30th Anniversary Essay

What Does "Governance" Mean?

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The normative goals of governance reform are twofold: more effective public policies, and procedures that are legitimate and accountable to the citizenry. Often the phrase "good governance" is intertwined with the anticorruption agenda. Drawing on the author's experience as a visiting researcher at the World Bank and as a scholar of both corruption and comparative politics, this essay unpacks the concept of governance and relates it to debates over ways to balance technical expertise and public participation to achieve better functioning governments.

"Governance" is an ambiguous term that often substitutes for something else. It is often invoked to signal that the political issues at the core of government are off the table. Instead, the emphasis is on managerial or technocratic competence or, conversely, on cooperative, consensual decision making. "Governance problems" remain a convenient euphemism for corruption, fraud, and simple incompetence and waste. However, in practice, governance is deeply intertwined with the incentives and opportunities open to political actors. In this article, I try to unpack the concept and show how it relates to the debate over balancing technical expertise and public participation.

Good governance refers to all kinds of institutional structures that promote both good substantive outcomes and public legitimacy. Within this broad compass, my own focus has been on corruption as it undermines "good" governance and on the way policymaking processes in the executive and public agencies can be linked to public preferences and values—including the value of public participation in policymaking. Technical, economic, and scientific knowledge remains essential to effective policy. Hence, the fundamental challenge for governance reform is to balance expertise and democratic participation beyond both the ballot box and the scientific laboratory to produce public policies that solve important social problems and are accepted as legitimate by citizens.

The term "governance" entered my lexicon during 1995–1996 when I was a visiting research scholar at the World Bank. During that year, the first of James Wolfensohn's presidency, the word "corruption" began to be uttered in public by Bank staff. In the fall of 1995 a word search of the Bank's e-mail system for the term "corruption" turned up a single report on Paraguay. Staff in private conversations instructed me that "weak governance" and related terms were often used in Bank documents as code words for corruption. A project suffering from admitted failures would be described as plagued with governance problems. For example, an evaluation might refer to an "excessive capital/labor ratio." Staff members working on forestry projects contacted me after I authored a short piece for a World Bank publication on incentives for corruption. They were frustrated by their lack of leverage—timber from corruptly

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obtained concessions could be sold in the international market, with no need for intervention by the Bank itself. In Bank jargon, the rather bland term "governance failure" covered a wide range of problems from outright kleptocracy to widespread petty payoffs. Then, in October 1996, after I returned to Yale, President Wolfensohn (1996) made a famous speech that flagged the "cancer of corruption," signaling a change in the Bank's approach. The issue has been explicitly on the Bank's agenda since then, but anticorruption programs and state reform remain sensitive subjects inside the Bank and in dealings with its member states.

Bank publications frequently avoid using the word "government" because the World Bank's Articles of Agreement, dating from the Bretton Woods Conference in 1944, emphasized economic development and forbade political involvement.[1] At least until the mid-90s, Bank projects could not aim to make government and the political system more legitimate and responsive to the population. Democracy promotion was and still is off the table. The problem, of course, is that political institutions and the people who inhabit them determine the success of any program of economic development. Politics and economics cannot be put into sealed boxes. The academic study of economic development began as a branch of applied macroeconomics, but it evolved to stress the key role of both public and private institutions—both domestic and international (Olson 1996). This political-economy approach invited development specialists to engage with the institutional landscape and the incentives and skills of domestic actors—in other words, to ask how a country was governed. Thus, there are strong reasons, consistent with the Bank's focus on economic growth and poverty alleviation, to care about what came to be called "governance." In poor countries economists had assumed that the marginal product of capital was high because there was so little of it. However, many such countries were unable to attract outside investment unless they had a valuable natural resource or a cash crop. This left them in a poverty trap, and the explanation was not only poor physical infrastructure but also weak and venal public institutions—that is, poor governance.

Finding a label consistent with the Bank's Articles of Agreement, however, did not solve the problems of what governance policies were most effective given the constraints of the Articles and of member state preferences. Nevertheless, at least at the staff level, empirical work showing that high levels of corruption harmed growth helped build support for Bank policies to limit corruption and to promote institutional reform. During my year at the Bank, I was part of a reform effort based on economic arguments that supported anticorruption and good governance policies and conditions. These arguments for governance reform did not need to appeal to objectives beyond those espoused by the Bank itself. Such reforms could be defended entirely within the economic paradigm that pervaded the Bank. Of course, such an approach does not mean that moral values are unimportant to growth and "human flourishing" (Sen 1999), but only that, as a matter of internal Bank "politics," arguments made in terms of economics were most likely to carry the day.

Changes in the Bank's engagement with corruption and governance were aided by the formation of Transparency International just before I arrived at the Bank. Peter Eigen, a retired Bank official, founded the group after his long experience in Africa, and he enlisted the support of some in the U.S. business community worried about corrupt pressures in their international business dealings and concerned about liability under the U.S. Foreign Corrupt Practices Act (FCPA).[2] That Act makes firms (and their top managers) that paid bribes to get business abroad subject to criminal and civil prosecutions. With the end of the Cold War, the Bank and other aid and lending agencies were more willing to criticize both recipient country governments and private firms involved in aid and investment projects. No longer could a corrupt head of state threaten to turn to the Soviet Union if his or her behavior was examined too critically. Thus, political-economic theory, empirical work on corruption and development, and realpolitik combined to make the reform of public institutions and the control of corruption salient to global aid and lending strategies. The catchall label "governance" incorporated all of these factors.

Yet, in the field of economic development anticorruption remains contested, not the least because measurement is difficult and because no single silver bullet can solve the problem. When do financial leakages become so extreme that no aid should be given at all? When should cultural norms of gift giving be accepted, and when should their anticompetitive and antipoor effects be highlighted? Do governance reform programs undermine state sovereignty or do they, instead, enhance the legitimacy of the state? My own approach is located at the interface of corruption, institutional structure, and program design. Thus, it overlaps with the field of public administration where governance has become a technical term related to bureaucratic operation and performance. I do not stress criminal law enforcement but, instead, concentrate on designing public programs to limit the incentives for corruption and on increasing government transparency and accountability to the public and the media, as well as to other political and bureaucratic actors.

In discussing governance, my focus has been on the operation of the executive branch and of independent regulatory agencies and on the policymaking process. Governance then intersects with administrative law and with policy analysis. The normative goals are two-fold: effective public policies, and procedures that are legitimate and accountable to the citizenry. Formal democracy, in the sense of contested elections with alternations in power, is not a necessary condition for good governance in that sense. Democracy should help to encourage good governance, but it is at least possible to have publicly accountable policymaking without electoral democracy. The public legitimacy of executive policymaking can be a subject of study in both China and the United States. In other words, in my view, the heart of the debate over "good governance" is the familiar tension between technical competence and procedural legitimacy with an emphasis on public involvement and justification. The term implies that the techniques used to produce policies further political legitimacy; the goal is not only policies that are scientifically advanced and technically sound but also policies that respond to public concerns.

My anticorruption work stresses the underlying incentive structures that lead to corruption in public programs (Rose-Ackerman 1999; Rose-Ackerman and Palifka 2016). The goal is to redesign programs to reduce those incentives by, for example, making rules clear and simple, providing routes for complaints, or even legally selling a scarce service that had been allocated through bribes. These solutions fall under the governance label because they deal with service delivery to the population and the behavior of business firms. "Governance reform" should concentrate on improving the interface between government officials, and private individuals and businesses. The study of governance concentrates on the modern regulatory-welfare state that administers regulatory programs and mass public benefit systems of old age pensions, health insurance, and so forth. It seeks ways to encourage competent service delivery in ways that accord with democratic ideals and resource limits. Issues of democratic accountability do not stop when a law has been passed. Rather, many of the decisions most salient to the public occur in the executive as policies are put into practice using general rules and individualized adjudications.

An important strand of my research considers the way parliamentary systems, such as Germany and France, place the promulgation of executive branch regulation into the "political" box, thus, largely excluding them from procedural constraints and judicial oversight. This, to me, is problematic. Under my view, executive rulemaking requires notice, public comments, reason giving, and judicial oversight of the procedure. Of course, such procedures are difficult to carry out quickly and competently, but they are essential to accountable government—that is, to good governance. The legislative process that produces statutes needs to be distinguished from the policy-making process inside the executive and the agencies. Both need to be accountable, but in different ways.

Debates over the relationship between good governance and democracy arise because of underlying disputes over what good governance entails under alternative constitutional structures. In the American presidential system, good governance in the executive implies a system of rulemaking governed by administrative law principles that promote public involvement, transparency, and reason giving consistent with democratic values. Accountability through reasoned decision making is central to administrative law—both rulemaking and adjudication. Its principles are embedded in the Administrative Procedures Act of 1946, which also permits judicial review to assure compliance with the required procedures. The Act was passed by Congress as a way to constrain the executive and was signed by a president who feared that losing the next election would be followed by efforts to undermine the New Deal. However, whatever the political background of the statute, it has become a pillar of the modern administrative state that helps to justify the delegation of policymaking responsibilities to cabinet departments and independent agencies. In contrast, legal constraints are barely present in statutory drafting although, of course, statutes backed by substantial efforts at justification may be more politically acceptable.

In most parliamentary systems, such as Germany, governance focuses on technical competence and on the treatment of individuals, not procedures derived from democratic values. When the legislature and government are controlled by a single party or coalition, that majority will have no political incentive to legislate in ways that constrain their policymaking freedom. Protecting individual rights against government overreaching is not the same as incorporating democratic, participatory values into the production of rules or secondary legislation. Parliamentary systems, I would argue, suffer from some of the same democratic deficits as presidential systems when they promulgate executive rules, but they face fewer political incentives to deal with them legislatively. In fact, some view provisions for public hearings in rulemaking as antidemocratic because they do not involve direct votes and are open to the influence of special interests. This negative view of public participation in rulemaking, I argue, goes too far. Rulemaking can be transparent and open to outside participants without violating democratic principles. The substitution of referenda is seldom an effective substitute for policy deliberation informed by expertise. Most modern policy issues—dealing, say, with immigration, financial markets, energy—cannot be responsibly reduced to yes/no questions and presented to the electorate. For a more extensive discussion of the links between constitutional structures and administrative law and governance, see Rose-Ackerman, Egidy, and Fowkes (2015) where we contrast the United States with South Africa, Germany, and the European Union.

The differences between the polities highlighted in our book, however, may be greater in principle than in practice. Reforms of the time-consuming U.S. system seek procedures that are simpler and faster. Reform of the European systems emphasize public participation, even if usually only for individual infrastructure decisions. The European Union has a proposal before it called ReNEUAL to reform its administrative law to enhance rulemaking procedures, consistent with U.S. models (Curtin, Hofmann, and Mendes 2014). Perhaps reforms in both the United States and Europe can enhance democratic legitimacy and overall public accountability as well as improve the application of science and social science to policymaking. In any case each system has something to teach the other.

Debates over the meaning of "good governance" and its links to democracy, competent policymaking, and anticorruption are ongoing and need to be unpacked in light of both new types of technocratic knowledge and demands for more inclusive, deliberative policymaking procedures. "Governance" needs to be further studied in light of general principles of public accountability, the preservation of individual rights, and the competent application of technocratic information to policy choices.

Notes

1. The World Bank's core aid and lending activities are covered by two documents: International Bank for Reconstruction and Development Articles of Agreement (amended June 27, 2012) and International Development Association (IDA) Articles of Agreement (September 24, 1960). The latter covers loans to less developed countries on more favorable terms than available through the IBRD. IBRD Articles state in Article III, Section 5(b): "The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non-economic influences or considerations." Similarly, the IDA Articles state in Article V, Section 6: "The Association and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned."
2. Foreign Corrupt Practices Act [FCPA] of 1977, Pub. L. No. 95-213, 91 Stat 1494, as amended.

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