good governance*, international credibility, of respect of the *rule of law* and of bilateral and multilateral commitments".[19]

If enforcement is so uncontroversial, the question that springs to mind is why some countries are not enforcing IP laws? Part of the answer, as Latif points out above, lies in the complex legal interpretations and hierarchies of laws covering IPRs. In addition, for many developing countries, IP legislation was either non-existent or fairly basic when the TRIPS Agreement was signed. Some therefore question whether they should prioritise the creation of legal frameworks to enforce IPRs, over more immediate development concerns.

Enforcement of IPRs through the TRIPS Agreement and WIPO treaties also brings into sharp focus the compatibility of IP laws with other forms of international law. In relation to governance, the most important of these is human rights law. A high-profile case involving IPRs and human rights has been over the issue of access to medicines.

The issue has focused on the price of essential medicines which became headline news when thirty-nine pharmaceutical companies sued the South African government. Their complaint was that a new law allowing the importation of cheaper drugs to address the HIV/AIDS crisis, would be contrary to the TRIPS Agreement. The South African government action was prompted when the price set by pharmaceutical companies for patented drugs became too high for the public health service budget. As Prof. Frederick Abbott explains:

Pharmaceutical patents by design and function increase the price of medicines to consumers. Patents enable pharmaceutical manufacturers to sustain prices higher than their marginal costs of production by discouraging the emergence of competitors. The United States and the OECD pharmaceutical industry have argued that price is only one factor in determining access to medicines in developing countries, and infrastructure and professional support must also be addressed. Yet this is hardly an argument against measures that would lower the price of patented pharmaceuticals.[20]

International human rights law also provides a legal basis upon which to develop legislative measures and administrative policies regulating access to medicines. The main instruments are "The Right to Health" in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and "The Right to Life" in article 6 of the International Covenant on Civil and Political Rights (ICCPR).[21] WTO members who are bound by the TRIPS Agreement are also parties to either or both the ICESCR and ICCPR.

These human rights stress the need for all members of society to have access to essential medicines. The high costs of patented pharmaceuticals create a real barrier to the enjoyment of these human rights, especially when cheaper generic versions are available but prohibited by the TRIPS Agreement. Paul Hunt, Special Rapporteur on the Right to Health comments that "whether publicly or privately provided, the essential medicine must be affordable for all, not just the well off. Clearly, the affordability of essential medicines raises crucial issues, such as drug pricing, compulsory licensing, parallel importing and the reduction of import duties".[22]

The dilemma for a government is how to interpret and prioritise its different international legal obligations. Is it more important to respect IPRs or fulfil human rights obligations to provide essential medicines?

This particular case links into the wider debates about the hierarchy of international laws. The WTO is the only inter-governmental organisation that has a dispute settlement mechanism whose rulings can be enforced using trade sanctions and other instruments. Some observers feel that this has led to an imbalance in the relationship between human rights and trade

law "because the WTO is capable of more concrete enforcement (including the risk of trade sanctions under the Dispute Settlement Mechanism, which all WTO members must accept as part of their 'single undertaking') than is the human rights regime, trade law has enjoyed a *de facto* primacy that cannot be defended under international law".[23]

According to the International Federation of Human Rights (FIDH)[24] "the primacy of human rights under international law is outlined in the UN Charter (e.g. Art. 55 on ecosoc rights) and given definitive interpretation in the Universal Declaration on Human Rights (*viz*. Preamble and Arts. 21-28 on ecosoc rights). The Charter establishes that States' obligations stemming from the Charter prevail over all others (Art. 103), an unequivocal statement of the *de jure* primacy of human rights in the international legal framework".[25]

The OECD/DAC defnition of the *rule of law* principle in good governance does not provide an answer to the question of primacy between national and international law and potential conflicts between international legal obligations. The importance of assessing how different legal obligations on states inter-link is however, recognised by the Director-General of the WTO. During the WTO Hong Kong Ministerial, Pascal Lamy is reported by FIDH to have said at a symposium hosted by the International Centre for Trade and Sustainable Development:

> [T]he citizens of this planet basically know that trade and human rights, trade and social issues, trade and development, trade and the environment are things which are linked, not because they have long studies to tell them this, but because that is what they see every day. These things are linked. We can't keep going this way. We see these things are linked, but the international organisation doesn't recognise that they are linked so this leads to more and more discrepancy between what people see and what is said. This is a recipe for trouble.[26]

As IPRs are increasingly being enforced through international trade and legal instruments, the imperative to address the issue of whether they create obstacles to the fulfilment of other international treaty obligations is critical.

Effectiveness and efficiency

Effectiveness and efficiency – processes and institutions produce results that meet needs while making the best use of resources.

The *raison d'être* of the IP system is that it provides an effective and efficient means of stimulating innovation, which drives the process of economic and social development. As such, the promotion of IP could be seen as a key public policy measure within good governance and development. In their book on the patent system in the USA, Adam Jaffe and Josh Lerner write:

> Over the course of the 19th and 20th centuries, the United States evolved from a colonial backwater to become the pre-eminent economic and technological power of the world. The foundation of this evolution was the systematic exploitation and application of technology to economic problems. … From the beginning of the republic, the patent system has played a key role in this evolution. It provided economic rewards as an incentive to invention, creating a somewhat protected economic environment in which innovators can nurture and develop their creations into commercially viable products.[27]

IP tries to balance the private rights of a creator alongside the public commons. The system grants the creator exclusive rights that result in a temporary monopoly in return for full disclosure of the invention. For many observers this system represents an effective and efficient use of resources for economic and social development.

However, since the 1980s the balance between private rights and public commons has been shifting towards the rights-holders. This shift is partially explained by changes in the nature of research and innovation. The shift has also been prompted by commercial and business practices that are actually separate from the creative process. In the USA context, Jaffe and Lerner point to legislative changes in 1982 as the defining moment of this shift in balance. The creation by Congress of the Court of Appeals for the Federal Circuit (CAFC) was designed to minimise uncertainty in patent litigation by consolidating all legal rulings under one court.

Shortly after the CAFC's creation in 1982, firms came to understand that patentees' likelihood of success in court was improving. Partly as a result, a number of firms began to assert their cases for royalties on patents that they had held for some time but had not previously actively enforced.[28] In other words, the 1980s saw a proliferation of patents on technologies that already existed. The logic of granting a patent to stimulate innovation is not present in this scenario. So why should companies be interested in claiming patents on technologies that they have invented, commercialised and on which they have already recouped their research costs?

The answer is that a patent creates a monopoly and that licensing use of your invention to others generates revenues. "Texas Instruments had virtually no licensing revenues when it decided to assert a number of the patents in its portfolio against its competitors in the mid 1980s. This strategy was so successful that by 1999, the firm was estimated to be earning about $800 million from patent licensing revenues, which represented more than 55% of TI's total net income".[29]

The lesson for company directors and shareholders alike was that enforcing your monopoly and extracting license revenue was as profitable as inventing and marketing new products. Rent-seeking was and still is a profitable business. In terms of business management practices, there is nothing inherently wrong with this development. However, for developing country governments, granting these types of monopolies and licensing powers to foreign companies through the recognition of private IPRs was not obvious.

This changed during the Uruguay Round of multilateral trade negotiations (1986-94) which concluded in the creation of the WTO and signing of the TRIPS Agreement. In their book on IP, economists Carsten Fink and Keith Maskus look at the driving forces behind the TRIPS Agreement

> The process of economic globalisation has enabled intellectual property to cross international boundaries more easily. Indeed, for many rich countries, IPR-intensive goods and services constitute a rising share of the income they derive from their presence in foreign markets. It is therefore not surprising to see political economy forces at work in these countries, leading governments to raise IPR protection as a key negotiating issue in international trade agreements.[30]

We see here that the primary motivation for the inclusion of IPRs in international trade agreements is economic and that it largely favours industrialised countries. The question then arises, will the enforcement of international IPRs through the TRIPS Agreement and WIPO treaties provide an *effective and efficient* means of stimulating innovation and development in the developing world?

Many of the governments that pushed for the inclusion of TRIPS also argued that by enforcing an international minimum standard of IP protection, developing countries would be in an equal position to exploit their inventions. This would in turn generate innovation and economic development. The difficulty for many developing country governments is in assessing the validity of these claims. As Fink and Maskus observe:

> In particular, economists have tried to assess the effects of stronger standards of protection on various measures of economic and social performance – ranging from innovation, competition, and market structure to trade, investment, and licensing decisions. Such analysis can be useful to policy-makers, both in deciding what kinds of IPR standards are in a country's best interests and in designing complementary policy reforms that help minimise the costs and maximise the benefits of new IPR regulations.[31]

What is significant in the findings of Fink and Maskus is that "most positive and normative effects of IPR reforms are theoretically ambiguous and dependent on circumstances". To prove the theory that IP can stimulate innovation and development in developing countries, it is therefore necessary to conduct empirical research. However, Fink and Maskus note: "One shortcoming of existing research is that it has focused on the richer middle-income countries. It would be useful to have more case study evidence on least developed countries and lower-middle income countries, which typically have a less developed legal and institutional infrastructure and in which very few firms, if any, conduct R&D".[32] They conclude:

> The economic research presented in this book suggests that there is an important development dimension to the protection of IPRs. At the same time, in view of the various tradeoffs associated with alternative IPR standards, a "one size fits all" approach is unlikely to work.... Future trade

negotiations may well place pressure on developing countries to sign up for stronger standards of protection. Developing countries should carefully assess whether the economic benefits of such rules outweigh their costs.[33]

Bearing these points in mind, it would seem logical that countries engage in empirical research to assess the impact of IPRs in developing countries and whether these represent *effective and efficient* use of economic resources. However, what we see in bilateral free trade agreements and at WIPO is a constant drive by the USA and EU towards ever higher standards of IPR protection.

The debates around whether IPRs constitute an *effective and efficient* use of economic and social resources will continue in the years to come. The driving force behind increased IP protection appears to be largely related to commercial interest rather than as a stimulant for innovation. That the theory of pro-development IPRs is inconclusive and that little empirical research has been conducted, should be a cause for concern. This characteristic of good governance, as defined by the OECD/DAC, has been notably absent from the current IP negotiating package.

What next for IP and good governance?

At the beginning of this article, the question raised was whether the principles of good governance for development have any relevance for international negotiations on IP at WIPO and the WTO. Through an examination of three good governance characteristics (participation, rule of law, effectiveness and efficiency) we have seen that these principles are not only applicable, but already the subject of widespread debate in the IP community.

As the main proponents of good governance, OECD countries should take a lead in analysing the implications of these principles for IP negotiations. At this time however, the main actors in looking at the linkages are the developing countries themselves. The Friends of Development are behind recent attempts in WIPO to establish a development agenda for the UN agency.[34] In their submission[35] to the first Inter-Sessional Intergovernmental Meeting on a Development Agenda for WIPO held in Geneva on 11–13 April 2005, the Friends of Development directly address governance issues.

For example, the Rule of Law characteristic is explored in section III.1(e) entitled Compatibility with, and Support of the Objectives and Provisions of other International Instruments.

> 51. In order to fully incorporate the development dimension, norm-setting in WIPO should … ensure that these processes and outcomes are fully compatible and actively support other international instruments that reflect and advance those development objectives. … As a result, for instance, under no circumstances can human rights – which are inalienable and universal – be subordinated to intellectual property protection.[36]

In relation to effectiveness and efficiency, section III.1(b) entitled Comprehensive Assessment and Justification in Terms of Sustainable Development has this to say: "44. Intellectual property protection is not an end in itself, but rather a means to support public policy objectives such as economic, social, and cultural well-being…. All norm-setting activities in WIPO should be based on available empirical evidence and on a cost-benefit analysis".[37]

To address these issues, the Friends of Development have urged members of WIPO to establish an independent WIPO Evaluation and Research Office (WERO).

> 29. Such an Office would provide a transparent, independent and objective mechanism, *vis-à-vis* the General Assembly, the WIPO Secretariat and all interested stakeholders, through which WIPO's programmes and activities would be evaluated with respect to their development impact in general, and their impact on innovation, creativity and access to, and dissemination of knowledge and technology. Its creation would … be in line with established international practice. The World Bank Group, the International Monetary Fund (IMF), the European Investment Bank, the United Nations Development Programme (UNDP), among other international institutions, already have similar mechanisms.[38]

The OECD countries have officially affirmed their support for pursuing a development agenda in WIPO. The USA however, disagrees with many of the premises upon which proposals such as WERO are based. It is concerned that the proposals made by the Friends of Development revolve around a flawed premise that

weakening intellectual property rights would assist development. The USA has made a number of its own proposals – and supported those of other developing countries – that are based on a positive view of the relationship of intellectual property and development.

To try to understand why the USA thinks the development agenda and its wide-spread support amongst the majority of developing countries in WIPO is based on a false premise, it might be instructive to look more closely at mandates. Typically, the delegates who attend WTO and WIPO meetings are civil servants from the ministries of trade and industry, justice and patent offices. They are not trained in development issues and have for the most part, limited experience of work in developing countries.

For example, the Irish Patents Office / Oifig na bPaitinní is part of the Department of Enterprise, Trade and Employment and has a mission statement that outlines its role as being:

> To provide an efficient and effective system of industrial property protection that will encourage technological progress and promote enterprise through the implementation by the Office of the relevant legislation. This is to be achieved through the protection of industrial property rights in the fields of patents, trade marks and designs, and the dissemination of relevant information in conjunction with each of these activities.[39]

It is easy to see how the Irish Patents Office might assume that it has no mandate to engage in good governance and development issues. After all, it is not the job of a patent office to question whether IP laws constitute an effective and efficient use of economic and social resources or whether they are compatible with human rights obligations. It is certainly not their job to solve problems developing countries might have participating in negotiations. However, the public declarations of the OECD might beg to differ. In the same DAC paper quoted above, the OECD recommends under the sub-heading Coherence and Coordination:

> Art: 84. They [aid ministries/agencies] have a crucial role to play in making sure that adequate assessments of the "LDC dimension" of various policy options are taken into account and that development co-operation becomes a more central policy concern in coming years.

> Art: 85. Coherence is essential for the effectiveness and credibility of a donor country's stance in good governance and participatory development.[40]

In other words, the Irish Government is under an obligation to ensure that its IP policies do not undermine its public commitments to development. This issue is also raised by the Friends of Development.

> 52. Likewise, intellectual property must adequately support basic rights and public policy objectives enshrined by the international community, including the Millennium Development Goals (MDGs), the Plan of Implementation of the World Summit on Sustainable Development, and the Convention on Biological Diversity. In this regard, a critical criterion in the analysis of the costs and benefits of norm-setting initiatives should be ensuring that the proposed rules or standards are supportive of these other international instruments and do not run counter to their objectives.[41]

Conclusion

This article makes the proposition that OECD/DAC good governance principles are of direct relevance to many aspects of IP policymaking. Through examining three principles related to participation, rule of law and effectiveness and efficiency, we have seen that IP negotiations at WIPO and the WTO are failing to live up to the self-imposed OECD/DAC good governance standards.

For the Irish Government in 2006, these issues are likely to intensify rather than subside. For a snapshot of just some of the IP negotiations coming up in 2006 that the Irish Government will be involved in, we can include:

- Negotiations in the TRIPS Council on paragraph 19 of the Doha Ministerial Declaration that was reaffirmed in paragraph 44 of the Hong Kong Ministerial Declaration, instruct Members to examine, *inter alia* the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD).

- The CBD is negotiating an international (legally binding) regime on access and benefit-sharing with implications for the patent system.

- WIPO Members will be participating in the Provisional Committee on a Development Agenda (PCDA), the Inter-Governmental Committee on IP and Genetic Resources, Traditional Knowledge and Folklore (IGC IPGRTKF) and a Substantive Patent Law Treaty (SPLT) in the Standing Committee on Patents (SCP).

- The World Health Organisation (WHO) is looking at a resolution on international trade and health and its Commission on IPRs, Innovation and Public Health is in the final process of delivering its recommendations. Both go to the World Health Assembly in May this year.

- European Partnership Agreements (EPAs) between the EU and African, Caribbean and Pacific (ACP) states include IP chapters.

- The Commission on Human Rights (if it meets this year) should look at issues related to IP and the right to health.

International IP negotiations this year will entail public policy implications for education, research, genetic resources, health, the food system and human rights. The Irish Government can decide to approach these negotiations from the perspective of IP enforcement which is consistent with the mandate of the Irish Patents Office. Alternatively the government could decide to look at the broader context of the management of economic and social resources for pro-poor development.

Footnotes

1 Commission on Intellectual Property Rights (2002), *Integrating Intellectual Property Rights and Development Policy*

2 See http://www.wipo.int/about-ip/en/ for an introduction to IPRs.

3 Commission on Intellectual Property Rights (2002), op.cit.

4 World Bank (1989), *Governance and Development*, Washington DC: World Bank

5 Organisation for Economic Cooperation and Development (1993), *DAC Orientations on Participatory Development and Good Governance*

6 United Nations Development Programme (1996), *Good Governance – and Sustainable Human Development*, UNDP policy document available at http://magnet.undp.org/policy/chapter1.htm

The nine characteristics are: participation, rule of law, transparency, responsiveness, consensus orientated, equity, effectiveness and efficiency, accountability, strategic vision.

7 Commission on Human Rights (2004), *Analytical study of the High Commissioner for Human Rights on the fundamental principle of participation and its application in the context of globalization*, E/CN.4/2005/41, Economic, Social and Cultural Rights

8 Varma, Sabrina (2002), *Improving Global Economic Governance*, Occasional Paper 8, South Centre

9 Commission on Human Rights (2004), op.cit.

10 Ibid.

11 Ibid.

12 Latif, Ahmed Abdel (2005), *Developing Country Coordination in International Intellectual Property Standard-Setting*, Working Paper 24, South Centre. Ahmed Abdel Latif is a former Egyptian delegate to the WTO TRIPS Council and WIPO

13 The Council for Trade Related Aspects of Intellectual Property Rights (TRIPS) in the WTO

14 Convention on Biological Diversity (CBD), Committee on Economic, Social and Cultural Rights (CESCR), Commission on Human Rights (CHR), United Nations Food and Agriculture Organisation (FAO), International Telecommunications Union (ITU), United Nations Conference on Trade and Development (UNCTAD), United Nations Educational, Scientific and Cultural Organisation (UNESCO), World Customs Organisation (CSO), World Health Organisation (WHO).

15 Latif (2005), op.cit.

16 Ibid.

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22 Hunt, Paul (2004), "The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mission to the World Trade Organisation", Commission on Human Rights

23 International Federation for Human Rights (2005), *Understanding Global Trade and Human Rights,* FIDH Training Seminar, May 2005, Geneva

24 FIDH – Fédération Internationale des Ligues de Droits de l'Homme

25 International Federation for Human Rights (2005), op.cit.

26 International Centre for Trade and Sustainable Development, "*Strengthening Global Trade Architecture for Development*", 14 December 2005, Hong Kong Trade and Development Symposium; see http://www.fidh.org/article.php3?id_article=2948 for full article.

27 Jaffe, Adam and Lerner, Josh (2004), *Innovation and its Discontents: How our broken patent system is endangering innovation and progress, and what to do about it*, Princeton: Princeton University Press

28 Ibid.

29 Ibid.

30 Fink, Carsten and Maskus, Keith (2005), *Intellectual Property and Development: Lessons from Recent Economic Research,* Washington: World Bank and Oxford: Oxford University Press

31 Ibid.

32 Ibid.

33 Ibid.

34 Friends of Development include: Argentina, Bolivia, Brazil, Cuba, Dominican Republic, Ecuador, Egypt, Iran, Kenya, Peru, Sierra Leone, South Africa, Tanzania, and Venezuela.

35 Submission by the Group of Friends of Development IIM/1/4 (2005), "Proposal to establish a development agenda for WIPO: an elaboration of issues raised in document WO/GA/31/11", World Intellectual Property Organisation

36 Ibid.

37 Ibid.

38 Ibid.

39 Irish Patents Office; text available at http://www.patentsoffice.ie/en/about_background.aspx

40 Organisation for Economic Cooperation and Development (1993), op.cit.

41 Submission by the Friends of Development (2005). op.cit.

Devolved Natural Resource Management as a Means of Empowering the Poor:

Rhetoric or Reality?[1]

● Tom Campbell

Devolved or "community based" natural resource management has become a key development strategy in recent years. It is assumed that devolution of control over natural resources to local communities improves local governance through participation and hence empowers the poor. This paper examines the research on devolved natural resource management emerging from a number of large studies. It challenges the notion that such strategies produce "automatic" improvements in local governance. Rather, if development strategies are to produce the desired effects, donors, civil society, state bodies and other stakeholders need to become more cognizant of the complex political context in which such strategies are being pursued.

Introduction

The issue of control over natural resources is considered closely linked to issues of power or good governance, in particular within resource-rich African countries. "Access and control over resources [in Africa] is considered the major governance issue, especially for rural people, and is the bread and butter issue on which democracy must deliver. NRM [natural resource management] is central to good governance and increasing enfranchisement of rural peoples", argues a 2002 USAID report (p.3).

Since the early 1990s there has been a significant paradigm shift in conservation and NRM away from state centred control towards approaches in which local people play a much more active role – often referred to as devolved, or community based natural resource management (CBNRM).[2] This shift in thinking has been brought about by increasing recognition that centralised decision making, control and enforcement of NRM through government agencies, have often proven ineffective and brought about resource degradation rather then sustainable use (Wyckoff-Baird, 1997).

CBNRM is the management of natural resources under a detailed plan developed and agreed by all concerned stakeholders. The approach is community based in that, "the communities managing the resources have the legal rights, local institutions and economic incentives to take substantial responsibility for sustainable use of these resources" (Uphoff, 1998). Under the natural resource management plan, communities become the primary implementers, although in most cases they are assisted and monitored by technical services from outside.

Since the early 1990s, CBNRM programmes have become increasingly common across countries of the South and have been introduced in a number of natural resource sectors, including, watershed, forests, wildlife, irrigation, fisheries and coastal zone management. Some better known examples of this approach include: joint forestry management (JFM) which originated in India and has been adopted more recently by Tanzania and other African countries,[3] the community based wildlife and eco-tourism programmes in Zimbabwe (such as CAMPFIRE),[4] Namibia, Botswana and elsewhere,[5] the catchment approach to soil and water conservation in Kenya[6] and the *gestion de terroir* form of land use management planning, popular in the Sahelian countries of West Africa.[7]

Such strategies and a shift in thinking have usually been driven by broader decentralisation and local government reform policies which involve restructuring the power relations between central state and communities through the transfer, or devolution of decision-making and control to local level organisations and institutions.[8] In India and elsewhere decentralisation is seen as very much part of the good governance agenda which has been adopted by developing countries, often at the insistence of donors.

The main assumption underpinning devolved NRM is that greater participation in decision-making is a positive good in itself, and has multiple benefits. Such decentralised arrangements allow more community participation, leading to better representation and empowerment. Participation and decentralisation have been shown to promote equity and social development through greater retention and sharing of the benefits derived from natural resources at the local level (Ribot, 1999). In addition, by bringing government decision making closer to the people, decentralisation is widely believed to increase public sector accountability and therefore, effectiveness.[9] A further assumption is that if resources are managed at the local level by communities or local government, they will be looked after better, and more efficiently, resulting in improved opportunities for sustainable livelihoods (SLSA, 2003). This increases the likelihood of positive outcomes for the natural environment – the argument that people are less likely to degrade their resource base if they feel a sense of ownership in decision making and see positive returns from the careful use of available natural capital.[10]

Such strategies, however, pose significant questions, particularly in relation to the extent to which devolution has significantly transferred control over NRM decision-making to local users or increased access by the rural poor to natural resources. Has sufficient attention been paid to the complexity of stakeholder roles and relationships at the local level? Has the question of the rights and entitlements of the poor in relation to natural resources been sufficiently addressed in the debate on decentralised NRM – for example, the politically sensitive issue of land tenure? Have the benefits of devolved NRM been shared equally, or are they captured by local elites? How accountable are the different stakeholders and representative groups involved? What is the role of the state, donors and NGOs in creating the conditions necessary for effective devolved resource management? In addition, one has to question whether this

approach has really seen resource users benefit from and influence the outcomes of these new policies. This paper will address these key issues, drawing on a review of the literature and, in particular, the findings of several recent studies.

Stakeholders in natural resource management

The management of natural resources can involve multiple and, often diverse, stakeholders, often competing for use and control of the same resources. There is often deep mistrust between the various parties. Agreeing on rules of resource management and how to enforce compliance poses a challenge to policymakers. Participation has much to offer in theory but can also bring a new set of problems. In practice participation and partnerships in NRM and rural development planning are usually restricted to two kinds of stakeholders: community groups and (governmental or NGO) development project staff. Dalal-Clayton et al. (2003) argue that this has proved insufficient to develop sustainable initiatives in rural development as it ignores the claims of other groups or antagonises them.

For instance community groups in an area of natural forest may wish to continue practicing traditional shifting cultivation but outside groups, such as agribusiness or environmental groups, may be opposed – the former because they are competing for land, the latter because they wish the forest to be left untouched. On top of the opposing goals of these local, or primary, stakeholders, local contexts are further complicated by the influence of external forces such as national and international macroeconomic policies, international decision-making on the environment or the effects of war, climate change, etc. Such competing forces and interest groups can often make NRM a "confusing battlefield" (Dalal-Clayton, et al., 2003). Stakeholder analysis at an early stage in any new programme or initiative can help identify potential conflicts of interest, clarify the roles, and relations between, stakeholders, and is useful to judge the appropriate type of participation by the different parties (Dalal-Clayton, et al., 2003).

Ideally collaborative, or partnership approaches are promoted as a means of improving the commitment of stakeholders through joint involvement in problem-solving as well as improving the overall quality of decision-making (Dalal-Clayton, et al., 2003). Sharing knowledge and communication between stakeholders can be a starting point:

Participatory learning that changes people's fundamental understanding of resource management processes, including their own behaviour, is a means of empowering stakeholders, particularly the under-privileged, to take more control over resources important to their survival. (Ashby, 2004, p.9)

Nevertheless, collaborative approaches require attention to, and assessment of, power differences and the relationships between stakeholders. For example, such arrangements must be cognizant of the power which is built into a particular partnership and whether it is related to some kind of financial or other dependence. Dalal-Clayton, et al. believe that where there is an imbalance in power, then conflicts of interest, and lack of clarity concerning stakeholders' roles will quickly emerge. Ultimately what is likely to prevail is a patchwork of local arrangements and quite often unsustainable open access to natural resources is the end result.[11] Nevertheless the Tanzania experience shows that while local people regard government forest reserves as fair game, they will actively protect land where local tenure and guardianship is recognised (Wily, 2001).

There is room for improvement, argue Dalal-Clayton, et al. The various stakeholders may need to renegotiate their roles to accommodate the change from centrally driven planning and domination by government to one of devolved, or community based NRM.

Agrawal and Gibson (2004, p.166) propose that if local management of natural resources is to be successful then there needs to be a shift away from the usual assumption about communities: "small size, territorial fixity, homogeneity and shared understandings and identities". They go on to suggest instead, "a stronger focus on the divergent interests of multiple actors within communities, the interactions through which these interests emerge and different actors interact with each other, and the institutions that influence the outcomes of political processes".

Promises and realities of devolved NRM

Research undertaken in Uganda and Zambia by the African Centre for Technology Studies challenges the assumptions underlying the devolution of NRM (Cappon and Lind, 2001). The authors assert that what outsiders perceive to be negative

changes in local environments may be part of a normal cycle of fluctuations in the ecosystem, rather than as a result of unsustainable practices. They challenge the assumption that such change can be reversed through the creation of new participatory local institutions – such as user groups and local NRM committees. Not only do such ideas overlook the considerable divisions which may exist within a community, but they may actually undermine pre-existing institutions and fail to take account of the extent to which local people may already be playing a role in managing natural resources (Cappon and Lind, 2001).

In Uganda decentralisation reforms were found to be more effective where they take account of the differences between people and groups and where they introduce bargaining mechanisms to increase the power of marginal groups to negotiate. In Zambia, the decentralisation process has been institutionalised in response to structural adjustment policies. So called traditional institutions, or authorities, (which may, in reality, owe much to colonial interventions) have been adapted to facilitate the decentralisation of NRM. While reforms on more sectoral lines have led to limited communication between different ministries and departments, coordination at the local level, through informal institutions and networks has been more successful (Cappon and Lind, 2001).

In both countries the researchers found that the overall approach to NRM is dominated by imposed notions of sustainability, participation, ecology and community. There is often failure by policymakers and development organisations to realise that just as local physical environments are varied and heterogeneous, so communities are characterised by division and differentiation.[12] Policies for improving local NRM must be correspondingly diverse. Policies which seek to impose one standard appropriate practice achieve only limited success (Capon and Lind, 2001).

More recent research by the Sustainable Livelihoods in Southern Africa programme, (SLSA, 2003), points to the fact that decentralisation is rarely a singular process but consists of "multiple processes that occur in different spheres of activity, taking on a variety of forms which may push outcomes in different directions". For example in one area they observed attempts at local government reform creating a new tier of locally elected councils, alongside an array of decentralised committee structures including water catchment, borehole, grazing, woodlot, or wildlife management councils, with varying forms of

membership or authority. Very often there is little coordination between such initiatives. Some may complement each other, but frequently, argue the authors, "there is overlap, confusion, ambiguity and high transaction costs for those expected to participate" (SLSA, 2003, p.79). Case studies in Mozambique, Zimbabwe and South Africa were used to illustrate the point that political authorities with downward accountability to electorates co-exist and sometimes conflict with decentralised service delivery (through line ministries, NGOs, or donor projects). Multiple decentralisations have also brought conflicts between new local government players and more traditional authorities – often further complicated by political party related affiliations. In this politicised setting there are plenty of opportunities for capture of processes and resources by local elites, government officials and private interests, with very limited forms of effective accountability (ibid.).

In many rural areas of southern Africa, furthermore, people are not organised, simply do not have open access to information and are unable to make demands on the state or may indeed be afraid to speak out. "Where multi party politics is based on a fragile democratic foundation, the prospects for such a combination of responsive government and citizen voice are limited" (ibid.)

Another study of devolution and NRM in several Asian and African countries (45 case studies in Asia and 14 in Southern Africa) reached similar conclusions: that the reality of devolved and community based NRM projects is often far more complex and problematic than the rhetoric would have us believe.[13] Across the sites investigated, local people did acknowledge a number of direct benefits (although they varied greatly from site to site) as a result of the shift in policy to more devolved NRM, including: greater access to some subsistence and commercial products; share of revenues from hunting, tourism concessions, sales of timber and non-timber forest products (NTFPs); share of incomes from permit and licence fees; employment; support for alternative or diversified livelihood activities; and a more productive resource base. Furthermore there were indirect benefits such as improved infrastructure; local organisational development and capacity building; new channels of communication opened with government; and local political mobilisation. In Asia, where devolution has been in place longer, local people were demanding more autonomy, bringing about such reform as the Panchayat[14] Extension to Scheduled Areas Act in India and the Indigenous Peoples' Rights Act in the

Philippines. In some countries, devolution made in-roads to enhancing participation of marginalised groups and women in decision-making (ibid).

However considerable negative impacts and trade-offs, particularly for poorer households, were also observed. Although access to some subsistence products improved, in some cases access to other important local resources, such as fuelwood or wild foods, continued to be restricted. Poorer members of the communities often established wildlife areas or tree plantations on land used for grazing or cropping. Financial benefits from devolved management usually fell short of local expectations. In India the Forest Department often claimed more than half the income from timber and NTFP sales from local JFM, even when they played no role in protecting the trees. In Zimbabwe the 50% share of revenues only reached communities after inordinate delays (ibid).

In some cases devolution polices damaged or undermined existing organisational capacity, local enterprises and equitable social relations. In Uttarkhand, India, for example, the authority of *panchayats* was undermined by the introduction of village JFM, weakening leadership and public participation. In Orissa, India, forest protection committees run by poor women were taken over by elite men working in cohorts with forest department officials, limiting women's access to essential resources (ibid).

Who is in control?

In all the sites of the extensive studies by Contreras, et al. (2002), and Shackleton et al., (2002), effort was made to transfer some decision-making responsibility over NRM from central to local level. Different organisational and institutional arrangements were used to achieve this goal – ranging from local government organisations such as district councils in Africa and *panchayats* in India, and multi-stakeholder district structures aligned to specific central government departments, village natural resource management committees, corporate legal organisations (such as trusts), household based and individual management, to self-initiated organisations that operated outside the state hierarchy (ibid.) These self-initiated schemes were often accountable to disadvantaged resource users but in the absence of supportive policy and legal framework were also vulnerable to being co-opted by elites. Overall, it was found that, despite the rhetoric of

devolution, central authorities continued to drive the NRM agenda. Government departments, except where donors or NGOs played a strong role, determined the shifts in control and the types of power that were transferred. In most instances they retained key aspects of management, placing tight constraints on decision-making and sometimes rendering it meaningless. In only a few cases did local people actually gain ownership rights to land. At the same time, scientific management and the notion of environmental conservation as a public interest area, or the need to achieve national economic development goals, were all too often still used to justify continued state control over valuable local resources. The authors concluded: "the State, for all its rhetoric, continues to direct and dominate local NRM" (Shackleton, et al., 2002 p.1).

A separate two-year study of local government reform processes and their effect on natural resource management at state, district and village levels in three states of India, reached similar conclusions (Ramakrishna, et al., 2002). The study found that decentralisation programmes *had* opened up space for greater local political mobilisation – despite the fact that centralising political forces continued to "constrain both the political and ecological scope of the decentralization agenda" (Baumann and Farrington, 2003). The same study found that decentralised NRM programmes were mainly valued by the rural poor as a source of wage labour but did not necessarily increase access by the poor to natural resources. In particular, ownership of land and water resources remain concentrated in a few private hands while more valuable natural resources that could provide a boost to local livelihoods remain under direct state management (Ramakrishna, et al., 2002).

Accountable representation

If participation and decentralisation are to lead to better natural resource management, theory suggests it will be through the mechanisms of a greater local voice in the control of significant decision-making. Yet people's participation is not enough to bring about sustainable management. There has to be adequate representation in decision-making bodies and empowerment to ensure all local communities have bargaining power in negotiations over local resources. Ribot (1999) argues that representation is crucial for it addresses the issue of who has control over resources and benefits. If communities do not have

adequate representation, participation is meaningless because they cannot interact meaningfully with other stakeholders.

Community members often lack the time and means to engage in local politics. As candidates for election to local authorities are often members of village elites there is always the danger that women, minority ethnic groups, religious minorities and other marginalised social groups are further excluded (Ribot, 1999).[15] However the bias may be mitigated in remote areas where the population mainly comprises ethnic groups whose representatives tend to be elected alongside elites (Dalal-Clayton, et al., 2003). Nevertheless mobile groups like pastoralists may still face resistance from both local authorities and more settled groups, and are often left out of NRM decision-making processes (Hesse and Trench, 2000). Another problem arises when heads of local councils are not elected but are appointed by central government. This limits representation since those appointed are accountable in their decisions to the central state rather than local constituents (Ribot, 1999).

Elections are the most commonly evoked mode of representative, or downward, accountability, although not all elective structures create accountability. In some countries candidates for local elections must be members of a political party registered in the capital. Nevertheless there are other mechanisms that complement local elections, and what can, in theory, enhance representation and empowerment of communities to assert their rights and priorities (Ribot, 1999; Dalal-Clayton et al., 2003). These may include:

- legal recourse through accessible courts;
- mandatory inclusion of members from marginal groups on local councils;
- third party monitoring by the media, NGOs, or independently elected controllers;
- working through traditional leadership structures;
- public reporting requirements;
- political pressures and lobbying by associations and associative movements;
- civic education information campaigns on roles and obligations of the state;
- social movements, threats of social unrest and threats of resistance.

We should remember, furthermore, that lack of accountability is not confined to local government authorities. Among village based associations, committees and resource user groups and NGOs it may enable the more powerful and politically aware to assert preferential rights over resources (Vernoy and McDougal, 2004). Development initiatives (especially where substantial funding is concerned) can provide opportunities for local despotism leading, in particular, to unfair distribution of benefits and the exacerbation of existing power disparities (Dalal-Clayton, et al., 2003). This is supported by the research by Contreras et al. (2002) who found that the local government *panchayats* in India were often more accountable to disadvantaged groups than the new organisations created under JFM, the latter being only nominally community based.

Ribot (1999) argues strongly that because devolution strengthens those it entrusts, it may be counterproductive to support the devolution of public powers to, for example, hereditary chiefs, non-representative committees, private interest groups, or NGOs. These groups may be well meaning (or not) but they are not necessarily representative of, nor accountable, to the public. While all such groups can be subject to the accountability mechanisms mentioned above, Ribot argues that they are less appropriate than a representative system of permanent electoral local government with its accompanying accountability measures.[16] Such groups can have appropriate advisory or consultative roles but should not entrusted with a population's resources or decisions, he argues. As Fox and Aranda (cited in Ribot, 1999) note: "decentralisation will strengthen autocratic local rulers or democratic rulers depending on which local authorities the decentralisation involves".

"Creating an enabling environment" for devolved NRM

Most of the studies reviewed in this paper agree that if CBNRM initiatives at the local level are to be effective then they need to be supported by an "enabling institutional environment". Participatory approaches need institutions at national, regional and local levels, that facilitate rather then dictate the course of rural development and NRM (Dalal-Clayton et al., 2003). Swift (1995, cited in Wyckoff-Baird, 1997) suggests that the state has a definite role to play in creating the conditions necessary for effective resource management at the local level, by establishing a policy framework conducive to sustainable resource

management, by providing the legal framework for resource tenure, by guaranteeing minimum democractic processes in local administration, by capacity building, and by providing economic incentives and technical inputs and support.

The SLSA team (2003) make the point that if decentralisation is to be effective, real powers and real resources need to handed over by the state to new local administrations otherwise their ability to operate is severely hampered. As is the case in many countries, a cautious or bankrupt government, may resist devolution of powers over budgets and decisions, for fiscal, administrative and political reasons. The end result is that many local government authorities fail to function in any meaningful way and as a result local people will quickly become cynical.

Meanwhile NGOs can play an important facilitatory and capacity building role, argue Shackleton, et al. (2002). They can help to bridge divergent views between local people and government agencies and manage conflict within or between communities. NGOs generally display greater commitment to empowering communities than state agencies and work better to integrate the development of local people with NRM concerns. NGOs can monitor policy impacts, can promote accountability, transparency and gender equity in the way the environment is managed and can influence outcomes through advocacy for the poorest resource users (Shackleton, et al., 2002; Ireland and Tumushabe, 1995). Experience from Botswana and India has shown that CBNRM stakeholder forums, and the formation of resource user umbrella groups and networks, can also provide an effective channel through which people can lobby for collective priorities at the national level.

In most of the countries reviewed by the studies discussed in this paper, donors, together with NGOs, were instrumental in driving the agenda towards greater local control. Donors often attach conditions to their funding, forcing governments to review their policies and practices to favour local needs. On the other hand, donors sometimes lack understanding of local conditions and develop programmes not suited to local contexts, with negative consequences for the livelihoods of poor people. In other cases unhealthy dependencies on external funds may be created resulting in the collapse of worthy initiatives when funders withdraw (Shackleton, et al, 2002). Furthermore, donors usually have very little downward accountability to those they claim to be supporting.

Strengthening capacity and political capital at the local level

The many examples given above show that, although devolution of NRM has certainly brought some direct and indirect benefits to the poor, and has opened up space for political negotiation and empowerment for poorer communities, it has not yet significantly increased access by the rural poor to natural resources. The local benefits of programmes for devolved NRM are more often than not captured by those groups and households already better endowed with access to natural and other capitals (political, social, human and financial). "Ultimately, the decentralisation agenda has not fundamentally challenged the basic distribution of rights and access to natural resources established in the colonial and in the immediate post independence periods", argue Baumann and Farrington (2003).

In which case, an assessment of how patterns of social differentiation (across wealth, gender, age, caste and ethnic divisions) feed into the politics of inclusion and exclusion in decentralisation, would appear to be a crucial step on the way to ensuring that decentralisation efforts do indeed benefit a wide group and particularly the poor and marginalised (SLSA, 2003) .

Greater attention must also be given by donors, NGOs and the state, to the building of capacity and political capital at the local level to ensure that devolution strategies are more responsive to local interests.[17] Political capital is important because any attempt to transform structures and processes through policies of devolution is likely to be met by resistance from those, at local and national levels who currently hold power, or have a vested interest in certain resources. As several of the studies reviewed found, where local people were well organised and had alliances with NGOs or other influential groups, they managed to secure greater control and benefits. Where local people were aware of their rights and entitlements they were able to challenge elite control within local resource groups and committees. Local users also fared better where they had strong land tenure rights and where they were able to influence the design and implementation of devolution policies. In this context, to have capacity building include ways of improving representation, accountability and transparency (all aspects of good governance) would appear to be central. State and NGO interventions may need to shift their focus, therefore, to stakeholder relationships and political processes and away from technical and managerial aspects.

Conclusion

This paper has explored some of the key concerns raised in recent research on the topic of decentralised, and devolved, natural resource management. Based on the foregoing analyses, it concludes that while decentralisation might improve local management of natural resources, it is not a prerequisite, nor a guarantee of good local management, environmental sustainability, and improvements in local governance.

That devolved natural resource management is a socially just development objective would appear not to be in doubt. It is clear, however, that the rhetoric of decentralisation, good local governance and devolved NRM will be insufficient to effect real change and pro-poor outcomes unless policymakers pay greater attention to the complex political contexts in which different stakeholders vie for access and control over natural resources.

Despite these challenges, devolved NRM remains an important development strategy. There is enormous scope for strong local organisational capacity and political capital to enhance outcomes for local people by enabling them to mobilise resources and negotiate better benefits. NGOs, donors, civil society networks, local government and, not least, the state all have a key role in moving devolution policy and practice towards local interests.

Footnotes

1 While this paper seeks to explore some of the key concerns raised in a number of recent studies and articles on devolved natural resource management, it is by no means a comprehensive review of the considerable body of literature on decentralisation and community based NRM. Readers who wish to conduct a more extensive literature search on these issues may find the following websites useful:

www.odi.org.uk/nrp

www.iied.org

www.cbnrm.net

www.eldis.org

www.id21.org

2 Dalal-Clayton et al. (2003); Hesse and Trench (2000); Hinchcliff, et al. (1999); Bass, et al. (1995), see Ireland and Tumushabe (1995)

3 Lele (2000); Borrini-Feyeraband (ed. 1997)

4 CAMPFIRE: Communal Areas Management Programme for Indigenous Resources

5 Dalal-Clayton et al. (2003); Borrini-Feyeraband (ed. 1997); Jones and Carswell (2004); SLSA (2003)

6 Hinchcliff, et al. (1999); Thompson and Pretty (1996)

7 Dalal-Clayton, et al. (2003); Hesse and Trench (2000)

8 See Shackleton et al. (2002); Wyckoff-Baird (1997); Wily (2001). When using the term decentralisation we should remember what governments often mean is administrative decentralisation, or de-concentration – a transfer of activities within the structure of governance to local outposts without ceding power. NGOs (non-governmental organisations) and CSOs (civil society organisations) on the other hand, usually call for devolution of powers from central to more local authorities, otherwise known as democratic decentralisation (Dalal-Clayton et al., 2003). This power may be total or partial: for example, the rights and responsibilities for planning processes and management of renewable resources might be transfered to local authorities by central government, but the right to receive and distribute revenue generated from those same resources may be withheld (Wyckoff-Baird, 1997).

9 Ribot (1999); SLSA (2003)

10 The concept of natural capital refers to "the goods (including land) and services provided by nature". Clearly, natural capital is very important to those rural people who derive all, or part, of their livelihoods from resource based activities such as farming, fishing, harvesting wild foods, gathering in forests, etc.

11 An open access resource implies it is open to anyone to use and there are no exclusion clauses. This is likely to be very susceptible to overuse. In contrast, common property regimes allow resources to be commonly held or jointly used by one or more user groups and where rights and responsibilities of access and membership are usually strictly defined, often by customary law (Jones and Carswell, 2004).

12 For a fuller discussion of the role of community in natural resource management see Agrawal A. and Gibson, C. (1999)

13 Contreras, et al.(2002); Shackleton and Campbell (2001), cited in Shackleton, et al. (2002)

14 *Panchayats* are the lowest level village of local government in India.

15 Research from India indicates that even where women do occupy seats on councils they often remain silent or participate as directed by their husbands (Shackleton, et al., 2002).

16 This resonates with the views of Wily (2001), whose research into experience of JFM in Tanzania found that "the long standing existence of legally recognised government agencies at village level in Tanzania has been an important factor in the greater progress made in that State towards establishing genuinely devolved forest management".

17 Political capital is understood here to mean the ability of people to use power in support of political or economic positions and so enhance livelihoods (Baumann and Sinha, 2001).

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Independent Forest Monitoring:

Improving Forest Governance and Tackling Illegal Logging and Corruption

● Laura Furones

Illegal logging is widespread in many poor countries, subverting democracy and sustainable development, causing environmental degradation and costing about US$10 billion p.a. Many wars are substantially funded through "conflict timber". Confronting this, independent forest monitoring can be a springboard to increase political engagement and participation in decision-making. EU voluntary partnership agreements with producer countries will also help to curb illegality but careful monitoring will reveal the enormous lost revenues that could contribute to poverty reduction.

1. Introduction: illegal logging

Illegal logging is not a new problem, but it has only recently begun to be widely acknowledged as a serious threat not only to the welfare of forest dependent communities but also to the

economic development and political stability of timber producing countries.

Illegal logging activities represent a major loss of revenue to many countries by depriving governments of income from taxes, stumpage fees and other costs associated with legal forestry.[1] Losses to the economies of timber producing countries are estimated at US$10 billion per year[2] and many of the world's poorest countries are losing their forests at a very fast rate. Many countries with significant forest cover are plagued with bad governance and corruption, and countries such as Indonesia, the Democratic Republic of Congo (DRC) and Cameroon, all abundant in forests, rank at the bottom end of the 2005 Corruption Perception Index published by Transparency International.[3] Corruption in the forest sector affects the livelihoods of poor, forest-dependant people more than those of the better off, and not only are the ordinary populations of forest-rich countries suffering from the consequences of the destruction of their land and livelihoods, they also see desperately needed opportunities for growth and development in their countries being squandered.

Links between the logging industry and abuses of human rights are widely documented and, in many instances, laws designed to regulate forest use are not adequately enforced, and forest authorities discriminate against local and indigenous peoples' use of forests in favour of large-scale industrial loggers. Furthermore, illegal logging, through the unregulated destruction of forest areas in a rush for quick profits, subverts democracy and sustainable development. It diverts huge revenues into the hands of private companies and politicians and away from ordinary citizens. Commonly it benefits political and military elites, and in regimes with appalling human rights records, such as Burma, revenues derived from timber play a huge part in facilitating oppression, propping up the political economy and cementing the ruling parties' hold on power.

Logging has provided the funding for numerous wars, with financial rewards from timber becoming a major disincentive for peace. Timber is an easily exploitable, valuable and readily marketable commodity, and has been the resource of choice in several recent civil and international armed conflicts. The term "conflict timber" was coined by the United Nations Expert Panel on the DRC in 2001, and can be defined as timber that has been traded at some point by armed groups (rebel factions, regular soldiers, or the civilian administration), either to perpetuate conflict or to take advantage of conflict situations for personal gain. Conflict timber helped sustain the Khmer Rouge and other factions during the civil war in Cambodia during the 1980s and into the 1990s. It helped sustain Liberia's support for the Revolutionary United Front (RUF) rebels in Sierra Leone, dragging out a civil war that reduced Sierra Leone to the rank of "least developed nation" in the UN index, as well as fuelling Liberia's own war, which lasted for 14 years and killed an estimated 10% of its population. The nature and the practices of the illegal and conflict timber trades are the same, as are many of their stakeholders.

In recognition of the environmental, social and developmental impacts of illegal logging, various international efforts to tackle the problem are currently being made, most notably the EU Forest Law Enforcement and Trade (FLEGT) initiative. A focus of this initiative is the negotiation of Voluntary Partnership Agreements (VPAs) between the EU and individual timber-producing partner countries. These agreements recognise the joint responsibility of producer and consumer countries and will act to allow only verified legal timber from partner countries to enter the EU, while excluding unidentified (and potentially illegal) timber. Independent monitoring has been included as an integral part of VPAs, in order to "ensure the effectiveness and credibility of the licensing scheme by introducing a third party to monitor and report on its implementation".[4] Under the VPA scheme, individual EU countries will facilitate negotiations on behalf of the EU with a number of developing world timber producing countries. For example, the UK is working with Ghana to ensure that only certified legal timber is imported from Ghana to the EU. So far, six timber producing countries are participating in these voluntary agreements, with more to follow in the next three years.[5] As a voluntary measure, the scheme does not prevent unidentified timber from non-partner countries entering Europe.

The UN Millennium Development Goals (MDGs) also acknowledge the need to integrate sustainable development of the environment across development initiatives. This is reflected as part of Goal 7, a target being to "integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources".[6] Curbing illegality in the timber industry is a clear route towards sustainability, as long as other programmes are in place to support sustainable forest management.

Whilst such international initiatives as the MDGs and the EU Forest Law Enforcement and Trade initiative are much needed and have raised high expectations, they will take time to reach all-party agreement and be implemented. In the meantime, illegal logging continues under the noses of international donors in Liberia, the DRC, Cambodia and elsewhere, and the forestry sectors of many poor countries continue to contribute nothing to the alleviation of poverty. Programmes are required which will have an immediate impact on illegal activity, whilst informing long-term policy and legislative reform.

Over the past decade, independent forest monitoring has been developed as a method to tackle illegal logging, and is increasingly being recognised as an integral and crucial component of systems to ensure legality and tackle corruption in the forest sector. This paper examines the role played by independent forest monitoring (IFM), and its effectiveness in relation to improving law enforcement, and promoting the transparent and equitable governance of forests in timber producing countries.

2. What is independent forest monitoring?

IFM is delivered by an independent third party and in agreement with a host government institution. It works to provide an unbiased assessment of compliance, or non-compliance, with forest law in the country of operation and to expose illegality and corruption at all levels. By producing evidence of abuses in the forest sector, the goal of IFM is to foster a culture of transparency, which will ultimately lead to reform and enable ordinary citizens to benefit more equitably from the sustainable use of their forests.

IFM consists of a number of core activities. Firstly, field missions document illegal logging activities and the performance of the local forest authority in relation to it. Essentially, missions provide an insight into the impact (or lack of impact) that laws, regulations and policies are having on the ground, and allow the monitor to pinpoint flaws in the law enforcement system and ways to improve it. Preferably, the monitor will conduct both joint missions (with the forest authority) and independent field missions (where the monitor travels alone). By working closely with forest authority staff, IFM provides a unique opportunity for strengthening the capacity and motivation of local officials, effectively promoting professionalism and transferring skills. At the same time, independent missions enable the monitor to collect baseline data (regular follow-up visits to the field should then ensure a response to changes in the dynamics of illegality). Findings are consolidated and presented as field mission reports, which usually include a description of the development of a mission (for example, whether or not there were constraints), as well as conclusions and recommendations for reform, which are mainly aimed at the forest authority. Crucially, all reports are made public, allowing other stakeholders, such as civil society groups, to be fully informed of illegal practices taking place in the forest sector and to ensure the authorities are held to account if action is not taken.

A core remit of IFM is providing information, support and training to local stakeholders, leading to the improved confidence of both local authorities and communities in demanding forest law enforcement. The increase in the quantity, quality and credibility of forest sector information resulting from IFM opens an unprecedented space for debate which helps local populations to hold their governments to account and to ensure their rights are respected. This is best achieved by a monitor that is ready to go the extra mile in ensuring IFM objectives are met. In some contexts, international organisations or external links are useful, as they can "help to give monitoring operations their teeth, and without them, IM [Independent Monitoring] tends to be politically vulnerable".[7]

There are three pillars which are crucial to the success of IFM. First, the official status of IFM allows access to official information, such as details of concession holders. The other two vital factors are free access to the forest, sawmills, ports and other relevant locations, and the right to publish findings in the public interest. Although IFM may take different forms in individual countries, these three rights are essential and should be non-negotiable. They must be secured in order to ensure the independence and efficacy of the monitor's work. In addition to the relationship with the official host, the monitor should also be able to liaise freely with other stakeholders in the forest sector, such as representatives from civil society, the donor community and the timber industry. Indeed, one of the biggest challenges monitors face is to communicate well with all these groups whilst at the same time remaining independent and not allowing any of them to interfere with their work by imposing their own agendas.

IFM is most likely to be needed in countries where governments are reluctant to make efforts to secure legal and

sustainable forest management. Where political will is low, the role of the international donor community in supporting IFM cannot be overemphasised, as it can put pressure on host governments to ensure that IFM is properly implemented and that recommendations are acted on. It is equally important that donors harmonise their approaches and agendas to provide consistent support to IFM. For example, whilst donors' support was crucial to IFM getting started in Cambodia, their level of engagement has since lessened, weakening and having a negative impact on the success of the current monitoring programme.

A significant risk to IFM stems from adaptations or misconceptions which in one way or another subvert the requirement for transparency and independence in the interests of easier acceptability. Experience over the last few years has shown a trend towards a weaker mandate for monitors, thus limiting their efficacy and power. Under the current IFM programme in Cambodia for example, the government does not allow the monitor to undertake field missions without first notifying the authorities. The current mandate also only allows the monitor to publish quarterly reports, resulting in information documented at the beginning of a quarter not being brought to public attention until four months later. Furthermore, the current monitor only reports to the Forest Administration, thereby putting the very government institution it is meant to scrutinise in a position where it can block reports or activities of which it does not approve. This also results in missed opportunities for other branches of the government, such as the judiciary, to take wider responsibility for forest governance and enter into debates about accountability. A similar trend towards weakened monitors is evident in Cameroon, where again the current monitor must seek approval for any independent missions before carrying them out, and all reports need to be approved by the authorities before they can be published.

IFM works towards three main goals: efficient forest law enforcement, appropriate legal frameworks to safeguard forest resources and increased stakeholder participation. Although IFM is relevant to countries where governance is poor, in completely collapsed or post-conflict states where the regulatory function of government barely exists, it is not possible to monitor a forest law enforcement system. This has arguably been the case in the DRC, for example. Here, the lack of any monitoring systems, coupled with the virtual absence of forest officials, has made IFM unworkable. There are currently no resources to create a body to enforce forest law and there is an urgent need for appropriate

staffing and a budget before such a body can function and an IFM programme might be appropriate. In the meantime, it is possible that after the spring elections in the DRC, the current moratorium on logging concessions will be lifted, and there will be pressure from both domestic elites and donors for large-scale industrial logging to be used as a primary mechanism for economic development. Extensive development of the DRC's forests could mean potentially tens of millions of hectares of forest (roughly the size of France) being opened up to logging companies. Environmental, development, and human rights groups in the DRC and internationally are calling for the World Bank to stop plans for economic development of the country that would carve up the world's second largest remaining rainforest into industrial logging concessions.[8] Given that elites and military factions both within the DRC and in neighbouring countries such as Uganda and Rwanda profited from the DRC's civil war by using it to gain access to timber, minerals and ivory,[9] and that according to the World Bank, 75% of the population depend in some way on forests for their livelihood, maintaining the current logging moratorium is highly advisable until there are safeguards to limit logging to sustainable levels, protect the rights of the local population and ensure accountability around timber revenues and their distribution.

Countries that are beginning to recover from conflicts and to put transparent systems in place to rebuild infrastructure and the economy are, however, good candidates for IFM, and Liberia could be regarded as one such country. In these circumstances, IFM would help to build appropriate forest control systems and thereby ensure that forest resources are used in a sustainable way, in order to aid development and to benefit the entire population in an equitable manner.

At the other end of the spectrum are countries benefiting from full transparency of official information on the sector, an active and respected civil society, officials following systems rather than using discretionary power, and the legal system working as an effective deterrent against criminal activity – in short, a set of checks and balances. These countries might find it more suitable to adopt approaches other than IFM such as independent audits to complement their own monitoring systems.

In considering countries that would best benefit from IFM, another matter that should be taken into account is the significance of the forest sector in terms of the economy, as well as socially and environmentally. Furthermore, where governance is weak, IFM can only be successful where there is some will to

change the status quo, whether it comes from civil society representatives, elements in government, or from the timber industry.

3. Results on the ground

Over the last decade, IFM has been implemented in several countries presenting very different realities and needs. Global Witness has been at the forefront of this work.[10] Broadly positive results have demonstrated the potential of IFM and illustrated its flexibility and ability to adapt to a wide range of scenarios. Furthermore, IFM has presented a unique opportunity to gain a thorough understanding of political will and the degree of law enforcement in the forest sectors of a number of countries.

IFM was first designed and implemented in Cambodia by Global Witness in 1999. In that year, the government established a Forest Crimes Monitoring Unit in an attempt to strengthen the government's capacity to fight illegal logging. The presence of an independent monitor was identified by the donor community as an essential component of the initiative, their role being to provide an independent oversight of the Unit's activities. (The other two components were a Forest Crime Monitoring Office within the Department of Forestry and Wildlife, with a focus on production forests, and a Department of Inspection within the Ministry of the Environment, with a focus on protected areas.)

IFM in Cambodia resulted in the documentation of over 50 cases of illegal activities, with particular attention paid to high profile cases, in order to best demonstrate corruption in the sector as a whole. The impacts of IFM included the unprecedented cancellation of two logging concessions and ultimately, the establishment of a nationwide moratorium on logging and the transport of timber. This moratorium was put in place in 2002 and is still in force.

The Cambodian Government terminated Global Witness' official independent monitoring role in April 2003, following threats of expulsion and legal action by the government, after Global Witness reported on police violence against peaceful demonstrators on 5 December 2002. In the weeks leading up to the end of its official role as independent monitor, Global Witness documented logging in forest concessions, in defiance of the moratorium on cutting in these areas, and also in protected areas. The response of the head of the government's Department of Forestry and Wildlife to Global Witness' reports was to state that "there is no illegal logging that we should worry about".[11]

Despite the end of its official monitoring role, Global Witness has continued to coordinate an ongoing campaign to tackle corruption in the timber trade and the lack of technically competent forest management by concessionaires in Cambodia. This is significant, as the nature of illegality in Cambodia has evolved in response to the suspension of logging concessions. In particular, agro-industry (oil palm plantations), ecotourism and mining concessions have been issued to conceal illegal logging activity. Further information relating to this can be found in Global Witness' 2004 report *Taking a Cut*.[12]

IFM was conducted in Cameroon, again by Global Witness, between 2000 and 2005, and resulted in the Ministry of Environment and Forests issuing increased penalties to logging companies and individuals breaching the law and forest management regulations. In October 2004 fines, damages and interest levied as a result of the IFM project totalled US$7.5m, representing a significant contribution to the state treasury, and a strong deterrent to illegal logging. The single largest fine for illegal forest operations issued so far is FCFA 2.5 billion (US$3.5 million at that time).

There is broad recognition that the IFM programme was successful and "the force behind some positive changes in terms of a reduction in forestry infractions, the diminution of corruption, the beginnings of the instalment of transparency, and new work methods".[13] It led to the production of 120 field mission reports, covering a total of 168 inspections of concessions, sawmills, community forests and other timber production and timber recovery permits. Ninety-nine of these revealed at least one infraction, 56 of which resulted in the issue of an official statement of offence by the law enforcement authority. This is a remarkable improvement with regard to transparency in the Cameroon forest sector. A respected local civil society representative has summed up the impact by saying:

> Global Witness and CED [Centre pour l'Environnement et Développement] share a common vision of transparency and the improvement of governance in forest management; illegal logging is perceived by us as being the greatest threat to the sustainability of forest resources and the forest economy. Global Witness provides us with technical, political and communications support…. increasing the awareness of donors and international newspapers

of illegal logging issues and opening new doors for advocacy around illegal logging issues. Global Witness has contributed a great deal to the acceptance of the idea of independent monitoring in the forestry sector in the Congo Basin.[14]

As mentioned however, the current monitor in Cameroon operates under a more constrained mandate, and must seek approval of all reports before they can be published, thereby restricting their effectiveness as a truly independent force for reform.

Central America

Whilst external donor concerns have been the prompt for IFM in Cambodia and Cameroon, the incentive for IFM can also be domestic. A pilot project recently initiated to test the scope for IFM in Honduras has seen the Honduran Commission for Human Rights (CONADEH) becoming a host for IFM. Its involvement is a reflection of increased recognition that the impact of illegal logging goes beyond environmental destruction. Field missions conducted so far have involved forest authority officials, and have resulted in the production of reports documenting a range of illegality in forest management permits, timber transport and timber transformation. After only a month of fieldwork, the monitor uncovered illegalities which resulted in substantial fines, the single largest one estimated by the monitor at Lps 3,000,000 (US$158,000). This fine has not been officially issued yet.

Furthermore, IFM is helping to bring illegal logging in Honduras onto the political agenda and to raise awareness of the problem internationally, increasing the likelihood of the international community accepting some of the responsibility. For years, illegal logging has been widely acknowledged as a serious issue in Honduras, but has gone relatively unnoticed by donors, international markets or other international stakeholders.

Illegal and unsustainable logging in Honduras has been the cause of serious tensions that have at times taken the country to the brink of open conflict. By investigating and documenting illegal and abusive practices, the current IFM pilot project is already supporting local communities in asserting their right to equitable and safe access to forests and forest products.

It is clear that other countries in Central America are suffering from problems similar to those faced by Honduras, both in terms

of poor governance of forest resources and social conflict. Even in countries with strong laws to protect the forest, lack of enforcement often renders the legal framework totally dysfunctional. In Nicaragua, for example, a new Forest Law and related regulations were passed in 2003 in an attempt to bring the forest sector under control. Despite the law being widely recognised as a well written and robust piece of legislation, the lack of government presence in the field has resulted in a continuation of uncontrolled logging and about 100,000 hectares of natural forests are lost every year.[15] Indeed, between 1950 and 1990 approximately eight million hectares of forest in Nicaragua were reduced by half. The problem is so significant that in May 2005, the Nicaraguan President announced his official support for a logging and trade ban, and the Environment Commission in the National Assembly subsequently approved a ban on the exploitation of some types of timber. The duration of the ban is currently being discussed and could be as long as ten years. Whether the government will have the capacity to enforce this highly controversial ban, however, remains to be seen.

In Guatemala, the implementation of 13 logging bans since 1943 has not solved the problem of illegal logging and has only served to show the weakness of the government in enforcing the law. Even Costa Rica, widely perceived as ahead of the game in terms of forest management, struggles to curb substantial levels of illegal logging, currently estimated to produce 35% of traded timber.[16]

Overall detection, documentation and official action against perpetrators of illegal activities in the Central America region remain poor, resulting in a widespread failure to prosecute offenders. Such impunity, in turn, further fuels illegality. Currently, international initiatives to address illegality, such as FLEG, do not seem to pay sufficient attention to Central America. Social conflicts related to illegal logging persist, and on occasion result in people being killed whilst perpetrators go unpunished.

4. Conclusion

It is indisputable that tackling illegal logging has benefits far beyond economic gains for host governments and logging companies operating within the law. The direct and indirect positive impacts of IFM include the empowerment of civil society to safeguard its natural resources and demand the enforcement of

forest law. This civil society participation is crucial to the shared ownership and sustainable management of the natural wealth provided by forests. Furthermore, IFM has provided a good illustration of how environmental issues can act as a springboard to increase the level of political engagement and participation in decision-making processes enjoyed by civil society.

With the first EU Voluntary Partnership Agreements under negotiation in 2006, there is clearly an increasing international recognition that proof of legality in the production and trade in timber will enable both producers and consumers to act to curb illegality. To be truly effective, such licensing needs to become compulsory when importing timber from all producer countries into the EU.

With IFM already included as a central part of the VPA process, demand for third party monitoring is likely to increase in the future. It is thus essential that the key elements that ensure the independence and integrity of IFM are guaranteed and that all relevant stakeholders have a good understanding of what genuine, objective IFM is. Independent monitors' activities should be guided by clear rules and procedures so that all parties – the industry, the verifiers and the host government, as well as the monitoring organisation – understand clearly the responsibilities and limitations of the services.[17]

However, VPAs are not the sole solution to the problems of illegality. There is some concern that they will simply become a trade facilitation mechanism providing socially and environmentally friendly timber to Europe, shifting attention away from other markets and neglecting the desire in producer countries for sustainable natural resource management and equitable distribution of natural resource riches. IFM helps to reveal the immense revenues lost by countries due to illegal logging, which could otherwise contribute to poverty reduction. Such a potential contribution to poverty reduction and socio-economic development of timber producing countries is as important as its role in improving forest law enforcement and good governance.

Footnotes

[1] "Best practices for improving law compliance in the forest sector", FAO Forestry paper 145

[2] Contreras-Hermosilla (2002), *Illegal Forest Production and Trade: An Overview*

[3] See http://www.transparency.org/surveys/index.html#cpi

[4] EU (2005), *A Timber Legality Assurance System*, FLEGT Briefing note no. 9, September

[5] Besides Ghana, other countries where VPAs are being worked on include Congo Brazzaville, Gabon, Cameroon, Indonesia and Malaysia.

[6] See http://www.un.org/millenniumgoals/

[7] Brown, David (2005), *Strategies for Independent Monitoring*, Verifor Options, ODI, CIFOR, RECOFTC, CATIE

[8] Declaration of international non-governmental organisations working for the sustainable management of forest ecosystems in the DRC, respectful of the rights and interests of local communities: Forest Forum of the Democratic Republic of Congo, Kinshasa, 15 February 2006 / Declaration des organisations de la societé civile au forum sur les forêts et la conservation de la nature.

[9] UN Security Council expert panel on the illegal exploitation of DRC's natural resources report, October 2002

[10] Global Witness is a London based NGO that campaigns to achieve real change by highlighting the links between the exploitation of natural resources, environmental destruction and human rights abuses, particularly where resources are used to fund and perpetuate conflict and corruption. Through a combination of investigations on the ground and in-depth research, Global Witness gathers first hand evidence that is compiled into hard hitting reports, whose recommendations shape advocacy programmes targeted at those in a position to achieve change.

[11] Comment made by Ty Sokhun, head of the Department of Forestry and Wildlife, in an interview with the Cambodian press, April 2003

[12] Available at http://www.globalwitness.org/reports/index.php?section=cambodia

[13] Samuel Assembe Mvondo, CIFOR Central and West Africa Regional Office, 2004

[14] Personal comment, Cameroon-based NGO, Centre pour l'Environnement et Développement – CED, 2005

[15] Comisión del Medio Ambiente y Recursos Naturales, 2005

[16] Ministerio de Ambiente y Energía, 2002-2007

[17] See EU (2005)

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