

# **Governance and Poverty Reduction**

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### **Technical Notes**

#### **Technical Note 1: Governance and Poverty**

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## 1. Definitions and diagnosis

Governance refers broadly to how power is exercised through a country's economic, social, and political institutions<sup>1</sup>, where institutions represent the norms, standards and "rules of the game" that operate either formally or informally. Three key dimensions are: (i) the process by which governments are selected, held accountable, monitored, and replaced; (ii) the capacity of governments to manage resources efficiently, and to formulate, implement, and enforce sound policies and regulations; and (iii) respect for institutions that govern economic and social interactions. Boxes 1 and 2 summarize global definitions and regional perspectives on governance.

### Box 1: Global perspectives on governance

#### United Nations Development Programme (UNDP)

Governance is the exercise of economic, political, and administrative authority to manage a country's affairs at all levels. It comprises mechanisms, processes, and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their legal obligations, and mediate their differences. (<http://magnet.undp.org/policy/default.htm>)

#### Organisation for Economic Cooperation and Development (OECD)

Governance denotes the use of political authority and exercise of control in a society in relation to the management of its resources for social and economic development. This broad definition encompasses the role of public authorities in establishing the environment in which economic operators function and in determining the distribution of benefits as well as the relationship between the ruler and the ruled. (<http://www.oecd.org/dac/>)

#### Commission on Global Governance

Governance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative action may be taken. It includes formal instructions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest.

(<http://www.cgg.ch/welcome.html>)

#### World Bank

As described in the 1994 report *Governance: The World Bank's Experience*, "Good Governance is epitomized by predictable, open and enlightened policy making (that is, transparent processes); a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law."

(<http://www.worldbank.org/publicsector/overview.htm>)

Problems of poverty and governance are inextricably linked. If power is abused, or exercised in weak or improper ways, those with least power – the poor – are those most likely to suffer. Weak governance compromises the delivery of services and benefits to those who need them most; the influence of powerful interest groups biases policies, programs and spending away from the poor; and lack of property rights, police protection

<sup>1</sup> For a more extensive discussion of governance and strategies for improving public institutions, see: World Bank (2000). *Reforming Public Institutions and Strengthening Governance: A World Bank Strategy*. Washington DC, World Bank. (<http://www1.worldbank.org/publicsector/strategy.htm>).

and legal services disadvantages the poor and inhibits them from securing their homes and other assets and operating businesses. Thus poor governance generates and reinforces poverty – and also subverts efforts to reduce it. Strengthening governance is an essential precondition to improving the lives of the poor.

## 1.1 Diagnosis: sources, incentives and mechanisms

Good governance is undermined by lack of transparency, weak accountability, poor organization and lack of technical capacity, lack of responsiveness, inefficiency and poor motivation. It is important to be clear about the *sources* of poor governance, as possible remedies will vary accordingly. And it is important to assess the extent of demand for reform, which requires an understanding of the *incentives* of the main actors involved. Corruption is often both a cause and an effect of weak governance. Finally, it helps to understand the specific *mechanisms* and nature of the specific costs imposed on the poor by weak governance, in order to design realistic action plans for dealing with it.

### Lack of competence or lack of incentive?

If demand for reform is strong, but organizational and technical capacity is weak, technocratic reforms can be helpful. These could include support to set up collective-decision-making processes, links between policy and budgeting, civil service development and training, development of legislative and judicial functions, organizational and functional reforms, and improved service delivery. But a diagnosis of the underlying drivers of poor governance will often reveal that many of the actors involved have an interest in its continuation and correspondingly little incentive to make reforms work. If demand for reform is compromised by vested interests, the ownership and effectiveness of technical remedies are likely to be weak. As a result, both domestic funds and external assistance may largely be wasted. Effective ways of tackling these incentive issues need to take into account the precise ways in which mechanisms of dysfunction operate, and set them within the broader governance environment, including the degree to which the society as a whole operates according to formal rules, or through informal networks. The extent to which information is available and people can be held to account for what they have done is critical to any chance of improving governance. Understanding the starting point is also important. Often, the critical path forwards rests on an understanding of what has gone before, and of the way in which the current set of institutional arrangements constrains and defines viable next steps.

### Who gains?

It is critical to answer the question “who gains” from poor governance, if the diagnosis is to be translated into effective action. In many if not most cases, dysfunctional institutions serve private interests. If public servants at any level are bending the formal rules in order to secure private gains, then corruption is a factor in the situation<sup>2</sup>.

### How do the poor suffer? What are the mechanisms?

Poor governance and corruption can hurt the poor through a multiplicity of routes. In a corrupt government, social interests and economic priorities play little role in the allocation of public resources. As capital-intensive defense and infrastructure projects may offer more opportunities for kickbacks than, for instance, spending on primary

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<sup>2</sup> This leads to a working definition of corruption as “the abuse of public office for private gain”.

education, government spending allocations may be biased away from pro-poor expenditure. Spending on operations and maintenance may also be squeezed out in favor of new projects, for similar reasons, leaving existing roads, hospitals and other public infrastructure to decay. At the same time, expenditures allocated may never reach the intended recipients – a major source of deprivation to poor people. Corruption in pharmaceuticals and equipment procurement in the health sector, for instance, diverts funds away from patients. Corruption can compromise basic security and life itself. Corruption is too often the reason that the death toll and loss of assets in earthquakes and other natural disasters are far higher than they need be, because procurement and inspection procedures are subverted and shoddy materials and building practices prevail. It is the reason why teachers may extract bribes for grades, or that the poor cannot get needed medicines without paying a bribe, or that patients with diabetes have to resort to amputations, because the funds for insulin, or the insulin itself were diverted.

**Box 2. Regional donor perspectives on governance**

**Asian Development Bank (ADB)**

Governance has to do with the institutional environment in which citizens interact among themselves and with government agencies and officials. The capacity of this institutional environment is important for development because it helps determine the impact achieved by the economic policies adopted by the government. This capacity, then, and the governance quality it reflects, is a vital concern for all governments. (<http://www.adb.org/Work/Policies/governance/gov-policies.pdf>)

**European Bank for Reconstruction and Development**

Governance should be based on support for markets and private enterprise rather than plans and commands. A key to explaining different assessments of governance across the region lies in the extent to which the state is subject to "capture"—or undue influence—by vested interests. ([http://www.ebrd.com/english/PUBLIC/transition/Exesum\\_281099.html](http://www.ebrd.com/english/PUBLIC/transition/Exesum_281099.html))

**Inter-American Development Bank**

The IDB has sought to reinforce the connection between good governance and political stability, which is in turn dependent on domestic socioeconomic conditions, the strength of democratic institutions and citizen input into the public decisionmaking process. Stability also requires an effective, reliable legal system, efficient management of public funds, government accountability, and social equity. (<http://www.iadb.org/exr/IDB/stories/1998/eng/e9981.htm>)

**European Union**

In the context of a political and institutional environment that upholds human rights, democratic principles, and the rule of law, good governance is the transparent and accountable management of human, natural, economic, and financial resources for equitable and sustainable development. It entails clear decisionmaking procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in managing and distributing resources, and capacity building for elaborating and implementing measures that aim to prevent and combat corruption. (<http://www.europa.eu.int/>)

The poor will be disproportionately affected by such practices, because they cannot buy alternatives to publicly-provided health services and education, or private substitutes (security guards, alarm systems) for police services. Bribe payments cost the poor, in comparison with the rich, a larger share of their incomes. Household surveys consistently indicate that poorer families pay a larger share of their incomes as bribes in exchange for public services.

When analyzing the sources and impact of corruption, it is helpful to distinguish between two broad types of corruption: state capture – that distorts the framework of rules - and administrative corruption – that distorts the implementation of rules. State capture refers to actions by individuals, groups or firms in both the public and private sectors to influence the formation of laws, regulations, decrees and policies to their own advantage, through illicit and non-transparent transfer or concentration of private benefits to public officials. As a result, biases that serve private interests are encoded in the basic rules of the game, usually at a significant cost to society. Administrative corruption refers to the intentional imposition of distortions in the prescribed implementation of existing laws, rules, and regulations to provide advantage to either state or non-state actors as a result of the illegal transfer or concentration of private gains to public officials<sup>3</sup>.

When the reach of legitimate political authority is limited, the economy is dominated by powerful interests with political influence, and public administration is rife with patronage and bribery, collective action of any kind—especially that which is pro-poor—becomes almost impossible. The recent literature on poverty gives voice to these governance concerns and is increasingly focused on identifying institutional arrangements that are fairer, safer, more open to participation by the poor, and more likely to produce results helpful to their well-being. In this chapter, we call such arrangements “pro-poor”.

## 2. Using this Chapter

This chapter is intended to stimulate a broad-based dialogue on governance and its links to poverty. It assumes that an initial poverty analysis has been undertaken and aims to help lead to a subsequent operational strategy for good governance in support of poverty reduction.

Diagnosing the quality of governance arrangements is crucial to determining practical and sustainable strategies for tackling poverty. The chapter is intended to be used as a diagnostic aid by a working team comprising government and civil society representatives. It focuses on some core governance areas, raising issues and providing diagnostic questions. More detailed diagnostics can be applied as time and resources allow.<sup>4</sup>

The following section 3 expands on the links between governance and the four key themes of: empowering the poor; improving capabilities of the poor by improving basic services; providing economic opportunities by increasing access to markets; providing security from economic shocks and from corruption, crime, and violence. Table 1 maps governance issues onto these four themes.

Section 4 explores the formal governance arrangements that can constrain the exercise of state power and offer equal opportunity to participate to all citizens. It asks whether

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<sup>3</sup> These issues are explored in more detail in: World Bank (2000). *Anticorruption in Transition: A Contribution to the Policy Debate*. Washington DC, World Bank.

(<http://wbi0018.worldbank.org/eca/eca.nsf/General/D74DB51B2D46615D8525695B00678C93?OpenDocument>).

<sup>4</sup> Particular World Bank products that may help include diagnostic toolkits that are available at <http://www.worldbank.org/publicsector/toolkits.htm>

- Surveys of public officials and households that can be organized in collaboration with the World Bank Institute (<http://www.worldbank.org/wbi/governance/tools.htm>)
- More formal reports including Institutional and Governance Reviews.

and how the government is held accountable for its actions and its use of funds, stressing the importance of information and transparency as essential foundations of accountability.

In Section 5, governance issues in intergovernmental relations are explained, including the extent to which devolution of responsibilities, expenditure management, revenue-raising and service delivery to subnational levels can help or hinder the poorest groups. Sections 6 and 7 focus on the core public sector areas of budget processes and the civil service, while section 8 sets out the crucial importance of the legal and judicial system for the poor. Section 9 draws together the implications for service delivery—an aspect of public sector performance that is almost always critical for the poor.

Section 10 raises some important issues of political economy that will influence the feasibility and sustainability of pro-poor governance reforms. This discussion is intended to be helpful in designing strategies that can be effectively implemented. The aim is to generate reform options that are not only technically sound, but are workable and seen as legitimate – including in the eyes of the poor – and can be sustained over time.

### **3. Good Governance Is Essential to Addressing Poverty Concerns**

Governance is a broad topic and can reasonably include consideration of the way institutions work in areas ranging from human rights—through legal systems and human resource management—to details of social and military spending. To offer a practical connection between broad concerns about how power is exercised through economic, social, and political institutions and the specific steps that can be taken to improve institutional arrangements for the poor, this chapter relates the four key elements of the poverty framework to corresponding governance reforms, asking the question: how can better governance help in achieving the following objectives?

- Empowering the poor
- Improving capabilities of the poor by improving basic services
- Providing economic opportunities by increasing access to markets
- Providing security from economic shocks and from corruption, crime, and violence.

#### **3.1 Empowering the poor**

By participating in formal political and administrative processes, the poor can potentially debate and influence broad policy directives, budget priorities, and program design. Poor people can give valuable feedback on failures in service delivery and obstacles to access. To be sustainable, participation needs to be embedded in and supported by formal structures at the national and subnational level.

What are the formal governance arrangements that can promote and sustain participatory processes? The first arrangement comprises electoral rules that mandate regular and fair competition between seekers of political office. The second requires inclusive arrangements for the exercise of power that offer the protection of the law to all citizens—and that can be guaranteed by an independent judiciary. Important also are parliamentary oversight mechanisms such as independent audit institutions—that call political principals and public administrators to account for their fiduciary and operational responsibilities. Accountability and transparency are central. At the level of the

executive, annual reports, regular publication of information, and established consultative and review mechanisms all contribute. Finally, access to information, and freedom of the media to investigate and report, are critical. (See Section 4).

Often, participation by the poor is conditioned by their proximity to decentralized political institutions, also governed by electoral rules, and local planning bodies. While they do not guarantee empowerment, local governance arrangements may give poor people a chance to articulate and mobilize around their most immediate concerns.

### **3.2 Improving capabilities of the poor by improving basic services**

To improve the coverage, cost efficiency, and quality of basic services at the local or district levels, governments need to allocate and deliver adequate and predictable flows of resources to sectoral and subnational authorities, and implement institutional arrangements that are responsive to the public. Functions assigned to different tiers of government should be reinforced by a legal framework for resolving inter-jurisdictional disputes. For most services, particularly in the social services, important roles need to be assigned and performed by multiple levels of government. Supporting these structural arrangements should be a capable, motivated staff, recruited on the basis of merit and paid a competitive wage. If poor people are to be better served, it may be necessary to tackle discriminatory practices, and, in some cases, charge reduced fees or "lifeline" tariffs.

Decentralized responsibility for delivery – if designed appropriately -- has potential to improve service delivery. If not designed appropriately, it can make things worse. Sustainability and efficiency can be enhanced by actively involving beneficiaries and by encouraging other producers through, for example, creating credit unions and community development associations. Processes that involve the poor, elicit their feedback, and disseminate information on resource management and performance can help to strengthen accountability mechanisms.

### **3.3 Providing economic opportunities by increasing access to markets**

The state plays a central role in defining and enforcing the rules governing access to private markets. Social exclusion and discrimination keep the poor out of markets for land, labor, and credit, as buyers or as sellers. Harassment by tax inspectors and regulatory authorities hits the poor worst. Removing these barriers requires far-reaching national and local anti-discrimination efforts to expand the freedom of poor individuals to participate in mainstream institutions. Governments may need to enact legal and regulatory reforms to deepen markets, clean up inspectorates and revenue authorities, and actively disseminate information to the poor on opportunities for employment, asset ownership, and local and international prices.

Finally, lack of physical access to markets tends to encourage subsistence farming and greatly limits the opportunities available to the poor to engage in more profitable farm and non-farm activities, important for reducing vulnerability to agricultural shocks and Table 1 increasing rural employment. Developing and maintaining the infrastructure (e.g. telecommunications, rural roads) to enable access to markets requires an enabling

environment which is absent in many countries. This environment requires an assignment of responsibilities (from funding to technical supervision to construction to maintenance of different types of infrastructure) across tiers of government and communities to provide clear channels of accountability to ensure facilities are constructed and maintained.

### **3.4 Providing security from economic shocks and from corruption, crime and violence**

Poor macroeconomic performance affects all economic actors, but is especially costly to the poor as evidenced by the regressive tax imposed by inflation. Fiscal deficits may be fuelled by artificial, bribe-inflated expenditure on government contracts and corruption in tax collection. Multiple exchange rates and complicated trade restrictions often offer opportunities for corruption and siphon resources away from the poor. The best safeguard against poor macroeconomic performance is sound management of fiscal and monetary policy, including the imposition of hard budget constraints between levels of government.

Job loss or violation of property rights are a frequent occurrence in the lives of the poor. When the property rights of poor citizens are not protected, or even recognized, the resulting uncertainty generates strong disincentives for asset accumulation. Arrangements that provide social insurance as well as other essential services such as primary health care or vocational training can reduce vulnerability on multiple fronts.

In many societies, vulnerability to crime, violence, and corruption is a major dimension of poverty and is often the concern most forcefully expressed by the poor. Governments can act to check these forms of arbitrary action with arrangements that “open the doors” of the justice system and check violence and exploitation by police. In some cases, alternative dispute resolution bodies can be less expensive and speedier than the traditional court system – but neither will necessarily be fair. Governments can also introduce methods by which the poor can report—anononymously or publicly—on the behavior of public officials such as the police.

Reducing vulnerability to corruption, however, requires far more than legal and judicial reform. All the public sector issues mentioned in this chapter (e.g. clear electoral rules that encourage participation, intergovernmental relations with clear channels of accountability, merit-based and competitively paid civil service, open information and civil society monitoring, honest and efficient administration of tax and customs) affect the “rules of the game” which influence the actions of state officials and public sector employees and ultimately determine the integrity of institutions in a society.

Table 1 summarizes the relationship between key governance issues and poverty dimensions.



**Table 1. Dimensions of Poverty and Governance**

<b>Poverty</b>	<b>Governance issues</b>
Empowering the poor	<p>Rules for seeking and holding public office</p> <ul style="list-style-type: none"> <li>▪ Fair, transparent national electoral processes</li> <li>▪ Power-sharing arrangements to ensure stability in heterogeneous societies</li> </ul> <p>Oversight by political principals</p> <ul style="list-style-type: none"> <li>▪ Parliamentary oversight with independent audit institutions</li> <li>▪ Budget that is a credible signal of government policy intentions</li> <li>▪ Pro-poor policies</li> <li>▪ Sound institutions for local and national representation</li> </ul>
Improving coverage, efficiency, and sustainability of basic services	<p>Adequate, predictable resources for sectors, local authorities</p> <ul style="list-style-type: none"> <li>▪ Pro-poor budget priorities for service provision</li> <li>▪ Stable intergovernmental transfers with hard budget constraints</li> <li>▪ Hierarchical and transparent budgeting processes</li> </ul> <p>Demarcation of responsibilities for delivery</p> <ul style="list-style-type: none"> <li>▪ Assignment of responsibilities according to subsidiarity principle</li> </ul> <p>Capable and motivated civil servants</p> <ul style="list-style-type: none"> <li>▪ Merit-based recruitment and competitive pay</li> <li>▪ Hiring to fill real needs, within a hard budget constraint</li> <li>▪ Public service that earns respect</li> </ul> <p>Accountability downwards</p> <ul style="list-style-type: none"> <li>▪ Publication of accounts for local-level activities</li> <li>▪ Dissemination of basic data on performance</li> <li>▪ Mechanisms for client feedback, including report cards and client surveys</li> </ul> <p>Flexible delivery</p> <ul style="list-style-type: none"> <li>▪ Involvement of civic and private (for profit) partners</li> </ul> <p>Development of local capacity</p> <ul style="list-style-type: none"> <li>▪ Incentives to deploy staff to poor and remote areas</li> <li>▪ Appropriate autonomy in deploying staff</li> </ul>
Increasing access To markets	<p>Legal and regulatory framework</p> <ul style="list-style-type: none"> <li>▪ Enforcement of antidiscrimination legislation</li> <li>▪ Incentives for deepening of credit and land markets</li> </ul> <p>Methods for reducing exclusion</p> <ul style="list-style-type: none"> <li>▪ Enforcement of legislation against barriers to entry</li> <li>▪ Provision of information on labor and credit markets</li> </ul> <p>Demarcation of responsibilities and budgeting procedures to support development and maintenance of infrastructure (e.g. rural roads) to enable physical access to markets</p>
Providing security • From economic shocks	<p>Rules for sound economic management</p> <ul style="list-style-type: none"> <li>▪ Hard budget constraint for subnational and aggregate fiscal discipline</li> <li>▪ Efficient administration of tax and customs</li> <li>▪ Independent central bank to carry out monetary policy</li> </ul> <p>Safeguards against economic vulnerability</p> <ul style="list-style-type: none"> <li>▪ Recognition of property rights over physical assets</li> <li>▪ Access to social insurance and other services through hub-and-spoke arrangements</li> </ul>
From Corruption, crime, and violence	<p>Enforcement mechanisms</p> <ul style="list-style-type: none"> <li>▪ Independent and adequately funded court system</li> <li>▪ Access to speedy recourse and redress</li> <li>▪ Reliable and competent police</li> </ul> <p>Efficient courts with competent judiciary and legal personnel</p> <ul style="list-style-type: none"> <li>▪ Alternative mechanisms for dispute resolution</li> </ul>

## 4. Accountability, Transparency and the Architecture of the State

Accountability and transparency provide strong incentives for good governance. They are essential characteristics of well-functioning institutions and the performance of the public sector. Their existence is closely linked to the architecture of the state, which defines the relationships between the executive, legislature, and judiciary and the extent to which they are able to scrutinize each other's behavior. They also depend on other institutional arrangements for the transfer of power between governments, including voting arrangements and electoral laws.

What are the formal governance arrangements that support this architecture? The first arrangement comprises electoral rules that mandate regular and fair competition between seekers of political office. The second requires inclusive arrangements for the exercise of power that offer the protection of the law to all citizens—and that can be guaranteed by an independent judiciary. Important also are parliamentary oversight mechanisms such as independent audit institutions—that call political principals and public administrators to account for their fiduciary and operational responsibilities. Deficiencies in any of these arrangements undermine the fairness and effectiveness of the state and directly or indirectly penalize the poor.

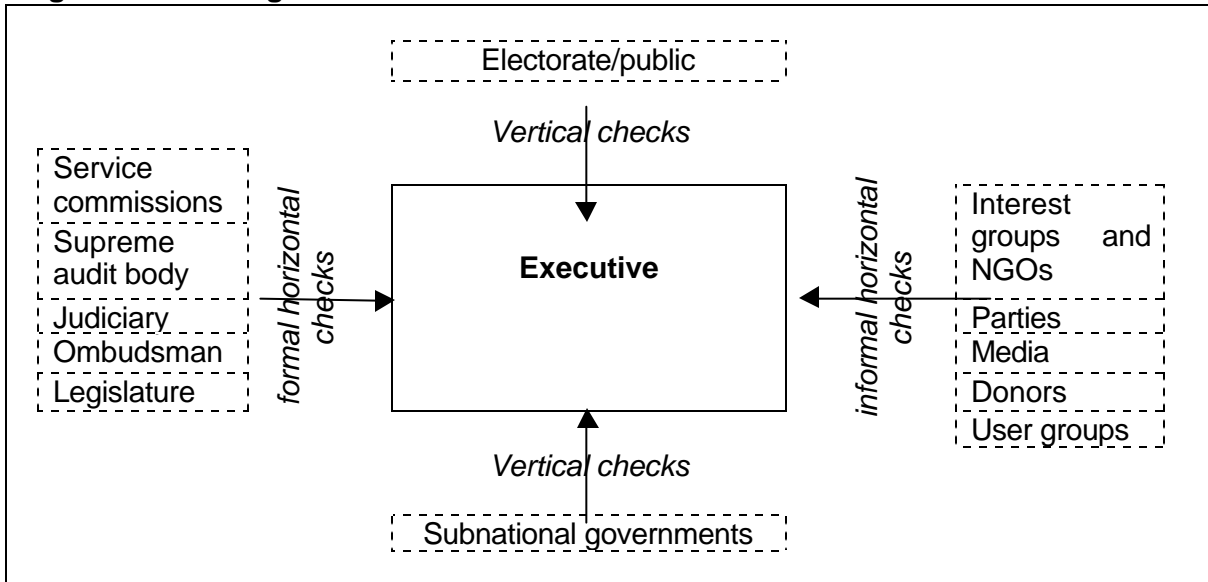
*Accountability* - the ability to call state officials and public employees to account - is fundamental. Typically, people must account for their policies and actions, as well as for their use of funds (financial accountability). Employees must be accountable to their superiors within the executive; while the executive, as a whole must be accountable to the electorate, and to the other main institutions of the state. Accountability is hard to achieve without adequate information and at least some degree of transparency. If internal accountability within the executive is to be possible, information based on reliable records and accounts must be generated and reported; for external accountability, this information must also be accessible and shared. For this reason, we refer in what follows to measures that enhance information-sharing and transparency as “accountability mechanisms” as well as to the central concept of accountability.

Holding government—the executive—accountable rests on two foundations. First, there must be some bodies or groups to which the executive answers. Second, the executive must be required to change course in certain circumstances. If its responses are not seen to be satisfactory, then legislative, judicial, legal or electoral challenges are in order. Failing these, popular challenges have sometimes been successful but should be seen very much as a last resort.

With those dimensions in mind, horizontal accountability concerns relationships between the executive and the other main institutions of the state: the legislature and the judiciary, while vertical accountability refers to relationships in which one actor must report to another. Depending on constitutional arrangements, subnational governments may be seen either as subordinated or as having equivalent rights to central governments. These accountability relationships are reinforced by informal checks by members of civil society and in some circumstances by donors.

The following figure maps these relationships.<sup>5</sup>

**Figure 1. Holding the Executive Accountable**



**Is government office contestable in practice?**

Regular, free, and fair elections that can result in changes of government, and the right to stand for elections, are fundamental to empowering the poor. The rules for seeking and holding public office should be fair and transparent. Elections should be competitive and electoral law should provide for an independent electoral commission and the determination of electoral boundaries by a neutral or representative body. The law should also credibly prohibit vote buying and encourage election monitoring by independent groups from civil society. Key points: do government and opposition candidates have equal access to state resources and the media during political campaigns? Is the voters' register updated before elections and free from controversy?

Relevant also is the credibility and freedom to organize of political parties. Are they rooted in significant popular support around coherent policy platforms, or are they front organizations for vested interests, with vestigial popular membership? Can they function transparently and without undue hindrance? For example, are government and opposition parties free to hold public meetings and rallies, and is the framework transparent for public support – whether financial or non-financial - of political parties? Both financial and non-financial contributions to political parties should be disclosed to the public and the parties' financial accounts should be audited regularly and the results made public.

**Key questions:**

<sup>5</sup>This mapping of accountability relationships owes significantly to Schedler, Diamond and Plattner (*The Self-Restraining State: Power and Accountability in New Democracies*. Edited by Andreas Schedler, Larry Diamond, and Marc Plattner. Boulder: Lynne Rienner Publishers Inc., 1999). See the World Bank Public Expenditure Review for Guyana (Reorienting Public Expenditures to Serve the Poor, April 2000) for a practical example of applying this framework. See also World Bank PREM Notes: **Using an Ombudsman to Oversee Public Officials** and **Fostering Institutions to Contain Corruption**, for recent World Bank experiences.

- Is the governing party financed through off-budget public resources, or through funds corruptly obtained through sale of office, appointments to state owned enterprises or interference in public procurement?
- Can opposition parties openly obtain adequate resources to participate in competitive politics?

### **Is the government held accountable by the legislature for its policy actions and money spent?**

Absence of State capacity for external audit, or lengthy delays in audit reports to the legislature are a warning sign that the government is not being held accountable by the legislature for its actions. Key questions in ensuring that the government is held accountable for budget execution and results achieved include:

- Are records and accounts kept which enable accurate reports to be generated?
- Does the executive reconcile and justify to the parliament deviations between forward estimates and budget estimates, and between budget estimates and actual spending?
- Do ministries and agencies provide annual reports to the parliament in which performance is explained?
- Are audited financial statements submitted to the parliament in a timely manner?
- Are they debated in the parliament?
- Does the executive take notice of audit findings and related parliamentary reports?
- What percentage of the budget is earmarked, formally and informally?
- Are there clear criteria for the cases in which earmarking is seen as legitimate?<sup>6</sup>

Legislatures should include a functioning finance committee and the equivalent of a public accounts committee.<sup>7</sup> Parliamentary committees should be supported by professional staff and adequately resourced. Individual parliamentarians should have enough staff and enough financial resources to perform their duties.<sup>8</sup> Public interest groups that analyze the budget, including from a poverty perspective, can usefully reinforce this process.

### **Is there freedom of information and assembly?**

Formal electoral and accountability rules must be coupled with a legal framework permitting freedom of expression, assembly, and organization which should include a law defining non-governmental organizations and their right to organize and publish. Freedom of the news media is critical, and entails freedom from suppression of news by owners as well as by state power. An important guarantor of transparency is a Freedom of Information Act that clearly defines information that must be held in confidence and allows access to all information not so restricted.

Key questions:

- Is freedom of expression and opinion restricted by media censorship or fear?

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<sup>6</sup> A rule-of-thumb guide for reviewing the relationship between the executive and the legislature is provided in the *Public Expenditure Institutional Assessment toolkit* available at <http://www.worldbank.org/publicsector/toolkits.htm>.

<sup>7</sup> The World Bank Institute provides training programs and seminars to assist in developing Public Accounts Committees (<http://www.worldbank.org/wbi/governance/parliament.htm>).

<sup>8</sup> The Inter-Parliamentary Union (IPU) (<http://www.ipu.org/>) and the Commonwealth Parliamentary Association (<http://www.comparlhq.org.uk/>) can provide valuable guidance on these issues. See also the list of other parliamentary sites maintained by the IPU (<http://www.ipu.org/english/otherweb.htm>).

- What difficulties do groups face in obtaining permission to hold a demonstration or to form civic associations?

## 5. Intergovernmental Relations

Throughout the world, governments are in the process of decentralizing fiscal, political and administrative authority to lower levels of government. In some countries, decentralization is driven by people's demands for a greater say in decisions affecting their lives; in others, by reactions against previous excessive concentration of power at the center (such as in former Soviet countries); and in yet others by government efforts to save money by devolving functions without commensurate resources.

Several different forms of decentralization can co-exist within a country and even among its sectors, with different forms in different sectors:

- *Deconcentration*, the most limited (and common) form of decentralization, occurs when the central government disperses responsibilities for delivery of services to its regional branch offices.
- *Delegation* refers to a situation in which central government transfers responsibilities for administration of public functions to local governments or semi-autonomous organizations that are not wholly controlled by the central government but are accountable.
- *Devolution* is a more extensive form of decentralization of power. Here, the central government transfers authority for decisionmaking, finance, and management to local governments that have clear and legally recognized jurisdictions over which they exercise authority, within which they perform public functions, and to whose constituents they are accountable.

Decentralization is neither good nor bad. If it is designed well, it can move decision-making closer to people and improve governance, including the efficiency of service delivery. If decentralization is not appropriately designed or is introduced in environments where local participation and accountability are constrained, its impact can be negative. The key challenge is to balance responsibilities with accountability and resources.

There is often a big difference between formal arrangements for decentralization and what is actually happening in the country. An essential element is the need for a clear division of responsibilities and a clear system of accountability. Two key questions are (1) who does what – spending, taxing, and monitoring outcomes, and (2) who is accountable to whom? The answers will give the analyst a good idea if the design is well formulated and has the potential to achieve the benefits of decentralization – or conversely, if it is likely to lead to unintended consequences which can generate macroeconomic instability and hurt the poor.

**Are services provided at the lowest practicable level of government? Are local governments held accountable for responding to citizens' preferences in delivering public goods and services?**

If intergovernmental relations are well designed (responsibilities matched with resources and capacity, decision makers clearly accountable to local and central authorities as appropriate for the function) then service delivery should occur at the lowest possible level of government. When communities are actively involved in allocative decisions

they are more likely to assure that projects meet their needs, are completed in a timely fashion, and be committed to maintaining investments.

As countries decentralize, arrangements to ensure accountability of public actors become more complicated, but also hold greater potential for effectiveness. Some services, or aspects of services, will remain the responsibility of higher levels of government and some, depending on the nature of the service and the extent to which benefits are exclusively local, will become local responsibilities. Thus, accountability will involve multiple levels of government.

In countries of many millions, it is virtually impossible for a central government to know (or care) about decisions that affect a few thousand people. Rather than relying on reports to the central government that may be ignored, accountability shifts downward if households can turn to locally elected leaders to demand better public services. In principle, if local leaders do not respond to the demands of the majority they are voted out of power. The ability of decentralization to improve governance, however, rests on assumptions which need to be examined in every country context.

Key questions to ask include: are local leaders selected through regularly scheduled and fair elections?<sup>9</sup> Is information available to citizens to enable them to assess the performance of their elected leaders (e.g. full publication of accounts, public notices of decisions)? Are channels of participation available to enable citizens to express views regarding local decisions (e.g. selection of priority investment projects and other allocative decisions regarding the budget, operation of local school and health centers)? Are civic and private partners involved in service delivery? Are spending and revenue responsibilities clearly assigned to different levels of government and is this assignment understood by the population? Local leaders cannot be held accountable unless they are clearly assigned the responsibility, and even so, they can pass accountability upward, unless they have the ability to raise at least some revenues from the local population so that they contribute financially to the services that they receive. Are spending and revenue matched to enable adequate financing of services? Are intergovernmental transfers predictable and transparent? Do local governments have the capacity to meet their responsibilities?<sup>10</sup>

### **Is a hard budget constraint between tiers of government maintained through the intergovernmental system and the financial system?**

The measures of accountability mentioned above are weakened greatly when a situation of “soft budget constraints” exists between levels of government. In these cases, subnational governments will have incentives to overspend, undertax and overborrow, confident that the central government will ultimately assume their liabilities. Bailouts can occur, inter alia, through the fiscal system (provision of extra discretionary transfers, assumption by central government of expenditure responsibilities of local government), through the financial system, or through arrears to state enterprises.

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<sup>9</sup> Note however, that the presence of elections does not necessarily translate into strong accountability.

<sup>10</sup>See the *Assessing Constraints on Service Delivery toolkit* available at <http://www.worldbank.org/toolkits.htm>. This toolkit is designed to assess constraints on front-line service delivery. It helps locate where the constraints are — identifying the degree to which they arise from problems within the service-providing agencies, or from difficulties at other provincial or national levels. It diagnoses the nature of the constraints external to the service provider, including the degree to which poor performance is rooted in weak provincial and national arrangements for policymaking, for ensuring resource flows, and for ensuring accountability. The toolkit is being piloted in Ethiopia, Benin, and Argentina.

If local voice is to be an effective means of holding local leaders accountable for meeting needs and preferences, then these leaders must be certain of their funding and responsibilities. A hard budget constraint on subnational government is a clear signal that it is to be held accountable for decisions that it takes and the quality of services that it delivers. Key questions include: is there a clear assignment of responsibilities across levels of government? Are revenues assigned to match expenditure responsibilities? Are intergovernmental transfers predictable and transparent, and not amenable to political pressure? Does the central government have the authority to control subnational government borrowing? Is this authority exercised? Do subnational governments have access to capital markets? And if so, is there an implicit or explicit central government guarantee?

Subnational borrowing is controversial. On one hand, lumpy local investments are most efficiently and equitably financed through borrowing. On the other hand, if a hard budget constraint does not exist between levels, local governments may borrow beyond their means to repay and rely on central government bailouts— through the banking system, leading to inflation, or through fiscal systems, leading to greater fiscal deficits. The most notable case of this occurred in Brazil, where the central bank continually rolled over the debt of subnational banks when they were unable to pay. This led to a situation of moral hazard where the states expected central bailouts and continued to borrow beyond their means to repay. The ultimate result was a fiscal crisis for the central government.

In practice, arrangements vary widely between countries. In some countries with a long tradition of federalism, local governments borrow in competitive markets, and not from the central government or from locally owned public-sector enterprises. The central government may need to lower moral hazard by regulating subnational borrowing. There are many ways for the central government to do this. The most direct is simply to ban all autonomous subnational borrowing and to allocate all credit through a centralized process. More subtly, it may limit certain kinds of borrowing, place financial ceilings on borrowing, or require that borrowing be used only for investment.<sup>11</sup>

### **Suggestions for Sequencing**

The enabling environment for decentralization is complicated because there is certainly no one “right” environment. The key is to design a *set of arrangements* that are internally consistent and together establish an incentive framework in which benefits of decentralization can be achieved, and unintended consequences minimized. The arrangements involve an appropriate combination of intergovernmental fiscal relations (expenditure and tax assignments, specified and block grants, and regulations for subnational borrowing), mechanisms for political accountability (electoral rules, information dissemination, channels of participation) and channels for administrative responsibility and oversight (civil service arrangements, monitoring capacity).

Since the impact of a set of intergovernmental (decentralization) policies depends on the interaction of the different elements, suggestions for sequencing are difficult. Moreover, decentralization is usually driven by a political agenda in which optimal sequencing is not

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<sup>11</sup>See the *Inter-governmental Relations Institutional Review* available on <http://www.worldbank.org/publicsector/pe/index.htm>. This toolkit assesses arrangements for fiscal decentralization, including expenditure and tax assignment by function and level of government, intergovernmental transfers, and subnational borrowing. It also assesses institutional arrangements for administrative decentralization and key dimensions of political decentralization. More general information on decentralization can be found on <http://www.worldbank.org/publicsector/decentralization/index.htm>.

the most pressing concern. Nevertheless, in designing a package of intergovernmental reforms, the following sequencing rules may be useful:

- 1) Do not decentralize fiscally unless channels of accountability exist. If local leaders are not credibly elected, then providing local governments with resources (through block transfers) or tax bases can have unintended (and negative) effects. In situations where local leaders are not fairly elected, deconcentration (giving more responsibility to centrally managed employees in local areas) may be a better way to respond to local needs.
- 2) Once political accountability is established in local governments, introduce fiscal decentralization quickly to enable newly elected leaders to respond to local needs.
- 3) “Function before finance”. Consider decentralization in an orderly fashion: assignment of expenditure responsibilities should be undertaken first, followed by assignment of revenues. Assign expenditures according to the subsidiarity principle, and then assure adequate revenues (transfers and own revenues) to match responsibilities.
- 4) Predictable, transparent, formula-driven transfers should be in place to ensure a hard budget constraint before revenues are decentralized. If local governments can appeal for discretionary transfers from a higher level government, or if transfers will be lowered if local revenues are raised, local governments will lack incentives to raise local revenues, weakening local accountability.
- 5) Examine the institutional environment which establishes hard budget constraints carefully before authorizing subnational borrowing. In most countries, efforts to develop the markets for local borrowing will need to be introduced in tandem with some hierarchical controls.<sup>12</sup>
- 6) While decentralization usually focuses first on the first level of subnational government (state or province), the eventual impact on the poor occurs at a much lower level. Details about intergovernmental relations to a third or fourth tier of government are critical to ensuring that the benefits of decentralization reach the poor. Don’t let this hang as an issue “to be addressed in the future”.
- 7) Pay special attention to poverty – Decentralization can be good or bad for the poor but is likely to be bad unless special effort is made in designing the system. In particular, there are four areas to which decentralization arrangements must pay special attention:
  - *Redistribution to poor areas*. Devolving responsibilities to lower levels of government will necessitate greater resources at this level to pay for them. Richer areas will be able to rely more on newly devolved local tax bases, but poorer areas will require greater intergovernmental transfers. The distribution of block transfers across subnational governments must be considered for poverty concerns.
  - *Funding for basic services of national interest*. Services that reflect national policies need to be assured and should not be left to the discretion of local populations and governments. They should be funded through specified transfers which pass through intermediate levels of government but are directed at a particular function (e.g. immunizations, primary education). Monitoring these transfers along with other incentives for performance is important for ensuring compliance.

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<sup>12</sup> See PREM Note, **Decentralization and the Challenge of Hard Budget Constraints** .



- *Targeted assistance for the minority poor.* In areas with high concentrations of homogenous poor people, decentralized decision making can lead to a greater poverty focus in local public expenditures. But where a particularly disenfranchised group exists within a poor, or non-poor majority (e.g. ethnic minorities, special castes) decentralized decision making that reflects the desires of the local majority is likely to bypass the needs of this group. In these cases, special resources and efforts may be required from a higher level of government if poor people are to benefit.
- *Decentralize to the lowest feasible level.* Although formal channels of government enable decentralization down to the lowest tier of formal government (often at a level where the population is 5-10,000), decentralizing further to service delivery units and encouraging active community participation is often the most promising method for improvements in service delivery.

## 6. Public Expenditure and Revenue

### Is the budget a credible signal of government's policy intentions?

Requiring the government to state its policy and spending intentions is a vital precondition to holding it accountable. The government budget is a distinctive statement of its policy intentions, although not all policies have budgetary implications. How robust are the links between planning, policymaking, and the budget? Are policy priorities articulated and reflected in budget allocations? Does actual spending match planned allocations?

Budget comprehensiveness matters. Governments' ability to exercise policy choices across the full range is often limited by earmarked revenues, special funds and tied expenditures. The greater the share of fiscal activities conducted off-budget, the more likely it is that accountability and transparency are both weak, and the smaller the chance of audit or recovery of funds if they are diverted.

Does the money reach its intended target? The evidence from survey work that has been conducted indicates that money is frequently diverted to private ends.<sup>13</sup> Significant deviations of actual expenditures from functional appropriations<sup>14</sup> indicate that the legislature is unable to hold the government accountable for its behavior, and point to poor quality of planning or implementation, both of which undermine the credibility of the budget. Experience in Uganda is instructive: budget tracking surveys showed that only about one-third of expenditures allocated to primary schools and hospitals were in fact delivered. After budget management reforms and continued monitoring by recipients and by civil society, this proportion was raised to approximately 90%.<sup>15</sup>

Budgetary volatility is another source of inadequate delivery of services. Budgetary volatility or radical variations year to year in the budget indicate that there is no coherent set of policy priorities and that officials charged with implementation will not take policy

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<sup>13</sup> See for example PREM **Note Using Surveys for Public Sector Reform.**

<sup>14</sup> It is calculated as the sum of all (absolute values of) deviations between approved and implemented budgets by functional classification. Comparative cross-country data are available from Public Sector Group of the Poverty Reduction and Economic Management Network, World Bank. (Link to governance data website is forthcoming).

<sup>15</sup> Reinikka, Ritva. 2001. "Recovery in Service Delivery: Evidence from Schools and Health Centers" in Reinikka, Ritva and Paul Collier (eds), *Uganda's Recovery. The Role of Farms, Firms, and Government.* The World Bank, Regional and Sectoral Studies, Washington, D.C.

statements seriously because they are likely to change.<sup>16</sup>

The budget timeframe is relevant here. Is the budget exclusively annual? If it has a medium-term perspective, does this mean that when policy decisions are made, the outer-year costs and impacts are included in the budget for future years? It is important to note the difference between a multi-year plan exercise—which typically involves laying out a broad vision of development, but does not contain any specific program or program costings over a period of years—with a multi-year budgetary perspective, which does, and which can help build in budgetary predictability.

Delivering credible policies and services that are sustained, effective, and adequately financed goes to the heart of the political process:

- Does the cabinet or its equivalent have clearly articulated policy priorities?
- Are there sectoral strategies for key sectors? Are they public documents?
- Are the domestic stakeholders—civil society, business community, public interest groups, labor unions, farmers' associations, and other interest groups—consulted on policy?
- Are agreed-upon sectoral priorities and goals subject to arbitrary change by the head of government?
- Are major policy proposals referred to the cabinet for decision?
- Are policy proposals required to specify their intended outcome, associated outputs, and costs over the medium term—on and off budget?<sup>17</sup>
- Is there any effective way of checking that money has been spent as intended? How widely is this information shared?

### **Information and incentives**

Expenditures are more likely to arrive where intended if they are disbursed in a simple and transparent way. There should also be accurate systems of accounting, monitoring and reporting on disbursements. Budget reports should be easily available for both internal and external audit. Where such systems do not exist or are unreliable, budget tracking surveys can be useful. Beneficiaries and communities can also contribute to monitoring results, especially if information is available on the allocations which have been made and should in principle be delivered. Sometime this is as simple as identifying whether a road or a health clinic has actually been built, or funds have been delivered to pay teachers' salaries. Publicizing this information then creates incentives for reform.

### **Can spending units or entities predict their aggregate funding and their cash flow in-year?**

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<sup>16</sup> Budgetary volatility can be calculated as the median of the year-to-year budget changes (absolute values) in each functional classification over the preceding four years, where such changes are defined as the difference between the percentage share in the budget from year  $n$  to year  $n+1$ , calculated as a proportion of the year  $n$  figure.

<sup>17</sup> A more detailed diagnostic is available in the *Public Expenditure Institutional Assessment toolkit* available at <http://www.worldbank.org/publicsector/toolkits.htm>. This assessment of budgetary institutions includes models for assessing formal public spending institutional arrangements and for assessing the capability of cabinet arrangements for social and sectoral policy-making. The toolkit has been piloted extensively, but is now being extended to assess the fit between budgetary institutions and the particular executive and legislature configurations. The toolkit has been piloted in Thailand, Indonesia, Uganda, Malawi, Ghana, Australia, New Zealand, Colombia, and Benin. More general information on public spending issues can be found at <http://www.worldbank.org/publicsector/pe/index.htm>.

For effective service delivery, all spending units in government should know in advance what their budget funding will be. This is a prerequisite for operational efficiency and managerial accountability. Looking at the deviation between planned allocations for nonpersonnel costs, such as operations and maintenance, and other recurrent costs, and actual spending for these categories can be telling. Predictability of funding for organizations in the key sectors of health, education, roads, and agriculture is particularly important if essential services are to be provided to the poor.<sup>18</sup>

Fluctuations in funding can adversely affect the poor in two ways: by unstable funding of poverty-related programs and services, and through inflation. (See also the chapters on **Macroeconomic Issues** and **Public Spending** for further guidance on these questions.)

Unstable spending may be attributed to external shocks—that is, factors beyond domestic control—or they may be self-induced, reflecting the incentives of decisionmakers. Overly optimistic revenue estimates, for example, more often result from efforts to escape tough spending tradeoffs—or to meet deficit targets—than from any technical or policy problems. Large fiscal deficits can result when budget constraints are soft and national governments assume the fiscal or financial liabilities of subnational governments and state-owned enterprises.<sup>19</sup>

#### **Are the policies of government explicitly pro-poor in design or implementation?**

Good governance in public spending can help reduce poverty implicitly, by improving services and reducing waste, but public spending may not be explicitly oriented to the poor. To increase its pro-poor impact, it may help to concentrate public spending in areas that are relatively more important to the poor, such as preventive health care services or primary education or rural roads, water supply and sanitation. Governments can also use transfer programs that identify the poor based on their income or household characteristics and attempt to channel income or in-kind payments to them. (See the chapters on **Social Protection and Public Spending**).

#### **Is tax policy effective? What is the divergence between actual revenue and potential revenue on the basis of tax legislation?**

Revenue predictability is reflected in the difference between actual central government revenues and those projected in the budget adopted by parliament at the beginning of the fiscal year. Unplanned revenue shortfalls reflect low administrative capacity, corruption, and/or deliberate overestimates to avoid difficult spending reductions. Simple and easy-to-administer tax laws, with relatively small numbers of taxes or other sources of revenue for government, and minimal special categories of taxpayers and tax exemptions, can help. Dramatic variance of total revenue from one year to the next, with

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<sup>18</sup> See the *Public Expenditure Institutional Assessment toolkit* available at <http://www.worldbank.org/publicsector/toolkits.htm>.

<sup>19</sup> The chapter on **Macroeconomic Issues** indicated some key ratios that should be monitored by the authorities. These include: expenditure/Gross National Product (GNP); revenue/GNP; budget deficit/GNP; public sector borrowing requirement/GNP; public debt/GNP; guarantees/GNP; and inflation. An increasing budget deficit, or a significant increase in the ratios of mandatory and earmarked expenditures to discretionary expenditures, are warning signs that fiscal policy may not be sustainable.

government unable to predict current revenue collections in advance, is a warning of possible economic shocks that may disproportionately affect the poor.<sup>20</sup>

### **Is tax policy efficient in practice—with a low total cost to society of collection compared with revenue raised?**

The social cost of collection includes direct administrative outlays, taxpayer compliance costs, and economic efficiency and equity costs due to tax administration. An inefficient tax system will be an unproductive one—leading to revenue shortfalls and economic shocks for the poor. The cost efficiency of revenue administration, including overall resource allocation and its exploitation of economies of scale and the costs of compliance to taxpayers, is determined by 1) the economic neutrality of the tax system, 2) any obstacles that it places in the way of the efficient functioning of markets, and 3) the degree to which it discriminates against foreign direct investment flows. Tax system equity—ensuring that the revenue burden, excluding user charges and fees, falls equally on equally placed citizens—is fundamental to minimizing taxpayer resistance.

### **Is the revenue administration corrupt?**

Tax and customs administrations often figure among the most corrupt government agencies in developing countries. Transparency and arm's length relationships between taxpayers and officials are key in reducing vulnerability to corruption. Simple tax rules and forms also help. Organizational autonomy of the revenue administration, combined with performance linked budgets, is sometimes advocated as a way of achieving efficiency, but this approach must be credible in the country context and accountability must still be ensured. Competitive base pay and transparent reward procedures are widely recommended. Key questions are: do salaries provide realistic incentives for officials without placing an excessive burden on the budget? Do positive incentives lead to overzealous pursuit of taxpayers?

Tax simplification is perhaps the most important method of limiting opportunity for corruption. Making tax obligations transparent and trimming compliance costs can be helpful in reducing the corruption of revenue authorities. Is there presumptive taxation of small businesses that may not keep extensive records? . Are forms simple and easy to fill in? This would reduce the discretionary power of tax inspectors and make tax calculations simpler and clearer. Are responsibilities clearly divided along functional lines, and are procedures transparent and written? Are institutional safeguards outside the revenue administration in place, including an independent and effective judiciary, independent external audits and appeal authority, and taxpayer associations that strengthen citizens' voice?<sup>21</sup>

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<sup>20</sup> See *Diagnostic Framework for Revenue Administration* at <http://www.worldbank.org/publicsector/toolkits.htm> for further details. The toolkit provides a comprehensive diagnostic framework for revenue administration, including an array of environmental factors that impinge on the Revenue Administration (RA); the effect of the history of the RA on its current and future functioning; organizational strategy; organization and management functions; and informal culture. The toolkit combines a preliminary examination of the symptoms of RA weaknesses with a detailed diagnosis based on the congruence model. The toolkit has been piloted in Colombia.

<sup>21</sup> More information can be found in the World Bank PREM note, **An Anticorruption Strategy for Revenue Administration**.

### **Some suggestions for sequencing**

Reforming budget management is a medium- to long-term process and it depends critically on a country's capacity and political readiness.

1. Predictability and timely availability of funds are necessary for spending units to be able to execute their budget properly. The poor rely more than anyone on prompt and adequate help from the public budget. It is therefore important to ensure that: the government's annual budget works on a timely basis, spending units receive their approved allocations, actual spending matches authorized allocations, and budget reports are generated for policy-makers and the public.

2. Most policy decisions have multi-year budgetary implications. Successful implementation of policies therefore requires multi-year budget planning. This normally requires a medium-term GDP forecast within which total revenue and expenditure can be projected. Within this budget envelope, specific program costs can be projected into the outer-years. At first, the main gain is likely to be better fiscal discipline overall; but as the quality of program forecasts improves, the medium-term budget becomes an effective tool for exploring the implications of new policies and rearranging expenditure allocations so that they fit more closely with the country's strategic priorities. The process takes time and it is important to get the building blocks right. In the initial years, efforts should focus on setting the overall budget limits, and estimating the future costs entailed by existing policies and projects, such as commitments to welfare benefits, or the debt service and maintenance costs associated with investment projects. After nearly five years of hard work and commitment, the Ugandans now have a well-functioning system of medium-term expenditure planning. (See also the chapter on **Public Spending** for the medium-term budget planning experiences of Ghana and Uganda.)

3. Internal controls (including transparent financial management and procurement systems) of the spending units are required to ensure that funds are spent in line with approved budgets. Consistent classification and accounting systems are the foundations of a well-functioning financial management information system (FMIS) that can generate reports for the executive, the legislature and the public. If these systems are to be computerized, a detailed assessment (particularly of initial capacity) is called for together with careful tailoring country by country. Piloting a new FMIS system in a few ministries/agencies is a good way to experiment with the suitability of the instrument. External monitoring by recipient groups can also provide useful checks on the match between disbursements and allocations.

4. Budget accountability requires regular and timely reports to the legislature on actual expenditure in comparison to budgeted amounts, with a firm commitment that requisite actions will be taken on the basis of audit findings. Creating an independent audit body that is external to the executive branch, such as an Office of the Auditor General, with adequate resources and authority to carry out spending audits and to present the findings in a timely manner to the legislature, is a critical step to ensure accountability of the spending units.

5. A complex tax system is generally associated with high compliance costs (borne by the taxpayer) as well as high enforcement costs. The preliminary challenge is to simplify tax laws and procedures so that the system is easily understood by all parties and the associated costs are reduced.

## 7. The Civil Service

### **Do government employees earn respect from firms and from the general public?**

Low public respect for the public service is more than the response of disappointed consumers to an inadequate level of service. Government is more than a service provider; and finding the right balance between skepticism and confidence in government will always be difficult. Certainly, though, very low confidence and widespread cynicism about the performance of government can have pernicious consequences, undermining democratic institutions and reducing the attractiveness of the public service as a career to those with talent. Overall, the civil service needs competence and honesty in order to earn the respect of the public and of business. However, surveys consistently show public frustration with civil service performance, and the high burden that corruption places on the poor. Where there have been surveys of public perceptions of service quality, it is important to review the results in the context of PRS preparation. If there has not been prior work, it may be important to investigate public perceptions of probity in the civil service.<sup>22</sup> It is also important to note that corruption is one aspect of poor service provision: service delivery is undermined by operational inefficiency and poor quality as well as by wrong-doing.

### **Is government a responsible employer, restraining employment costs while ensuring that remuneration arrangements do not establish perverse incentives?**

The civil service should be rewarded appropriately and sustainably. There are no hard and fast metrics for deciding when to reform public sector pay and employment. The correct framework is a level of pay consistent with the operation of a motivated and professional public service at a scale the country can afford on a sustained financing basis. Comparisons with GDP and population are useful only as guides to judgment. With those cautions in mind, the numbers of civil and public servants should be roughly in line with international practice<sup>23</sup>, with the fiscal weight—public-sector wage bill as a percentage of gross domestic product (GDP)—not excessive. The key fiscal measures are the central government wage bill as a percentage of GDP and as a percentage of total government expenditure.

Levels of pay should be sufficiently competitive to recruit, retain, and motivate qualified staff at all levels. Symptoms of poor incentive regimes are likely to include lower than expected attrition rates given apparent low wages, accompanied by many instances of employees retaining their public sector jobs while resorting to other income-generating activities. Outright corruption is perhaps the most pernicious effect. While the empirical evidence as to whether low civil service wages foster corruption is mixed, the evidence indicates that meritocracy plays a strong role in inhibiting corruption.

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<sup>22</sup> The World Bank Institute can assist with such surveys. See <http://www.worldbank.org/wbi/governance/tools.htm>. World Bank PREM Notes on recent World Bank experiences are available in relation to **Corruption and Development, New Frontiers in Diagnosing and Combating Corruption, and Using Surveys for Public-Sector reform**. The World Business Environment Survey 1997 provides a useful benchmark for firms' perceptions of public officials (<http://www.worldbank.org/wbi/governance/datasets.htm#wdr97>)

<sup>23</sup> Definitional problems abound in considering public employment. See <http://www1.worldbank.org/publicsector/civilservice/cross.htm> for guidance on measuring public sector employment.

When reviewing public sector wages at the aggregate level, it is important to note that salary levels often vary significantly across the public sector - and particularly between the core civil service and other groups. One particular disaggregation is between skill groups - often some groups of staff are overpaid by comparison with private sector equivalents, and others underpaid.

Particular attention should be paid to average government wages relative to per capita GDP and to average wages in the manufacturing, financial and private sectors. The ratio of highest to lowest salary in the civil service (the vertical compression ratio) and the ratio of highest to lowest salary within the same civil service job classification (the horizontal compression ratio) are important measures.<sup>24</sup> It is important to have an understanding of the competitiveness of total rewards including allowances and taking job security into account.

Key questions include the following: Are there processes for ensuring that total compensation levels continue to retain and attract needed skills? What are the turnover rates? Is remuneration at senior levels appropriate to skills, as indicated by compression ratios? Is the system undermined by the discretionary component? Are pay scales clearly and consistently linked to rank? Overall, is the compensation system simple, monetized, transparent, and fair? Also, is the pension system affordable, effective, and fair?

**Is government able to implement legitimate policies? Or is it blocked by resistance from or limited capacity in the civil service?**

Resistance to implementing key government policies from vested interests within the civil service can be an obstacle to providing vital services to the poor. Distributing basic data on performance and implementing methods for client feedback (report cards and other types of client surveys) can help. Although patronage is generally frowned upon, the absence of explicit provisions for political appointments can itself be problematic: when transparent mechanisms to define the extent and conditions of political versus non-political appointments are lacking, the risk is that every position de facto becomes subject to political influence. This is particularly the case in countries that have experienced extended periods of intense politicization, such as the former socialist states of Central and Eastern Europe. Political appointments may be needed to craft and maintain a multi-party and/or multi-ethnic governing coalition, but efforts to introduce basic skill and competency requirements, transparent hiring and firing procedures, and accountability mechanisms should be made. Political appointees, like other staff, need to be subject to financial disclosure and conflict of interest requirements. Several countries use hybrid appointment methods to satisfy a political logic without abandoning meritocratic principles that govern public administration.

That said, it is important that the number of political appointees in the civil service is limited. A useful guide is that in the United States, the proportion of political appointees is around 1:400; in Sweden, it is around 1:2000. The estimated percentage of budget-funded public-sector staff in core ministries in central government that were changed in the last two elections can be informative. The frequency of transfer or reassignment of civil servants before the end of term in their positions can be a symptom of political involvement in the civil service.

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<sup>24</sup> See <http://www1.worldbank.org/publicsector/civilservice/ineffectivemon.htm>

Several questions can be helpful in assessing the quality of the civil service. Access to civil service positions, and responsibilities of civil servants, should be legally defined. Key questions include the quality of the legislation that defines the scope of the civil service, and the subsidiary regulations describing procedures. The nature of the code of conduct or equivalent framework that governs the behavior of civil servants is also significant. A more general question is whether the civil service is politically neutral and whether there are rules, set by civil service legislation, defining allowable political activity by career civil servants and the nature of second jobs that they may take. It is important to remember that the civil service proper may be found only in the central ministries. If it is defined in this way, then it will be helpful to look also at the rules and conditions of other public employees.

Other questions concern merit-based recruitment. Does the civil service operate on the basis of merit? Does civil service legislation prohibit patronage and nepotism in career appointments and promotions? Are job descriptions prepared and used? Does civil service legislation require that appointments and promotions to career positions be made through merit-based competition? Even if recruitment policy is decentralized, does the principle of merit govern practices across the civil service? Is a process defined for top-level appointments that ensures consideration of candidates on at least a civil-service-wide basis, not excluding lateral entry by non-civil servants?

Also, staff responsibilities and career paths should be clearly set out. There should be a clearly defined organizational structure and a civil servant career classification system. This structure, including levels, units, and reporting relationships, should be consistently applied across management units. Rank and position classification systems should combine effectively to produce clear and adequate incentives to advancement while avoiding undue complexity. Key questions include: is the position classification system effective in identifying families of jobs with distinct skills and requiring distinctive career management. Are there satisfactory equal employment policies and practices that mitigate gender, regional, and other discriminatory biases?

### **Some suggestions about sequencing**

A lot more is known about what does not work than what does. A recent review of World Bank supported civil service reform programs<sup>25</sup> found that, in broad terms, they were responding to concerns suggested by the three questions posed above. Some reforms, particularly those pursued in the 1980s, focused on fiscal concerns arising from overstaffing and unsustainable wage bills. Other, more recent, reforms were intended to facilitate policy agility in government and to ensure that legitimate policies could in fact be implemented. Most recently, reforms have tended to focus on improving operational efficiency and service quality.

On average only about one third of reforms achieved satisfactory outcomes. Even when desirable, outcomes were often not sustainable. Downsizing and capacity building initiatives often failed to produce permanent reductions in civil service size and to overcome capacity constraints in economic management and service delivery. In later reform programs, there is little evidence that civil servants began to "own" and adhere to formal rules such as codes of ethics.

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<sup>25</sup>Girishankar, Navin, et. al. 1999. "Civil Service Reform: A Review of World Bank Assistance." Operations Evaluation Department, Report No. 19599, World Bank, Washington, D.C.



Four factors are associated with this poor reform track record. First, reforms did not balance fiscal choices with labor market realities – focusing for example on budget scenarios without also looking at how salary levels could affect projected demand for civil service jobs. Second, reforms were technocratic in that they assumed that the introduction of formal rules would be sufficient to change behavior, without looking at other incentives; how, for example, the political imperatives to award patronage appointments could be satisfied differently. Participatory processes to nurture reform constituencies in government, the private sector, and civil society were largely absent. Third, capacity building efforts were overly based on wage enhancements. They did not look sufficiently at the incentives provided in other arrangements, including the significance of job security and pension prospects. Finally, the quality of data on civil service performance in all three areas has been poor and inconsistent. Standardized indicators were neither fully developed nor operationalized for monitoring and evaluation.

The key sequencing message is that comprehensive civil service reforms, and other “whole of government approaches”, seem more likely to work in middle income and transitional countries where governments are motivated by arrangements that enable citizens to express their preferences and to hold public officials accountable for translating these preferences into results. These arrangements include a fair and transparent electoral process (with power-sharing arrangements to protect minority groups), as well as mechanisms to incorporate civil society and local governments within the policymaking process. If governments are to be truly motivated by the concerns of their constituents, then it is essential that the core state institutions that provide the motivation have not been “captured” to any significant degree. This means that individuals, groups or firms both in the public and private sectors have few opportunities through bribing or otherwise providing incentives to public officials to influence the formation of laws, regulations, decrees and other government policies to their own advantage.

In other settings particularly with high levels of state capture and comprehensively weak governance there are limitations of “whole of government” reforms. In these cases, it may be useful to focus first on reforms in one agency or government entity so as to provide demonstration effects, convincing both the State and the electorate that reform is possible and that reform has benefits. Reforms can also be piloted in a particular region or municipality. In some cases, placing services at local level, closer to the client, may help, but this can backfire if accountability is low and funds and services are captured by local elites. Involving beneficiaries and other recipients of government services can help build a consensus on the standards to be set, the reforms needed to attain them, and the reporting and monitoring that will be needed to keep up the pressure for reform.

## 8. The Legal System

Does the legal system hurt the poor, or prevent them from gaining access to legal services, protection and redress?<sup>26</sup> The legal system comprises the courts, public prosecutors, enforcement agencies and the market for legal services. Lawyers usually predominate in this market, but legal aid, citizens’ advice and methods for self-representation can also be important.

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<sup>26</sup> The quality of a legal system depends on how well it is performing four key functions: the deterrence of wrongful conduct, the facilitation of voluntary transactions, the resolution of private disputes, and the redress of governmental abuses of power.

A population that fears crime, and has little confidence in the state's ability to protect citizens from crime, and which reports that crime and theft are significant obstacles to conducting business or carrying out an ordinary life, suggests weak governance. Key indicators include the proportion of the population willing to report crime to authorities, and the number of homicides per 100,000 per year. Surveys can provide evidence of the views of firms and households on corruption in government (see references in footnote below).

Assessing the strengths and weaknesses of the key institutions of the judicial system requires nuanced judgements from informed observers. Often, it is helpful to open a dialogue with nongovernment organizations (NGOs) and other representative groups of civil society, and with target professional groups, including government officials, lawyers, and judges. The extent to which information about the law is reasonably available to all citizens can best be assessed by a small group of officials and NGOs. However, to obtain a detailed breakdown of the caseload of the first-instance courts of general jurisdiction, for example, it might be necessary to survey court administrators, judges, and attorneys.<sup>27</sup> It may be still more helpful to do an actual analysis of caseloads and case files, as experience indicates that even officers of the courts have an incomplete or inaccurate picture of what is really happening.<sup>28</sup>

### **Are the courts independent and held accountable for the quality of their judgements?**

Is the judiciary independent of the other branches of government? Media stories or reports may help in indicating whether this independence has in fact been honored. Are complaints about the police, the military or other security forces heard by the courts? Are these ordinary or special courts? Special courts often, but not always, tend to give the benefit of the doubt to the security agency. Hence they may be a sign that these complaints are not taken seriously, although a special court may still be better than complete immunity.

Are judges able and willing to decide cases free of outside pressures? Here, it is important to consider both the adequacy of their training and the structure of pay and incentives that they face, including whether they are tenured and for how long. If a high proportion of judges are in office under an exception to the normal tenure rules, or if a large number can be transferred without their consent, independence may be weakened.

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<sup>27</sup> See the *Legal and Judicial Institutional Review* at <http://www.worldbank.org/publicsector/toolkits.htm> ) for further details. This toolkit is under development and will assess system performance in deterring wrongful conduct, facilitating voluntary transactions, resolving private disputes, and redressing governmental abuses of power. It will also assess how well the key institutions of the judicial system—the courts, the private bar, and the public prosecutors—are working. Also see World Bank PREM notes on **The Law and Economics of Judicial Systems** and **Reducing Court Delays: Five Lessons From the United States** for recent World Bank experiences.

<sup>28</sup> This phenomenon was noted as early as the 1980s in the United States on the basis of empirical research conducted there. See Herbert Kritzer (1983), "The Civil Litigation Research Project: Lessons for Studying the Civil Justice System," *Proceedings of the Second Workshop on Law and Justice Statistics*, U.S. Department of Justice, Bureau of Justice Statistics, pp. 30-6. Recent studies sponsored by the World Bank in the Dominican Republic, Mexico, and Argentina suggest the same situation – what lawyers and judges say about what happens in courts is often fairly inaccurate. See German Garavano (2000), "Los Usuarios del Sistema de Justicia en Argentina," Final Report for the World Bank, July, Foro de Estudios sobre Administracion de Justicia (Fores), Buenos Aires, Argentina.

Some questions: how are judges trained? What are the mechanisms by which the judiciary is held accountable and to whom? Are judges immune from the criminal or civil law? Independence, it should be stressed, is important at both the individual and institutional level. A completely independent court system may still control its judges excessively. Hence some of the questions below (on selection, promotion, and discipline) are also important. Another factor inhibiting the independence of individual judges (or entire court systems) may be the provision of additional benefits (cars, housing, access to training or trips). In Eastern Europe and Africa it has been reported that local or national governments may use these benefits to influence judicial decisions. In Latin America, the bodies of judicial governance (Supreme Courts, Judicial Councils, or Ministries of Justice) may use them to the same effect.

### **How are judges, prosecutors and lawyers selected, promoted, and disciplined?**

Is the market for legal services, including private attorneys and notaries, competitive? The ways in which lawyers and notaries are held accountable for their performance, including ethical rules governing the practice of law, are also significant. Is there peer review?

What checks exist on decisions made by public prosecutors? Is the decision to charge recognized as discretionary? Where it is, are there guidelines for how this discretion is to be exercised? Are these guidelines public? Do lawyers, judges, and executive branch personnel believe the decision to charge or prosecute is more or less influenced by politics or bribes than it was five years ago?

What protections do court officers have against the bureaucratic hierarchy? Do they have effective means of protesting (unfair) dismissals, reassignments or disciplinary action? In Peru, under the recent executive-dominated reform, recalcitrant judges were not dismissed, but rather reassigned to less interesting positions. In Mexico, recent Bank-financed research indicates that judges tend to accept unreasonable delaying tactics because they are afraid a displeased attorney will register a complaint with the Judicial Council.<sup>29</sup>

Further questions on the court environment include: who is responsible for court administration, and how are cases allocated to particular judges? How are cases for “free” legal defense assigned? Can clients have access to judges on a privileged and confidential basis, or is access transparent, with all parties represented?

### **Access to information**

Transparency is important for general judicial accountability. Is notice given of impending hearings and cases? What information is collected on decisions and verdicts, and is it published in a timely way? Where decisions are publicly available, watchdog groups can monitor outcomes, and the upper reaches of the judiciary can also check on the probity, efficacy and efficiency of the lower levels; clients can check whether what their lawyers tell them is accurate. Information on judicial caseloads, budgets, salaries, asset declarations, disciplinary actions and other statistics is also valuable. Some questions:

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<sup>29</sup> See Linn Hamnergren, *The Fujimori Judicial Reforms: Finally Cutting the Gordian Knot or Just another Trojan Horse?*, paper presented for Latin American Studies Association Meetings, Miami, February, 2000. The Mexican information will be reported in Hamnergren, et al., “The Proceso Ejecutivo Mercantil in Mexico: Uses and Users,” forthcoming World Bank.

- What do corruption surveys indicate about corruption in the courts?
- Are judicial decisions and other information on judges and court operations available to the public in an accessible form?
- Are the media free to report what is going on?
- Are parties to disputes notified? Poor people are often hard to find, and may thus never know about a case which directly or indirectly affects them.

### **Court procedures and services**

If court procedures are complex and proceedings inefficient and subject to long delays, the poor are likely to suffer most, as they cannot pay for expert advice to navigate the system or sustain the extra cost of appeals and repeated adjournments. Even the language in which court proceedings are conducted is important –not just a language family, but the use of esoteric, specialized terms which may leave the less educated in the dark. Alternative forms of mediation can help but need to be scrutinized carefully as they can work against the poor by entrenching the power of local elites. Traditional approaches may incorporate biases against women, children, the handicapped, or local minorities. In some countries, support staff or clerks control the interface between the client and the court or court services and sometimes, the outcome of the case. Key questions:

- Have efforts been made to simplify procedures? Are courts accessible?
- How professional are court support staff? How are they recruited, monitored and paid? How often do support staff perform judicial duties, or have opportunities for unobserved contact with clients? Do support staff exercise inappropriate controls over access to registries or forms necessary to obtain services?
- Are there judicial user-fees? Are they well publicized, and how is collection controlled? Are there means of waiving or subsidizing them -- in theory or in practice?
- Are there gender, linguistic, or ethnic biases? In multilingual countries, are language services offered? Are special facilities available for the non-literate?<sup>30</sup>
- Are there easily understood information programs in courts or leaflets available explaining procedures for access to courts, registries, and other services?
- Are there programs to take services to the poor? For example itinerant judges, defenders, courts? Is village mediation available, and do women have access?
- Do small claims courts, justices of the peace, single stop courts, free legal clinics, and mediation services exist and do they exist where the poor can get to them? Are they adequately publicized? Do the poor know about them?

### **Court registries**

Registries are a frequent site of corruption, and even when they are honestly run may be difficult for the poor to use, because of location, fees, or lack of knowledge of the methods or need for registration. Corporate registries and registers of land and other asset transactions are important for property rights and access to market activity, while civil registries and registries of births are often necessary to validate claims for child support, medical services and school entry. Key questions are: what kinds of registries are available, and what are the barriers to access? Do the poor use them –and if not,

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<sup>30</sup> A completely “unbiased” judicial system can still operated against poor users – as it is assumed that they will have paid counsel, understand the basic procedures, and be able to communicate in the court language. Hence, “neutrality” is not enough if their interests are to be given a real hearing.

why not? What proportion of land is formally titled? What impact does lack of registration have on the poor -- lack of access to markets and services, civil rights?

### **Judicial corruption and excessive regulation**

Corruption has both indirect and direct effects on the poor. Indirectly, any level of corruption is likely to work against the poor, as it will affect the way all laws are enforced and the likelihood that violators are brought to justice. Where justice is sold, and the wealthy or powerful are thus beyond its reach, the poor will suffer the consequences of elite impunity –whether as regards the unfettered exercise of rent seeking activities in government or various abuses of private and public actors. On a more direct level, judicial corruption deprives the poor of an ability to take their complaints to court or to have their conflicts resolved fairly. Corruption fostered by red tape can make it unnecessarily costly or even prohibitive to start a small-business enterprise, and reduce the proportion of businesses operating in the formal sector. “Unofficial payments” are likely to have the strongest deterrent effect, among would-be entrepreneurs, on the poor, and on others trying to establish a small business. Corruption and excessive regulation are two sides of the same coin. In preparing a PRS, it may be important to consider and review the costs in time and money needed to obtain business-operating permit.

### **Is the population willing to turn to the courts for resolving private disputes?**

Results matter. In other words, access to the courts or alternative dispute resolution (ADR) services may, on its own, not be enough, as the system may reinforce existing inequalities. A useful indicator here is the willingness of the population and minority groups in particular to submit private disputes to the court system or to some form of alternative dispute resolution. What are the figures on use of courts or ADR by various social groups and how does this match with their percentage of the population? Are most cases taken by men, whites, or the well-off?<sup>31</sup> Which courts and which proceedings are more likely to involve the poor? How well do they operate? Surveys can help to explore satisfaction with how disputes are handled, including the timeliness and costs of resolution. Case file analysis may provide more solid evidence as to what is actually happening. Surveys of potential users may indicate factors affecting a decision to take a conflict to court.<sup>32</sup>

The proportion of the population that has litigated against government entities, including the police, in the past five years can be a useful indicator of citizen confidence and ability to redress abuses of power. Other key measures include the number of people indicating satisfaction with how cases were handled, and with cases being resolved on a timely basis and at reasonable cost. Parliamentarians’ perceptions of court effectiveness in redressing executive abuses of power can provide useful insights, in countries where legislatures are believed to have some degree of independence from the executive.<sup>33</sup>

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<sup>31</sup> Bank sponsored research in Argentina suggests for example, that men are the predominant individual users of the court system, by a factor of roughly two to one. See Garavano.

<sup>32</sup> This methodology has been used extensively in the United States for two decades, and has been applied (including in Bank sponsored research ) in less developed countries. See Grossman, Joel B., Herbert M. Kritzer, Kristin Bumiller, Austin Sarat, Stephen McDougal, Richard Miller (1982), “Dimensions of Institutional Participation: Who Uses the Courts and How?,” *The Journal of Politics*, 44:1, February, pp. 86-114.

<sup>33</sup> Many legislatures in less industrialized countries appear to have no more than a rubber stamp function.

## **The market for legal services**

Because lawyers largely control both the demand for and supply of services, they are a main determinant of whether the poor can get access to services and with what success. For example, even in countries which allow self-representation or a waiver of court and legal fees for those who cannot afford them, the poor may not take advantage of these offerings because they could only find out about them from an attorney.<sup>34</sup> Unscrupulous lawyers may overcharge for services, or take the filing fee and then, if the client can pay no more, drop the case. Lawyers may also solicit bribes ostensibly -but not necessarily in fact - on behalf of judges. Pro bono work may go to the bottom of the pile, or public legal counsel may charge for services that should be delivered free, or take for-pay cases and ignore their publicly financed work. In many countries, there is no self- or any other kind of policing of the private bar, and little control over who can practice (in many countries the only test is a law degree, which may be awarded simply for paying tuition fees). The rules that govern the profession (setting fees, terms of service, responsibilities to clients) may be mere legal formalities, and even the way fees are scheduled may encourage the fleecing of unknowing clients (if attorneys can charge per action). Questions to ask include the following:

- What is the number and rural/urban distribution of lawyers per 100,000 population? Too many could be as bad as too few if it leads to predatory practices in pursuit of clients, or charging for services that should be provided free, creating extra steps and procedures, or filing of hopeless cases.
- What are the formal requirements for practice and how are they enforced? How many lawyers are investigated per year, how many licenses are removed per year?
- Do bar associations exist? Is membership compulsory or voluntary?<sup>35</sup>
- What is the role of paralegal staff and how is their quality controlled?
- What types of legal services are provided for poor clients? (Pro bono work, private, state financed clinics; number, location, cases carried, and some qualitative assessment and local monitoring of performance).
- How are attorneys paid and how is money collected?
- Is self (pro se) representation possible? Are there small claims courts?
- Are there accessible legal education programs or other kinds of information services? A major obstacle to the poor and a major opportunity for others to take advantage of them is lack of information on how to register a child, a marriage, a business; or on the services to which they are entitled (social security, pension, wage rights)

## **Enforcement and the criminal justice system**

The criminal justice system is an important back-up for civil awards, which may otherwise be toothless. And in many countries, the criminal justice system may have more impact than the civil system on the poor. Significant characteristics are its own integrity (is it used to punish “enemies” of the state?) and its role in perpetuating or restricting violence, crime, racial and other forms of discrimination, and operational biases against the poor. For the poor there are two problems: the system may not protect them, especially when police protection services are assigned to well-off areas, and do not respond to complaints from the poor; and it may prey upon them. The

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<sup>34</sup> In Argentina, an analysis of casefiles from the City of Buenos Aires and the province of Santa Fe indicated that only 1 percent of the plaintiffs used the fee waiver for reasons of poverty. See Garavano, p. 33.

<sup>35</sup> Note: here again the answer must be interpreted in context. Compulsory membership may be only a means of controlling the offer of services and have no impact on quality.

accountability and standards of bailiff services generally matter more for the poor. Key questions:

- What do people say about their experiences with prosecution and enforcement and those responsible for it?
- Are there unexplained delays in proceedings, or cases withdrawn that involve the rich and influential?
- What do crime statistics indicate about types of crime, victims, and locations?
- Are records kept on enforcement, and are enforcement rates analyzed?
- Are police well trained and supervised? How numerous are they and how are they paid?
- Are bailiffs professional? Who oversees them and who is in responsible for payment of compensation in case they make errors?
- How prevalent are private police and security forces, and how are they controlled?
- Are certain classes of citizens or State officials above the law?
- Are judges, prosecutors, and police trained to be sensitive to the poor, ethnic, and gender groups?
- Is pretrial detention usual or mandatory? Is it possible or financially feasible to get bail? What is the proportion of unsentenced prisoners (prisoners on remand), who are they and what are they held for?<sup>36</sup>

### **Sequencing issues<sup>37</sup>**

Little guidance on sequencing of legal and judicial reforms can be given that will be valid in all contexts. The following may be helpful, however.

- An initial assessment of the situation is critical both to understand the problems and to identify opposition and possible allies. More detailed diagnostics can be built in as reforms progress.
- To get the process started, there needs to be at least one source of commitment, whether from a civil society group, judges, a government body, or a political party. The nature of the constituency will influence what can be done first.
- Judges must be brought in early on. While it is important to support or develop some of their concerns, as they are arguably the most important constituency, if they are the only targets of reform there is a risk of serving only their interests.
- While champions are key to starting off, a broader constituency is a goal in itself -- no institutional reform program can hope to succeed on the weight of one individual.
- Concrete, if small activities should be done early to cement interest among the initial stakeholders and help attract allies -- they can convince people of the possibility and value of change, reduce fear about its consequences, and persuade potential allies to join the effort.
- While changing a law does little in itself, fundamental legal changes (especially in procedural laws) may provide an organizing framework for a wider process of institutional change. The law in some sense lays out a set of inputs, outputs and goals, and can help to justify changes which might not be acceptable otherwise (for

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<sup>36</sup> Frequently, the minimum level for pretrial detention is so low and the poor so lacking in resources that any member of the lower class accused of a crime will automatically spend months if not years in prison awaiting trial. The rich can often buy their way out, either by bribing the person responsible for the decision or by filing any number of appeals.

<sup>37</sup> This passage draws on Hambergren L., (1998) "Political Will, Constituency Building, and Public Support in Justice Reform." USAID/G/DG.

example a new criminal procedures code can be used to push for improved investigation, strengthening of prosecution, and training for judges).

- Certain kinds of organizational strengthening, such as providing the ability to collect statistics and report information, help reform leaders understand and cope with problems. They also aid transparency as a means of combating corruption.
- Who becomes a judge? How are they are selected and evaluated? These questions must be addressed as soon as possible, but the solutions will take time. Judges represent an investment in human capital and it has never proved effective to throw all the old ones out at once -- gradual improvement, via training, new methods for selecting the newcomers, and shifts in systems for evaluating performance are the key.
- Training is important if there are incentives to use it well. It often passes through its own stages of development -- early programs might be remedial in focus (to bring judges up to speed on the laws they are supposed to apply), but are also means of generating interest among the judiciary and identifying further problems. The initial curriculum will thus not be the eventual target -- training is as much a tool as a goal of reform.
- One difficult objective is to bridge the gap between external stakeholders and the judges. A certain amount of any program must focus on strengthening the institutional identification of the judiciary, but at the same time they need to realize that they provide a public service, and that the final test of their performance is client satisfaction (not individual parties, but the public as a whole).

## 9. Service Delivery

The chapters in Part II of the Sourcebook provide guidance on alternatives for providing education, health, and other crucial services to the poor. However, there may be general constraints on service delivery that arise from the broad and cross-cutting problems of governance and public management discussed in previous sections of this chapter. Service delivery is the outcome – downstream – of these – upstream – determinants. One effective way of identifying the impact of these upstream influences is to take a specific service delivery area and trace it back into all the systems that affect it. It is important to consider to what extent poor service delivery is caused simply by inefficiency and poor motivation, in which case technocratic reforms may be helpful, or by corruption in the form of state capture or in implementation of policies, regulations and services. In all cases, it will be worth examining the role of incentives, and asking how improved accountability and transparency could improve outcomes.

Identifying specific shortcomings in the delivery of public services is challenging, as there are few international standards against which to benchmark service levels.<sup>38</sup> Survey tools can be used to benchmark access and unit cost for different services (for example, enrollment rates and costs per pupil) at the appropriate point of delivery (for example, the school or district-level hospital). Information on relevant guidelines can be found in the **Monitoring and Evaluation** chapter.

More generally, service delivery can be benchmarked by looking at:

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<sup>38</sup> As a very rough proxy, the waiting time for telephone lines (*Source*: International Telecommunication Union, 1998. *World Telecommunication Development Report*. Geneva, <http://www.itu.int/>) can provide some idea of the quality of services. The waiting time for a telephone line is an indicator of administrative capacity and responsiveness. This indicator is negatively correlated with an index of meritocracy in the civil service. Some data are provided by the World Bank on [http://www.worldbank.org/data/wdi/pdfs/tab5\\_10.pdf](http://www.worldbank.org/data/wdi/pdfs/tab5_10.pdf).



- The access of particular groups and stakeholders to services
- Service use rates
- Operational efficiency, including the cost per given output
- Timeliness
- Levels of perceived corruption.

Identifying districts or agencies that, in providing a service, perform particularly well or badly in relation to others—or in relation to their own past performance— can help highlight poor service delivery or outstanding best practice.

Research suggests that the effectiveness and sustainability of service provision is influenced by several factors. Attempts to expand the reach of services as well as the quality of services should be based on predictable and adequate resource flows. The credibility of policy and the degree to which officials understand and are committed to the programs that they are asked to implement can significantly influence service performance. The credibility of policy directives from higher levels of government is improved when policies are consistent with district priorities, when planning processes are participatory and inclusive, and when staff are not subjected to micromanagement or political interference.

The quality of the civil service is crucial, and the degrees to which basic civil service rules ensure staff discipline is a key driver of performance in service delivery. Assessing the civil service requires an examination of the formal legislation and rules, and consideration of how these rules are enforced in practice.

What should be the degree and nature of agency autonomy? Service delivery agencies are usually constrained in the ways they can use inputs—human, financial, and technological resources—to achieve policy goals. Input restraints can limit opportunities for corruption. However, these restraints can prevent local staff from putting resources to their most efficient use in providing services. There is a balance to be achieved, as international experience suggests. Policymakers are typically less successful when they prescribe the means by which services should be delivered at the local level. Flexibility over the means of delivering services, subject to minimum standards if they can be enforced, is a preferable approach to ensuring efficient service delivery.

The level of service provision is also significant. Subsidiarity is the principle of providing services at the lowest practicable level of government. Following this principle can improve service delivery for the poor, though not always (as indicated elsewhere in this chapter).

## **10. Moving Towards a Pro-Poor Governance Strategy**

This chapter has posed some broad questions about governance arrangements and their impact on the poor. Table 1 summarized the governance dimensions against key dimensions of poverty. It is a crucial first step to assess the ways in which weak governance and corruption are hurting the poor; but it is quite another to move beyond assessment to build a strategy.

An initial assessment of the situation is critical both to understand the problems and to identify opposition and possible allies (more is said on this later). More detailed diagnostics can be built in as reforms progress. In most cases, reforms will start small

and build outward. It is likely that in the course of implementation the underlying problems will themselves be redefined.

Key points:

- Constituencies and political will are essential. Rarely will they be fully developed at the start, but the strategy should aim to build them along the way. To find an entry point and get the process started, there needs to be at least one source of commitment, whether from a civil society group, a legislative, judicial or government body, or a political party. The nature of the constituency will influence what can be done first. If there are only a few stakeholders, the initial work will be limited and it is all the more important to design it so as to appeal to broader interests.
- While champions are key to starting off, a broader constituency is a goal in itself -- no institutional reform program can hope to succeed on the weight of one individual.
- Concrete, if small activities should be carried out early to cement interest among the initial stakeholders and help attract allies--they can convince people of the value of change, reduce fear about its consequences among those who have less to lose than they think, and get potential reformers to start thinking about the underlying governance issues involved.
- While changing a law may do little by itself, in some cases fundamental legal changes (especially in access to information and procedural laws) may provide an organizing framework for concerns about accountability, implementation or service delivery, and thus initiate a wider process of institutional change.
- Certain kinds of institutional strengthening, especially those that provide an organization with information are critical to help its leadership understand and cope with problems. They also provide a means of combating corruption.
- Once the reforms needed have been clarified, it is important to bridge the gap between external stakeholders and the executive (or legislature or judiciary, depending on the locus of reform). Pressure from outside may be an essential ingredient to start the process, but progress will be limited unless the executive or other State entity is clear about what is needed, how to deliver, and has the capacity to do so. Alternatively, reforms may be led from within, in which case those on the inside should communicate their purposes and invite public debate and monitoring of results.

In building a strategy it may be helpful to reflect on some main factors and characteristics of the country's institutional environment that will strongly shape the possibilities for effective institutional and policy reform and the sequencing of reforms. Three important factors relate to political commitment, political feasibility, and sustainability. The benefits of reform must outweigh the costs. Meeting all three conditions does not guarantee that a reform will succeed, but it does indicate a higher probability of success. The following points are offered as a guide to teams that are seeking to review their proposed governance reform agenda against the tests of practicability and sustainability.<sup>39</sup>

### **Who gains and who loses from the proposed governance changes?**

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<sup>39</sup> This passage draws on Haggarty, Luke, and Matsuda, Yasuhiko, "Assessing Clients' Commitment to Sectoral Reforms: A Reform Readiness Analysis." See also the *Commitment to Reform Diagnostic* at <http://www.worldbank.org/publicsector/toolkits.htm> for further details. This toolkit assesses the political desirability of proposed reforms, the political feasibility—including opposition to this project or to broader reforms inside or outside of the government—and the sustainability of reform, including potential changes in key stakeholders. Also see (<http://www.worldbank.org/publicsector/anticorrupt/index.htm>).

To the extent that important elements of the government's support base are negatively affected, political leaders' commitment to reform is reduced. However, to the extent that key groups supporting the government are expected to benefit from the proposed reform, political commitment will be strengthened. Who gains, and who is likely to lose from the proposed reforms? Are any of these groups in the government's current support base? Are any of the groups that stand to win or lose "swing groups", i.e., groups that are critical to the government's ability to remain in power and that can credibly threaten to shift their support to the opposition? Within the past 30 years, has there been any attempt at reform in this sector by this government or by a government with substantially the same support base?

### **Are these changes politically feasible?**

Even if the governance reforms are politically desirable, they may not be politically feasible. To bring about institutional change, government decisionmakers must be able to ensure the support and cooperation of other parts of government, which are critical to approving and implementing the reform project—for example, the legislature, bureaucracy, and judiciary. Assessing the strength of opposition to reform is important. It entails identifying the critical "veto gates," or institutional junctures, at which particular actors can block the government's reform initiative. Who within the government needs to approve the proposed reform for its enactment? Who might be opposed to the reform project and why? What change in the design of the reform might win their support? Which groups outside of government are known to be opposed to the reform?

And which organizations or groups—for example, tax officials, law enforcement agents, government regulators, and clerks—will have to perform tasks to implement the reform? How are their interests and incentives being taken into account?

### **Are these changes sustainable?**

The issue of sustainability is particularly important for institutional reforms. Reforms have longer gestation periods than policy changes, which can be achieved at the stroke of a pen. The sustainability of governance reform is dependent on whether the current government can expect to be in power, with a reform-friendly support base, long enough to ensure implementation. If a government comes to power that opposes reforms, the key question is whether the new government would wish to continue with them. If the reform benefits certain groups then these groups may be able to pressure the new government to continue the reforms. Alternatively attention may need to be paid to the extent to which powerful private interests can subvert policy.

Strengthening public oversight and other external accountability mechanisms makes an important contribution to sustainability. Which actors in-country are expected to monitor the reform project? And how will the central government be held accountable for results? Strengthening the formal institutions of accountability (Parliament, Auditor-General, the judiciary and the courts) is critical here, as is ensuring freedom of information and the media. Key to the effectiveness of this approach is increased availability of information on performance of the government and other State bodies. Specifically, information should be disseminated on public spending and procurement, judicial decisions, regulatory activities, and data on public service delivery effectiveness. Surveys of citizens, private firms, and public officials are often helpful in obtaining information on what actually happens at the interface with the state, the extent to which corruption subverts the formal rules, and the areas in which public service delivery is weakest.

Sustainability can also depend on the speed with which reforms can create a constituency for their own continuation. It may be helpful to select for clean-up one agency that serves business or the general public, where improvements in service delivery will be noticed and appreciated. This can help to convince a cynical or disillusioned public that reforms are possible and desirable, and thereby help to mobilize support behind a broader program of reform. Getting early results is harder than it sounds, however, as there are usually networks stretching beyond the agency that will exert influence on the degree of change achievable. Finding a champion in country who is prepared to make this initial difference is critical, and may be the most important precondition for starting reforms that will ultimately move beyond dependence on that champion to become broad-based and sustainable.

Perhaps most important for sustainability is the match between the design of reforms and the environment in which they must take root if they are to be effective. It is important to understand the degree of rule-respect in the society, the extent of informality, the role of informal networks and the way in which power and influence are exercised, if reforms are to be relevant to their institutional context. Strategies need to start with feasible steps that lead by their internal logic, and by the public and other support they generate, towards long-term sustainable reforms that help the poor.