Institute On Governance

Principles for Good Governance in the 21st Century

Policy Brief No.15

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Policy Brief

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The Institute On Governance (IOG) is a non-profit organization founded in 1990. Its mission is to explore, share and promote good governance in Canada and abroad, and to help governments, public sector organizations, the voluntary sector, communities and the private sector put it into practice. From our perspective, governance comprises the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.

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In pursuing these themes, we work in Canada and internationally. We provide advice on governance matters to organizations in the public, private and non-profit sectors. We bring people together in a variety of settings, events and professional development activities to promote learning and dialogue on governance issues. We undertake policy-relevant research, and publish results in the form of policy briefs and research papers.

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Introduction

Governance has become a "hot" topic as evidence mounts on the critical role it plays in determining societal well-being. The Secretary General of the United Nations, Kofi Annan, reflects a growing consensus when he states that "good governance is perhaps the single most important factor in eradicating poverty and promoting development"[1]. Not surprisingly, governance as a term has progressed from obscurity to widespread usage, particularly in the last decade

This policy brief is the offspring of a major paper on Governance Principles for Protected Areas in the 21st Century presented in 2003 at the Fifth World Parks Congress in South Africa[2]. Parks Canada commissioned this paper as part of its lead role in organizing a governance workshop stream focusing on traditional and non-traditional approaches to governance of Protected Areas (PA) and systems.

This brief will explore the concept of governance and attempt to answer some fundamental questions:

- What are the characteristics of good governance?
- Are there universal principles of good governance? If so, what are they?
- Where do these principles come from?
- In applying such principles what quality of detail do we need?
- What particular criteria are necessary to build governance?
- How might we apply these principles to assess current governance regimes?

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[1] Kofi Annan, www.unu/p&g/wgs/. Similar themes are found in the "New Partnership for Africa's Development (NEPAD)", the UN Millennium Declaration and many of the declarations and plans resulting from the World Summit on Sustainable Development (WSSD). And the Harvard Project on American Indian Economic Development, after almost a decade of research, has concluded that economic development on Indian reservations in the United States is "first and foremost a political problem".

[2] See "Governance Principles for Protected Areas in the 21st Century" prepared for the Fifth World Parks Congress by John Graham, Bruce Amos and Tim Plumptre in collaboration with Parks Canada and the Canadian International Development Agency, www.iog.ca/publications

What is governance?

Definitions can be challenging, subtle, complex and powerful. Let us begin by a definition of what governance *is not.*

Governance is not synonymous with government. This confusion of terms can have unfortunate consequences. A public policy issue where the heart of the matter is a problem of "governance" becomes defined implicitly as a problem of "government", with the corollary that the onus for "fixing" it necessarily rests with government.

Since governance is not about government, what is it about? Partly it is about how governments and other social organizations interact, how they relate to citizens, and how decisions are taken in a complex world. Thus governance is a process whereby societies or organizations make their important decisions, determine whom they involve in the process and how they render account. Since a process is hard to observe,
students of governance tend to focus our attention on the governance *system* or framework upon which the process rests - that is, the agreements, procedures, conventions or policies that define who gets power, how decisions are taken and how accountability is rendered.

Governance: Who are the players? Who has influence? Who decides?

The concept of governance may be usefully applied in different contexts – global, national, institutional and community. Understanding governance at the national level is made easier if one considers the different kinds of entities that occupy the social and economic landscape.
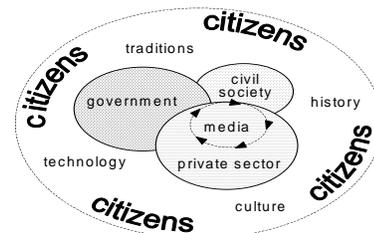

Figure 1

Figure 1 illustrates four sectors of society, situated among citizens at large: business, the institutions of civil society (including the voluntary or not-for-profit sector), government and the media.[3]

Their size as illustrated here may provide a crude indication of their relative power in many western countries. They overlap because the borders of these organizations are permeable. A similar illustration for other countries could show a very different distribution of power. For example, the military or a political party (see figure 2) might occupy the largest part of the terrain. Government's role might be quite insignificant. In some settings, multinational corporations might play a dominant role. In most countries power is shifting across borders. The size of the private sector seems to be expanding. Some state functions are being transferred to business.
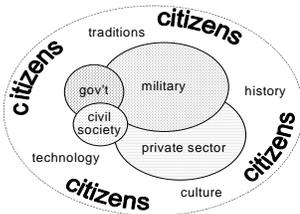
Figure 2

Shifts are also under way in the sphere of civil society although the pattern is less clear. In some jurisdictions, governments have spoken of the need to transfer functions to the voluntary sector, expecting it to 'take up the slack' as government withdraws from funding (as is the case of home care as an alternative to hospitalization).
In addition, some governments are experimenting today with many partnership arrangements within

which politicians or public servants share power with other sectors of society. The theme of the 2003 World Parks Congress, "Benefits Beyond Borders" reflected this trend. The prevalence of such new institutional arrangements, however, is raising questions about who should properly be involved in what: a classic example of a governance question.

The zones of governance: who decides and in what capacity?

In principle, the concept of governance may be applied to any form of collective action. Governance is about the more strategic aspects of steering: the larger decisions about direction and roles. That is, governance is not only about *where to go,* but also about *who should be involved in deciding*, and in what capacity. There are four areas or zones where the concept is particularly relevant.

- Governance in 'global space', or global governance, deals with issues outside the purview of individual governments[4].
- Governance in 'national space', i.e. within a country: this is sometimes understood as the exclusive preserve of govern*ment*, of which there may be several levels: national, provincial or state, indigenous, urban or local. However, govern*ance* is concerned with how other actors, such as civil society organizations, may play a role in taking decisions on matters of public concern
- Organizational governance (governance in 'organization space'): this comprises the activities of organizations that are usually accountable to a board of directors. Some will be privately owned and operated, e.g. business corporations. Others may be publicly owned, e.g. hospitals, schools, government corporations, etc.
- Community governance (governance in 'community space'): this includes activities at a local level where the organizing body may not

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[3] There are some complexities in defining these sectors, but they need not concern us here. For example, does government include state-owned corporations? What about partially owned corporations? Are teachers or schools part of government? And civil society organizations: do they include organizations such as lobby groups whose goals are clearly commercial? Is an organization such as a professional association for commercial entities a business entity or a not-for-profit? Where do labour unions fit in? Is the Internet part of the media?

[4] Good governance is becoming an increasingly important issue with respect to Protected Areas in part because of the growing number of international agreements and conventions e.g. World Heritage Convention; Convention on Biological Diversity; Ramsar Convention on Wetlands of International Significance; UNESCO's Man in the Biosphere Program.

assume a legal form and where there may not be a formally constituted governing board.

strong evidence that these UNDP – based principles have a claim to universal recognition. In grouping them under five broad themes, we recognize that these principles often overlap or are conflicting at some point, that they play out in practice according to the actual social context, that applying such principles is complex, and that they are all about not only the results of power but how well it is exercised.

Five principles of good governance

Defining the principles of good governance is difficult and controversial. The United Nations Development Program (UNDP "Governance and Sustainable Human Development, 1997") enunciates a set of principles that, with slight variations, appear in much of the literature. There is

Box 1: Five Principles of Good Governance	
The Five Good Governance Principles	**The UNDP Principles and related UNDP text on which they are based**
1. Legitimacy and Voice	**Participation** – all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their intention. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively. **Consensus orientation** – good governance mediates differing interests to reach a broad consensus on what is in the best interest of the group and, where possible, on policies and procedures.
2. Direction	**Strategic vision** – leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.
3. Performance	**Responsiveness** – institutions and processes try to serve all stakeholders. **Effectiveness and efficiency** – processes and institutions produce results that meet needs while making the best use of resources.
4. Accountability	**Accountability** – decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external. **Transparency** – transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.
5. Fairness	**Equity** – all men and women have opportunities to improve or maintain their well-being. **Rule of Law** – legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

Of the five principles, *"Legitimacy and Voice" and "Fairness"* have the strongest claim to universal recognition based on over a half century of UN accomplishments in the field of human rights. Box 2, for example, links these two governance principles with key clauses in the United Nations Declaration of Human Rights adopted in 1948. Since that time, the UN has adopted eight treaties and five protocols, which together make up the body of international human rights law.

Box 2: **Human Rights Principles and Good Governance**		
Good Governance Principles	**UNDP Principles**	**United Nations Universal Declaration of Human Rights**
Legitimacy & Voice	**Participation**	"Everyone has the right to freedom of opinion and expression…" (Article 19) "Everyone has the right to freedom of peaceful assembly and association" (Article 20) "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives" (Article 21) "Everyone has duties to the community…" (Article 29)
	Consensus Orientation	"The will of the people shall be the basis of the authority of government: this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage…" (Article 21) "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society" (Article 29)
Fairness	**Equity**	"All human beings are born free and equal in dignity and rights…" (Article 1) "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Article 2) "Whereas the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (Preamble)
	Rule of Law	"Whereas it is essential …that human rights should be protected by the rule of law" (Preamble) "All are equal before the law" (Article 7) "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal…" (Article 10) "No one shall be subjected to arbitrary arrest, detention or exile" (Article 5) "No one shall be arbitrarily deprived of his property" (Article 17)

Applying governance principles: the example of Protected Areas

IUCN -The World Conservation Union defines a Protected Area as

An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.

Government PA Agencies came into existence in the 20th century linked primarily to the spread of the national park concept. Recently, however, many countries have experimented with a diversity of new governance models and structures for Protected Areas, beyond the traditional direct management by a government agency.

IUCN has developed six categories of Protected Areas, based on different combinations of objectives. The variety of objectives can be summarized under four headings:

- *nature conservation*;
- *science;*
- *visitor opportunities*; and
- *local and indigenous needs*.

To meet these objectives, those responsible for Protected Areas may exercise a number of different types of powers: planning powers, regulatory powers, spending powers, revenue-generating powers, and the power to enter into agreements. Good governance, in this context, is therefore about the responsible exercise of these powers in order to meet the objectives of Protected Areas.

With an understanding of the powers and objectives of PA governance we can now move on to developing specific criteria for the UN based principles of good governance in the context of Protected Areas. In developing the criteria, we will focus on the *Principle of Fairness[5]*. In doing so we take note of the following useful reminders. Principles are not "water-tight"- they often overlap and sometimes reinforce one another. Principles

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[5] For the criteria on the other four principles in a Protected Area context, see "Governance Principles for Protected Areas in the 21st Century", op. cit.

are not absolute – most conflict with others at some point, calling for balance and judgment in applying

them. History, culture and technology will be an important factor in how this balance is achieved. And, in applying these principles, "the devil is indeed in the detail".

Protected Areas: the Principle of Fairness

The principle of fairness encompasses the treatment of those groups that face discriminatory practices – women, children, ethnic and religious minorities to name a few. In the context of Protected Areas it has meant growing awareness of and respect for the role that local and indigenous peoples should play in the development and management of Protected Areas. It has also focused more attention on the benefits to be derived from devolving power from the center of government to local areas and from placing more emphasis on the role of community conservation.

Fairness is also about the rule of law, a principle enshrined in the Canadian Constitution. Among other things, this principle encompasses an independent judiciary, equality of citizens before the law, the requirement for governments to base their actions on legal authorities and citizens having the right to seek legal remedies against their governments.

These considerations lead to the development of the following criteria on the *Fairness*, some of which go beyond the control of Protected Areas managers but form an important context in which they operate.

Using the Principle of Fairness and related criteria, we can analyze specific governance challenges in a Protected Areas context (see table next page.) When this is accomplished, the principles and criteria become tools to help in developing an improvement strategy for governance, and for assessing the gap between the current and desired state of governance.

In the context of Fairness, we can begin to determine "where we are now", "where we want to be", "how we get there" – the strategies, priorities and techniques, "how we stay there" - sustainability and "making sure we get there"- the implementation.

FAIRNESS IN A PROTECTED AREA CONTEXT

- **Existence of a supportive judicial context** characterized by respect for the rule of law including
  - an independent judiciary
  - equality before the law
  - the requirement for government and its officials to base their actions on well-defined legal authorities
  - citizens having the right to seek legal remedies against the government and against their fellow citizens

- **Fair, impartial and effective enforcement of any PA rules** including
  - the transparency of the rules themselves (their existence is known and accessible)
  - the absence of corruption among public officials
  - the right of appeal for those charged with transgressions

- **Fairness in the process for establishing new PAs** including
  - respect for the rights, uses and traditional knowledge of local and indigenous peoples related to the area
  - an assessment of other options for the use of the area
  - public participation in the process of establishing the PA, particularly involving local and indigenous peoples
  - the appropriate balancing among PA objectives (local use, science, conservation and visitors' use)

- **Fairness in the management of PAs** including
  - practices that achieve a favourable balance of costs and benefits to local and indigenous peoples (e.g. traditional uses, revenue-sharing, preferential employment and contracting procedures)
  - mechanisms for sharing or devolving the management decision-making of the PA with local and indigenous peoples
  - use of traditional knowledge and resource management methods of indigenous and local people
  - equitable human resource management practices for the staff of the PA
  - processes for recognizing and dealing with past injustices resulting from the establishment of PAs

Conclusion

"Governance" opens new intellectual space. It provides a concept that allows us to discuss the role of government in coping with public issues and the contribution that other players may make. It opens one's mind to the possibility that groups in society other than government (e.g. 'communities' or the 'voluntary sector') may have to play a stronger role in addressing problems.

The central conclusion is that a universal set of principles for defining good governance can be fashioned and that the strength of their universality rests to a large extent on the body of international human rights and laws. In addition, these principles can be usefully applied to help deal with current governance challenges. When they *are* applied it becomes apparent that there are no absolutes; that principles often conflict; that the 'devil is in the detail'; that context matters. Finally, the nature of governance – both the means and the ends – needs to be understood. Only then does it make sense to elaborate the principles in order to create a meaningful analytical tool.