

Chapter 8

Governance

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8.1 Introduction

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 (along the lines suggested in chapter 1, “Poverty Measurement and Analysis”) and aims to develop 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.¹

8.1.1 Definitions

Governance refers broadly to the exercise of power through a country’s economic, social, and political institutions² in which institutions represent the organizational rules and routines, formal laws, and informal norms that together shape the incentives of public policymakers, overseers, and providers of public services. This is often referred to as “the rules of the game.” Three key dimensions are (a) the process by which governments are selected, held accountable, monitored, and replaced; (b) the capacity of governments to manage resources efficiently and to formulate, implement, and enforce sound policies and regulations; and (c) respect for institutions that govern economic and social interactions. Boxes 8.1 and 8.2 summarize global definitions and regional perspectives on governance.

Problems of poverty and governance are inextricably linked. If power is abused, or exercised in weak or improper ways, those with the least power—the poor—are 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, and legal services disadvantage the poor and inhibit them from securing their homes and other assets and operating businesses. Thus, poor governance generates and reinforces poverty and subverts efforts to reduce it. Strengthening governance is an essential precondition to improving the lives of the poor.

Box 8.1. 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 Co-operation 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 on or perceive to be in their interest.

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

World Bank

“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>)

Box 8.2. 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 the government adopts. 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).

Inter-American Development Bank

The IDB has sought to reinforce the connection between good governance and political stability, which in turn depends on domestic socioeconomic conditions, the strength of democratic institutions, and citizen input in 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/e998l.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/>).

8.1.2 Diagnosing problems

Good governance can be undermined by a range of factors, including 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. An understanding of the specific mechanisms and nature of the specific costs imposed on the poor by weak governance is needed in order to design realistic action plans for dealing with it.

If demand for reform is strong, but organizational and technical capacity is weak, technocratic reforms can be helpful. These could include support to links between policy and budgeting, civil service development and training, development of legislative and judicial functions, and organizational and functional reforms. But a diagnosis of the underlying drivers of poor governance may 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 on technocratic reforms.

These incentive issues can be tackled once the nature of dysfunction is understood and set within the broader 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 accountable for their actions is critical to any chance of improving governance. An understanding of what has gone before, and of the current set of institutional arrangements, will both constrain and help to define viable next steps.

It is critical to answer the question of who gains from poor governance if the diagnosis is to translate into effective action. In many if not most cases, dysfunctional behavior and institutions serve private interests. If public servants at any level are bending the formal rules in order to secure private gains, this points to corruption.³

Impact on the poor

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 education, government spending allocations may be biased away from pro-poor expenditure. Spending on operations and maintenance may also be squeezed 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 mean also that the death toll and loss of assets in earthquakes and other natural disasters are far higher than necessary, because procurement and inspection procedures are subverted, and shoddy materials and building practices prevail. Through various channels, corruption can compromise basic security and life itself.

The poor will be disproportionately affected by such practices, because they cannot afford to 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. Indeed, 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, which distorts the framework of rules, and administrative corruption, which distorts the implementation of rules.

- *State capture* refers to actions that individuals, groups, or firms in both the public and private sectors take to influence the formation of laws, regulations, decrees, and policies to their own advantage. This occurs through illicit and nontransparent 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 nonstate participants as a result of the illegal transfer or concentration of private gains to public officials.⁴

When the reach of legitimate political authority is limited, the economy can be dominated by powerful interests, and public administration is rife with patronage and bribery. Collective action of any kind, especially that which is pro-poor, becomes almost impossible. Recent development literature focuses increasingly on identifying institutional arrangements that are fairer, safer and more open to participation by the poor, and more likely to produce results that are helpful to their well-being. In this chapter, we call such arrangements “pro-poor.”

8.1.3 Using this chapter

This section has defined governance and offered some diagnostic tools that can help to ensure measures of good governance. Section 8.2 expands on the links between governance and four key themes: empowering the poor, improving capabilities of the poor by improving basic services, providing economic opportunities by increasing access to markets, and providing security from economic shocks and from corruption, crime, and violence. Table 8.1 maps governance issues onto these four themes.

Section 8.3 explores the formal governance arrangements that can constrain the exercise of state power and prevent equal opportunity for all citizens to participate. It asks whether 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.

Section 8.4 explains governance issues in intergovernmental relations, 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.

Table 8.1. Dimensions of Poverty and Governance

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

Sections 8.5 and 8.6 focus on the core public sector areas of budget processes and the civil service, while section 8.7 sets out the crucial importance of the legal and judicial system for the poor. Section 8.8 draws together the implications for service delivery—an aspect of public sector performance that is almost always critical for the poor.

Section 8.9 raises 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 from the perspective of the poor, and that can be sustained over time.

8.2 Good Governance and Poverty Reduction

Governance is a broad topic that 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. In order to connect broad concerns about how power is exercised through economic, social, and political institutions with the specific steps that can be taken to reduce poverty, this chapter relates the four key elements of the poverty framework to corresponding governance reforms. The underlying question is: How can better governance help reduce poverty in its various dimensions—empowerment, capabilities, opportunities, and security? Table 8.1 summarizes the relationship between key governance issues and poverty dimensions.

8.2.1 Empowering the poor

By participating in formal political and administrative processes, the poor can debate and potentially 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 levels (see chapter 7, “Participation”).

The formal governance arrangements that can promote and sustain participatory processes include regular, competitive and fair elections, and equal protection under electoral rules. Accountability and transparency, discussed in more detail in section 8.3, are central. At the level of the executive, annual reports, regular publication of information, and established consultative and review mechanisms all contribute to transparency. Finally, access to information and freedom of the media to investigate and report are important (see section 8.3).

Often, participation by the poor is dependent on their proximity to decentralized political institutions, also subject to competitive and fair elections, 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.

8.2.2 Improving the capabilities of the poor

To improve the coverage, cost-efficiency, and quality of basic services at the local or district level, 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 interjurisdictional disputes. For most services, particularly in the social sectors, important roles need to be clearly 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.

If designed appropriately, decentralized responsibility for delivery has the potential to improve service delivery. Otherwise, decentralization can make things worse. Sustainability and efficiency can be

enhanced by actively involving beneficiaries and encouraging other producers: for example, by 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 (see chapter 7, “Participation”).

8.2.3 Providing economic opportunities

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 antidiscrimination efforts to expand the freedom of poor individuals to participate in mainstream institutions. Governments may need to enact legal and regulatory reforms to deepen market access, clean up inspectorates and revenue authorities, and actively disseminate information to the poor on opportunities for employment, asset ownership, and local and international prices.

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 nonfarm activities, important for reducing vulnerability to agricultural shocks and increasing rural employment. Developing and maintaining the infrastructure (telecommunications and rural roads, for instance) to enable access to markets requires an enabling environment absent in many countries. This environment requires an assignment of responsibilities (from funding to technical supervision, to construction and maintenance of different types of infrastructure) across tiers of government and communities to provide clear channels of accountability to ensure that facilities are constructed and maintained.

8.2.4 Security

Poor macroeconomic performance affects all economic actors but is especially costly to the poor (see chapter 12, “Macroeconomic Issues”). Multiple exchange rates and complicated trade restrictions often provide opportunities for corruption and siphoning of resources away from the poor. The best safeguard against poor macroeconomic performance is sound management of fiscal and monetary policy, including hard budget constraints on each level of government.

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 by making the justice system accessible and limiting 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—anonously 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 (from electoral rules to the administration of tax and customs) raise procedural rules that influence the actions of state officials and public sector employees and, ultimately, determine the integrity of institutions in a society.

8.3 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 good public sector performance. Their existence is closely linked to the architecture of the state, which defines the relationships among the executive, legislature, and judiciary, and the extent to which they are able to scrutinize each other’s behavior. Accountability and transparency 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. Parliamentary oversight mechanisms such as independent audit institutions are also critical for fiduciary accountability. Deficiencies in any of these arrangements undermine the fairness and effectiveness of the state and directly or indirectly penalize the poor.

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; 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. Hence, we refer to measures that enhance information sharing and transparency as “accountability mechanisms.”

Holding government—the executive—accountable rests on two foundations. First, there must be some bodies or groups to which the executive answers; for example, the cabinet being accountable to the Parliament. Second, in situations where certain executive actions are questionable, then legislative, judicial, legal, or electoral challenges should be possible. Failing these, popular challenges (for example, the Philippines in 2000) have sometimes been successful but should only be a last resort.

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 executed by civil society and, in some circumstances, by donors. Figure 8.1 illustrates these relationships.⁵

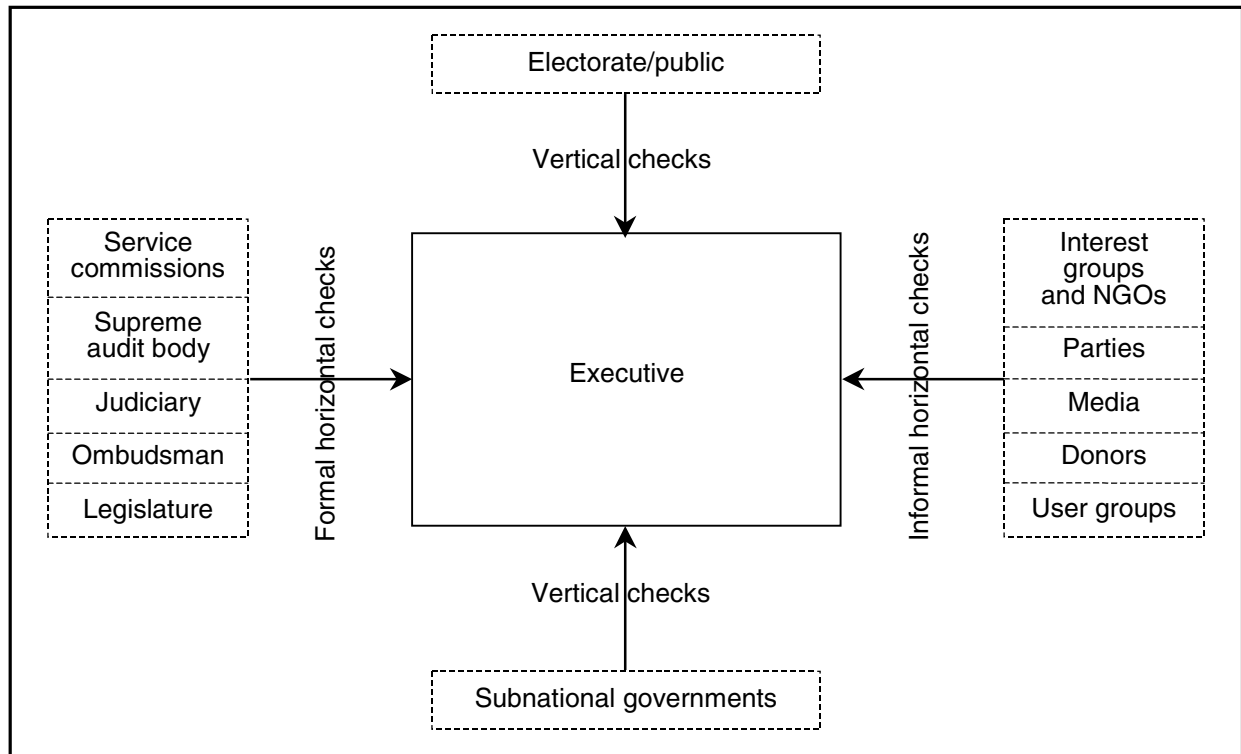
8.3.1 Contestability of government office

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.

The credibility of political parties and their freedom to organize are also fundamental. Both financial and nonfinancial contributions to political parties above a defined threshold should be disclosed to the public, and the parties’ financial accounts should be audited regularly and the results made public. Key questions include:

- 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?
- Are parties rooted in significant popular support around coherent policy platforms?
- Can parties function transparently and without undue hindrance? For example, are government *and* opposition parties free to hold public meetings and rallies, and is there a transparent framework for public support, whether financial or nonfinancial, of political parties?
- 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?

Figure 8.1. Holding the Executive Accountable



8.3.2 Accountability of government

Absence of state capacity for external audit, or lengthy delays in audit reports to the legislature, are warning signs 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 the following:

- Are records and accounts kept that enable accurate reports to be generated?
- Does the executive reconcile and justify to the legislature deviations between forward estimates and budget estimates, and between budget estimates and actual spending?
- Do ministries and agencies provide annual reports to the legislature in which performance is explained?
- Are audited financial statements submitted to the legislature in a timely manner?
- Are they debated in the legislature?
- 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?⁶

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

8.3.3 Freedom of information and assembly

Formal electoral and accountability rules should be coupled with a legal framework permitting freedom of expression, assembly, and organization, including a law defining nongovernmental organizations

(NGOs) 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 the implementation of legislation permitting freedom of access to information: this should clearly define information that must be held in confidence and allow access to all information not so restricted (Blanton 2001). Key questions include:

- Is freedom of expression and opinion restricted by media censorship or fear?
- What difficulties do groups face in obtaining permission to hold a demonstration or to form civic associations?

8.4 Intergovernmental Relations and Decentralization

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 previously excessive concentration of power at the center (such as in the former Soviet Union); and in yet others, by government efforts to save money by devolving functions without commensurate resources.

Several different forms of decentralization can coexist 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 the 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. 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 not necessarily good or bad. If it is designed well, it can move decisionmaking closer to people and improve governance, including the efficiency of service delivery. If decentralization is not appropriately designed or is introduced in environments in which local participation and accountability are constrained, its effect 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 (a) who does what regarding spending, taxing, and monitoring outcomes and (b) 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 that can generate macroeconomic instability and hurt the poor.

8.4.1 Appropriate level of government

If intergovernmental relations are well designed (responsibilities matched with resources and capacity, decisionmakers clearly accountable to local and central authorities as appropriate for the function), service delivery should occur at the lowest possible level of government. This is often called the "subsidiarity principal." When communities are actively involved in allocative decisions, they are more likely to ensure that projects meet their needs and are completed in a timely fashion, and they are more likely to be committed to maintaining investments.

As countries decentralize, arrangements to ensure accountability of public actors become more complicated, but they 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 rely 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 that require examination in every country context. Key questions to ask include the following:

- Are local leaders selected through regularly scheduled and fair elections?⁹
- Is information available to citizens to enable them to assess the performance of their elected leaders (full publication of accounts, public notices of decisions)?
- Are channels of participation available to enable citizens to express views regarding local decisions (selection of priority investment projects and other allocative decisions regarding the budget, operation of the 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 if they are, 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 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?¹⁰

8.4.2 Budget constraints between tiers of government

The measures of accountability mentioned above are undermined when soft budget constraints exist 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, for example, through the fiscal system (discretionary transfers, assumption by central government of expenditure responsibilities of local government), the financial system, or arrears to state enterprises.

If local voice is to be an effective means of holding local leaders accountable for meeting needs and preferences, these leaders must be certain of their agency funding and responsibilities. A hard budget constraint on subnational governments is a clear signal that they will be held accountable for their decisions and the quality of services delivered. Key questions include the following:

- 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? 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 and can do this in many ways. 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.¹¹

8.4.3 Sequencing decentralization

There is no single correct enabling environment for decentralization. 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 the most pressing concern. Nevertheless, in designing a package of intergovernmental reforms, the following sequencing rules may be useful.

- 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.
- Once political accountability is established in local governments, introduce fiscal decentralization quickly to enable newly elected leaders to respond to local needs.
- “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 ensure adequate revenues (transfers and own revenues) to match responsibilities.
- 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 additional discretionary transfers from a higher level of government, or if transfers are cut when local revenues are raised, local governments will lack incentives to raise local revenues, weakening local accountability.
- Examine the institutional environment that establishes hard budget constraints 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.¹²
- While decentralization usually focuses first on the primary level of subnational government (state or province), the eventual impact on the poor occurs at a much lower level. Implementing the principals of intergovernmental relations described in this section to a third or fourth tier of government is critical to ensuring that the benefits of decentralization reach the poor. This issue should not be delayed.

Enhancing poverty impact

Attention should be paid to potential poverty impacts in designing decentralization. Decentralization can be good or bad for the poor but is likely to be bad unless special effort is made at the design stage. In particular, there are four areas to which decentralization arrangements must pay special attention.

Redistribute 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 appropriate distribution of block transfers across subnational governments should be considered from a poverty perspective.

Fund basic services of national interest. Services that reflect national policies need to be ensured and should not be left to the discretion of local populations and governments. They should be funded through specified transfers that pass through intermediate levels of government but are directed at a particular function—for example, immunizations and primary education. Monitoring these transfers along with other incentives for performance is important for ensuring reliable delivery of services.

Target assistance to the minority groups among the poor. In areas with high concentrations of homogeneous poor people, decentralized decisionmaking can lead to a greater poverty focus in local public expenditures. But where a particularly disenfranchised group exists within a poor or nonpoor majority (ethnic minorities, special castes), decentralized decisionmaking 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. Formal channels of government enable decentralization down to the lowest tier of formal government (often at a level where the population is 5,000–10,000 people). Decentralizing further, to service delivery units like schools and clinics, and encouraging active community participation is often the most promising method for improvements in service delivery.

8.5 Public Expenditure and Revenue

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. Key questions include: How robust are the links among planning, policymaking, and the budget? Are policy priorities articulated and reflected in budget allocations? Does actual spending match planned allocations? (See chapter 6, “Public Spending.”)

Budget comprehensiveness matters. Governments’ ability to exercise policy choices across the full range is often limited by earmarked revenues and special funds and tied to 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 is the chance of audit or recovery of funds if they are diverted.

Does public money reach its intended use or target? Survey evidence indicates that money is frequently diverted to private ends.¹³ Significant deviations of actual expenditures from functional appropriations¹⁴ 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 percent (Reinikka 2001).

Expenditures are more likely to arrive where intended if they are disbursed in a simple and transparent way. There also should 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 that have been made and should, in principle, be delivered. This is often 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 creates incentives for reform.

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 statements seriously because they are likely to change.¹⁵

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 multiyear 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—and a multiyear budgetary perspective, which can build in budgetary predictability.

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

- Are policy proposals required to specify their intended outcome, associated outputs, and costs over the medium term—on and off budget?¹⁶
- Is there any effective way of checking that money has been spent as intended? How widely is this information shared?

8.5.1 Predictability of funding and cash flows

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.

Fluctuations in funding can adversely affect the poor in two ways: through unstable funding of poverty-related programs and services and through inflation (see also chapter 12, “Macroeconomic Issues,” and chapter 6, “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.¹⁷

8.5.2 Tax policy and divergences between planned and actual revenue

Revenue predictability is reflected in the difference between actual central government revenues and those projected in the budget adopted by the legislature at the beginning of the fiscal year. Unplanned revenue shortfalls reflect low administrative capacity, corruption, and deliberate overestimates to avoid difficult spending reductions. Simple and easily administered 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 government unable to predict current revenue collections in advance, is a warning of possible economic shocks that may disproportionately affect the poor.¹⁸

The social cost of collection includes direct administrative outlays, taxpayer compliance costs, and economic efficiency and equity costs resulting from the tax system; any obstacles that collection places in the way of the efficient functioning of markets; and 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.

Tax and customs administrations are often among the most corrupt government agencies in developing countries. Transparency and separation 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 the following: 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 simple and clear. 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?¹⁹

8.5.3 Suggestions for sequencing

Reforming budget management is a medium- to long-term process, and it critically depends on a country's capacity and political readiness. Several interrelated areas, from predictability to internal controls and reporting, will need to be addressed.

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, that spending units receive their approved allocations, that actual spending matches authorized allocations, and that budget reports are generated for policymakers and the public.

Most policy decisions have multiyear budgetary implications. Successful implementation of policies therefore requires multiyear budget planning. This normally requires a medium-term gross domestic product (GDP) forecast within which total revenue and expenditure can be projected. Within this budget scenario, specific program costs can be projected into the outer years. At first, the principal 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 concentrated reform, by 2000 the Ugandans had a well-functioning system of medium-term expenditure planning (see also chapter 6, "Public Spending," for the medium-term budget planning experiences of Ghana and Uganda).

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 needed together with careful tailoring country by country. Piloting a new FMIS in a few ministries or 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.

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 present the findings in a timely manner to the legislature, is a critical step to ensure accountability of the spending units.

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.

8.6 The Civil Service

Low public respect for the civil service is more than a response of disappointed consumers to an inadequate level of service. Low confidence and widespread cynicism about the performance of government can have pernicious consequences, undermining democratic institutions and reducing the attractiveness of public service as a career for those with talent. Overall, the civil service needs competence and honesty in order to earn the respect of the public and business. However, surveys consistently show public frustration with civil service performance and the high burden that corruption places on the poor. Surveys of public perceptions of service quality can provide key information for Poverty Reduction Strategy (PRS) preparation. Of course, corruption is one aspect of poor service provision: service delivery is undermined by operational inefficiency and poor quality as well as by wrongdoing.

8.6.1 Public employment conditions

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,²⁰ with a fiscal weight—public sector wage bill as a percentage of GDP—that is 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 attrition rates lower than one would expect given the low wage level, 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. Although 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.

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

Average government wages can be compared 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.²¹ There should be 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?
- Is the compensation system generally simple, monetized, transparent, and fair?
- Is the pension system affordable, effective, and fair?

8.6.2 Designing and implementing reform

Resistance to implementing reform from vested interests within the civil service can be an obstacle to providing vital services to the poor. Distributing basic data on performance and seeking 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 nonpolitical appointments are lacking, there is a risk 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 multiparty or multi-ethnic governing coalition, but should be accompanied by efforts to introduce basic skill and competency requirements, transparent hiring and firing procedures, and accountability mechanisms. Political appointees, like other staff, need to be subject to financial disclosure and conflict of interest requirements. Several countries use hybrid appointment methods without abandoning meritocratic principles that govern public administration.

Nevertheless, it is important that the number of political appointees in the civil service be limited. A useful guide is the situation in the United States, where the proportion of political appointees is approximately 1:400; in Sweden, it is approximately 1:2,000. The share of budget-funded public sector staff in core government ministries 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.

Indicators in assessing the quality of the civil service include the following. Is there clear legislation defining the scope of the civil service and the subsidiary regulations describing procedures? The nature of the code of conduct 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 they may take. It is important to remember that the civil service proper may be limited to the central ministries. If it is defined in this way, it will be helpful to look 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 those not in the civil service?

Staff responsibilities and career paths should be clearly set out, with 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 the following: 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?

8.6.3 Reform options

Much more is known about what does not work than what does. A recent review of civil service reform programs (Girishankar and others 1999) supported by the World Bank found that, in broad terms, they were responding to three general areas of concern. 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 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.

Four factors are associated with this poor 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, such as how the political imperatives 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 other incentives, including job security and pension prospects. Finally, the quality of data on civil service performance in general has been poor and inconsistent. Standardized indicators were neither fully developed nor operationalized for monitoring and evaluation.

8.6.4 Suggestions for sequencing

The key sequencing message is that comprehensive civil service reforms seem more likely to work in countries where governments are motivated by arrangements that enable citizens to express their views and hold public officials accountable for 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, it is essential that the core state institutions have not been captured by special interests to any significant degree. This means that individuals, groups, or firms in both the public and private sectors have limited opportunities to bribe public officials to structure policies to their own advantage.

In other settings, particularly with high levels of state capture and weak governance, there are limitations to government-wide reforms. In these cases, it may be useful to focus initially 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 it has benefits. Reforms can also be piloted in a particular region or municipality. In some cases, placing services at the 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.

8.7 The Legal System

In some countries the legal system actually hurts the poor and prevents them from gaining access to legal services, protection, and redress.²² 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.

A population that fears crime and has little confidence in the state's ability to protect citizens from crime, and 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 population per year. Surveys can provide evidence of the views of firms and households on corruption in government.

Assessing the strengths and weaknesses of the key institutions of the judicial system requires nuanced judgments from informed observers. It is often helpful to open a dialogue with 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. It may be still more helpful to do an actual analysis of caseloads and case files, for experience indicates that even officers of the courts have an incomplete or inaccurate picture of what is really happening.

8.7.1 Judicial independence

The judiciary should be independent of the other branches of government. Media stories or reports may help to indicate whether this independence has indeed 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 represent a sign that these complaints are not taken seriously, although a special court may still be better than complete immunity.

Judges should be able and willing to decide cases with freedom from outside pressures. It is important to consider both the adequacy of judges' training and the structure of pay and incentives that they face, including the nature and length of any tenure. 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. Some key questions are the following: 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 excessively control its judges. Selection, promotion, and discipline can still be problematic, even where the judiciary is free. 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 justice ministries) may use them to the same effect.

8.7.2 Selection, promotion, and discipline of judges, prosecutors, and lawyers

The market for legal services, including private attorneys and notaries, should be as competitive as possible. 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? If so, are there guidelines for how this discretion is to be exercised? Are these guidelines public? Do lawyers, judges, and executive branch personnel believe the current 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 were reassigned to less interesting positions. In Mexico, recent research indicates that judges tend to accept unreasonable delaying tactics because they fear a displeased attorney will register a complaint with the judicial council.²³

Further questions on the court environment include the following:

- 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?

8.7.3 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; the upper reaches of the judiciary can check on the probity, efficacy, and efficiency of the lower levels; and 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 include the following:

- 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 on judicial procedures?
- Are parties to disputes notified? Poor people are often hard to find and may never know about a case that directly or indirectly affects them.

8.7.4 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 can present obstacles—communicating in the same language is important, as is making clear the use of legal parlance that may leave the less educated in the dark. Alternative forms of mediation can help but need to be scrutinized carefully because 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 are the following:

- 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 those who cannot read?²⁴
- 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 access them? Are they adequately publicized? Do the poor know about them?

8.7.5 Court registries

Registries are a frequent site of corruption, and even when they are honestly run, they 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 the following: What kinds of registries are available, and what are the barriers to access them? Do the poor use them, and if not, why not? What proportion of land is formally titled? What effect does lack of registration, or lack of access to markets and services, or lack of civil rights have on the poor?

8.7.6 Judicial corruption

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. More directly, 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, the poor, and 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 permits (see Djankov and others 2001).

8.7.7 Public willingness to use the legal system

Access to the courts or alternative dispute resolution (ADR) services may, by itself, not be enough because the system may reinforce existing inequalities. A useful indicator is the willingness of the population, particularly minority groups, to submit private disputes to the court system or to some form of ADR. 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?²⁵ 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.²⁶

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.²⁷

8.7.8 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 that 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.²⁸ 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 ostensibly solicit bribes, although not necessarily in fact, on behalf of judges. Pro bono work may be neglected 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-policing or any other policing of the private bar, and little control exists 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 revoked per year?
- Do bar associations exist? Is membership compulsory or voluntary?²⁹
- 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- or state-financed clinics; number and location of cases carried; and some qualitative assessment and local monitoring of performance)?
- How are attorneys paid, and how is money collected?
- Is self-representation (pro se) 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 or a business, or on the services to which they are entitled (social security, pension, wage rights).

8.7.9 Enforcement and the criminal justice system

The criminal justice system is an important backup for civil awards, which may otherwise be ineffective. And in many countries, the criminal justice system may have more impact on the poor than the civil system. 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 accountability and standards of bailiff services generally matter more for the poor. Key questions include the following:

- 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 and appropriately paid?
- Are bailiffs professional? Who oversees them, and who is 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 groups, 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?³⁰

8.7.10 Sequencing issues³¹

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 developed 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 into the process early. While it is politically important to support or address some of their concerns, if they are the only targets of reform, there is a risk of serving only their interests. Individual champions are needed to get started, while building a broader constituency is a goal in itself. No institutional reform program can hope to succeed on the weight of one individual. Concrete activities, even if small, should be carried out early to solidify interest among the initial stakeholders and help attract allies, convincing people of the value of change, reducing fear about its consequences, and persuading 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. For 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, can 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 selected and evaluated? Where problems exist, these questions must be addressed as soon as possible, but the solutions will obviously 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 programs might initially be remedial in focus (to bring judges up to speed on the laws they are supposed to apply), but are also a means of generating interest among the judiciary and identifying further problems. The initial curriculum will tend to evolve over time as reform proceeds.

Bridging the gap between “external” stakeholders and the judges tends to be difficult. The judiciary needs to realize that they provide a public service, and that the final test of their performance is client satisfaction, not of individual parties, but of the public as a whole.

8.8 Service Delivery

Several chapters in volume 2 of this book 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. One effective way of identifying the impact of these cross-cutting governance issues is to take a specific service-delivery area and trace it back to 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 enhance outcomes.

Identifying specific shortcomings in the delivery of public services is challenging because there are few international standards against which to measure service levels.³² Survey tools can be used to measure 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). (See also chapter 3, “Monitoring and Evaluation.”)

More generally, service delivery can be measured by looking at

- access of particular groups and stakeholders to services;
- service use rates;
- operational efficiency, including the cost per given output;
- timeliness; and
- 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 as well as 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 fully prescribe the means by which services should be delivered at the local level. Flexibility about 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, although not always, as indicated elsewhere in this chapter.

8.9 Moving Toward a Pro-poor Governance Strategy

This chapter has posed some broad questions about governance arrangements and their impact on the poor. Table 8.1 summarized dimensions of governance 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 detailed diagnostics can be undertaken as reforms progress. In most cases, it is advisable for reforms to start on a small scale and build outward. It is likely that in the course of implementation, the underlying problems will themselves be redefined.

Constituencies and political will for reforms 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.

Certain kinds of institutional strengthening, especially those that enhance available information, are critical to help organizational 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 initiate the process, but progress will be limited unless the executive or other state entity is clear about what is needed and how to deliver it, 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 are 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.³³

8.9.1 Who gains and who loses from the proposed governance changes?

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," that is, 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?

8.9.2 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 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?

8.9.3 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, 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 design and implementation.

Strengthening public oversight and other external accountability mechanisms makes an important contribution to sustainability. Which actors in the 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 (the legislature, the 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.

Sustainability can also depend on the speed with which reforms can create a constituency for their own continuation. It may be helpful to focus on reforming the 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 appears, however, as there are usually networks stretching beyond the agency that will exert influence on the degree of change achievable. Finding a champion in the 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 workings of the rules 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 must start with feasible steps that lead by their internal logic, and by the public and other support they generate, toward long-term sustainable reforms that help the poor.

Notes

1. Diagnostic toolkits are available at <http://www.worldbank.org/publicsector/toolkits.htm>. For surveys of public officials and households that can be organized in collaboration with the World Bank Institute, see <http://www.worldbank.org/wbi/governance/tools.htm>.
2. For a more extensive discussion of governance and strategies for improving public institutions, see World Bank (2000c).
3. This leads to a working definition of corruption as “the abuse of public office for private gain.”
4. These issues are explored in more detail in World Bank (2000a). See <http://wbln0018.worldbank.org/eca/eca.nsf/General/D74DB51B2D46615D8525695B00678C93?OpenDocument>.
5. This mapping of accountability relationships draws significantly on Schedler, Diamond, and Plattner (1999). See World Bank (2000d) for a practical example of applying this framework. See also World Bank (1999a, 1999c) for recent World Bank experiences.
6. 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>.
7. The World Bank Institute provides training programs and seminars to assist in developing Public Accounts Committees (<http://www.worldbank.org/wbi/governance/parliament.htm>).
8. 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>).
9. Note, however, that the presence of elections does not necessarily translate into strong accountability.

10. See the *Assessing Constraints on Service Delivery Toolkit* available at <http://www.worldbank.org/toolkits.htm>. This toolkit is designed to assess constraints on frontline 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. The toolkit is being piloted in Ethiopia, Benin, and Argentina.
11. See the *Intergovernmental Relations Institutional Review* available at <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. For more general information see <http://www.worldbank.org/publicsector/decentralization/index.htm>.
12. See World Bank (2000b).
13. See, for example, World Bank (1999b).
14. It is calculated as the sum of all (absolute values of) deviations between approved and implemented budgets by functional classification.
15. 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.
16. 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 policymaking. 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. On public spending issues see also <http://www.worldbank.org/publicsector/pe/index.htm>.
17. Chapter 12, “Macroeconomic Issues” indicates 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.
18. 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, organization and management functions, and informal culture. It has been piloted in Colombia.
19. More information can be found in World Bank (1999e).
20. Definitional problems abound in considering public employment. See <http://www1.worldbank.org/publicsector/civilservice/cross.htm> for guidance on measuring public sector employment.
21. See <http://www1.worldbank.org/publicsector/civilservice/ineffectivemon.htm>.
22. 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.
23. See Hammergren (2000). The Mexican information will be reported in Hammergren and others (forthcoming).

24. A completely “unbiased” judicial system can still operate against poor users because 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.
25. 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 (2000, *supra* note 29).
26. 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 and others (1982).
27. Many legislatures in developing countries appear to have no more than a rubber stamp function.
28. In Argentina, an analysis of case files 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 (2000, p. 33).
29. 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.
30. Frequently, the minimum level for pretrial detention is so low, and the poor so lacking in resources, that a poor person 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.
31. This passage draws on Hammergren (1998).
32. As a very rough proxy, the waiting time for telephone lines (International Telecommunication Union 1998) 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 at http://www.worldbank.org/data/wdi/pdfs/tab5_10.pdf.
33. See 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 the government—and the sustainability of reform, including potential changes in key stakeholders. See also <http://www.worldbank.org/publicsector /anticorrupt/index.htm>.

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