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Gemma Richardson, Editor

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The role of the media in governance

By Leonard Stern

It's easy to be cynical about the press today. In journalism schools students are taught that theirs is a higher calling, but in the real world, in this age of celebrity and consumer culture, the view can be less romantic. A free media is supposed to be the lifeblood of democracy, yet ordinary members of the public might wonder how regular updates on Paris Hilton contribute to the social good. As a working journalist there are moments when I too share the frustration, and wonder whether the reporter whose sole allegiance is to the public interest, who reports the news without fear or favour, is a dying species, if he ever existed at all.

And then I hear about a man like Wu Xianghu. In October 2005, Mr. Wu, a journalist in the Chinese city of Taizhou, published an exposé on questionable police practices surrounding the collection of bicycle license fees. The next day, members of the local police force came calling. They beat Mr. Wu brutally and, after three months in hospital, the 41-year-old editor died of his injuries.

The story of Mr. Wu is instructive. We in the West may have become complacent about the significance of a free press (it wouldn't be the first freedom we've taken for granted), but not the corrupt traffic officers in Taizhou. They understood the power of the pen — of Wu Xianghu's pen — and the existential threat it posed to the political order from which they profit.

Now granted there is corruption in all governments, democratic and undemocratic, but corruption is easier to carry off without a prying press. The tradition of press freedom in the democratic West is one reason why, in those countries, official government criminality — the misappropriation of public funds, suppression of civil and political liberties — is the exception rather than the rule. It's not just that the press sooner or later exposes wrongdoing; more importantly, the press delegitimizes it. We saw this dynamic in the way the Canadian media pursued the Liberal party's Sponsorship Scandal and in the way the American press exposed the Abu Ghraib affair. All governments do bad things from time to time, but only when there is a free press does the body politic have at its disposal an instrument of self-criticism.

It is no surprise, then, that where press freedom is minimal or non-existent, government criminality is the rule rather than the exception. Indeed, in illiberal societies the government turns the role of the press on its head — the "official" state-controlled

Authoritarians of all political stripes have long understood that their hold on power is dependent on their ability to shape the culture, to manipulate and control the flow of information — to decide what gets reported and what doesn't.

media become instruments by which the elites legitimize their predations.

A host of institutions — the church, the home, the school — define a given community or society, but the media have perhaps the most influence in shaping the attitudes and norms that make up what we call the culture. Authoritarians of all political stripes have long understood that their hold on power is dependent on their ability to shape the culture, to manipulate and control the flow of information — to decide what gets reported and what doesn't.

Soon after printing was developed, England implemented a permit system, so that only printers who were friendly to the authorities had access to the new technology. Happily, England abandoned the system in the seventeenth century but government monopolies on the information available to citizens still exist in many countries. A New York Times editorial cited Saudi Arabia, Iran, Egypt, Russia and China as examples of powerful and important countries that “still do not dare allow their own people or the world at large to know what is going on in the territories they control.” The editorial was written in 1954, following the release that year of a study on press freedom. Look at that list of countries again. Plus ça change.

Another case study: Just over a year ago, a Lebanese television journalist named May Chidiac climbed into the Range Rover that she had parked outside a friend's house in Beirut. Ms. Chidiac was known for her critical reports on Syria's occupation of Lebanon. On that very day she had interviewed on her television show a guest who also challenged Syrian interference in Lebanese affairs. When Ms. Chidiac got into the SUV, a bomb that had been placed on the undercarriage exploded, blowing away her hand and a foot. She was burned all over. But she survived.

The Syrian agents who tried to assassinate Ms. Chidiac knew that she represented a new and emerging free press in Lebanon and as such was a mortal threat. Totalitarians need to pretend that the real enemies are external, but really they are most afraid of their own subjugated people. They need to maintain the illusion of external enemies in order to keep their citizens from demanding political, civil and economic reforms at home.

Ms. Chidiac was — is — one of a growing number of brave Arab journalists and writers who have begun exposing this illusion, who, rejecting the official State propaganda, have begun to show that maybe not every pathology in the Middle East can be blamed on outsiders. She was targeted because, in her reporting, she revealed that the greatest threat to the security, prosperity and independence of Lebanon was not Western influence but another Arab State, Syria. It was a fitting tribute that, in 2006, armed with a prosthetic hand and leg, she received UNESCO's World Press Freedom Prize.

Totalitarians need to pretend that the real enemies are external, but really they are most afraid of their own subjugated people.

The Middle East remains the most dangerous place in the world for independent journalists, yet it is the place where they are most needed and have the greatest responsibility. That's because in many of these countries, both the government of the day and the main political opposition are undemocratic, typically secular-authoritarian on one side and Islamist on the other. It falls upon journalists and writers and artists — the media, broadly speaking — to carve out some narrow space to become the liberal opposition.

One thinks to the magnificent career of Naguib Mahfouz, the Nobel Prize-winning Egyptian novelist — and newspaper columnist — who died in August at the age of 94. In the 1950s, he dared to be critical of

then-President Gamal Abdel Nasser. He supported equality rights for women and welcomed peace with Israel. He defended Salman Rushdie in the late 1980s against the Khomeini fatwa. Suspected Islamic fundamentalists stabbed Mahfouz in the neck in 1994, but he survived. Mahfouz was more a public intellectual than a journalist, but he subscribed to the journalist's creed of afflicting the comfortable and comforting the afflicted. In illiberal societies, that is a dangerous role to play.

Political freedom cannot exist without freedom of expression. Put differently, the dysfunctions in authoritarian societies are inextricably linked to the absence of free and independent media. As someone who writes frequently about the Middle East, I often hear from readers who complain that, in their view, Israel receives a disproportionate amount of negative media attention, as compared to its Arab-Muslim neighbours.

I'm not always prepared to concede the point — Iran is getting a pretty rough ride at the moment — though it is true that Israel, because it is the only country in the region with a tradition of press freedom, makes itself vulnerable to the prying eyes of a massive international press corps. News organizations set up their Middle East bureaus in Jerusalem rather than Cairo or Damascus because they have a freedom of access that they don't in Egypt or Syria. Some Israeli supporters grieve the fact that every Israeli misstep is therefore widely reported, while the crimes of neighbouring governments stay hidden, but it's entirely possible that the scrutiny ultimately strengthens Israel's democracy and civil society.

Sunlight, it is said, is the best disinfectant. Closed societies don't heal — they are unable even to identify where they're ailing. Israeli introspection and self-criticism played out vigorously in that country's press following the war with Hezbollah. In Lebanon, meanwhile, most Arabic-speaking reporters did not or could not dissent from Hezbollah's official, if hallucinatory, assessment that the war was a great triumph. Societies with a free press learn from their mistakes; those without, don't.

Tudor England's effort to restrict information through printing permits or patents collapsed, as the late journalism educator Fred Siebert has written, owing to "the spread of literacy and the consequent demand for more printed materials (and) the growth of private enterprises in all fields of production." In our own time, there are signs that the Internet and the voracious appetite for information it creates could have a similar salutary effect in providing alternatives to the "official" media. Last year, Iran hanged two teenaged boys ostensibly for rape, but the online community of bloggers and human rights activists made a convincing case that the youths were executed for being gay. News of this latest horror in Iran traveled around the world, sparking protests and letter-writing campaigns. There have since been other instances of the online community identifying important stories before the established media did.

Closed societies don't heal — they are unable even to identify where they're ailing.

Of course, the digital age has its own problems. Insofar as bloggers can be called "journalists" at all, they practice a particularly aggressive form of advocacy journalism. It makes some traditionalists like me nervous to see such a swift and complete abandonment of principles like impartiality. Moreover, while the power of new media can provide a window into places like Darfur and Iraq, terrorists, hatemongers and pedophiles are also harnessing the Internet for their own ugly purposes.

But on balance, it's hard not to be excited about the opportunities for people of good faith, from different cultures and traditions, to engage in a civil, global conversation. And thanks to the democratization of media — one needs only a laptop

computer, not a printing press — it will become increasingly difficult for governments to get away with murder, literally.

*Leonard Stern is Editorial Pages Editor of the **Ottawa Citizen**.*

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Evolving good governance: A case study of the Palestinian Occupied Territories

By Vasiliki Germanakou and Michelle Farrell

“...transparent, responsible, accountable and participatory government, responsive to the needs and aspirations of the people, is the foundation on which good governance rests... such a foundation is a sine qua non for the promotion of human rights.” (UNCHR Res. 2000/64)

Good governance is an evolving concept with no rigid definition. It includes international economic policies and their implementation via institutions. It is also linked with the concepts of meaningful participation, rule of law and efficient administration. Ultimately, good governance seeks the achievement and maintenance of international and domestic stability.

Initially, the term emerged from the experiences of the various international financial institutions (IMF and World Bank) when applying Structural Adjustment Programs where it was observed that the support of government agencies was necessary “in order to create an enabling environment for sustained growth” (Sano and Alfredsson, 2). Subsequently, the end of the Cold War, which meant the collapse of the communist economic and political system, led to the idea of democracy as the ‘best’ alternative for governance. The West did not have to “convince” any country “to think Western anymore” (Botchway 177). This allowed the Western donors to require political conditions towards the receiving States.

In the same period, from an international legal perspective, human rights began to gain momentum as more States were adopting and ratifying the relevant international human rights law instruments. International human rights law concerns, primarily, the relationship of individuals (citizens) with their respected State, but also requires the international community to ‘interfere’ in domestic issues in order to prevent or terminate mass violations. Finally, it was the World Bank along with other institutions, which emphasised the role of the State, the importance of good governance and of development.

The marriage of good governance with development has also been largely accepted and used by the United Nations. According to the Office of the United Nations High Commissioner for Human Rights, governance is the “process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights.” In

The Commission on Human Rights recognized as key elements of good governance, transparency, responsibility, accountability and participation, in a government “responsive to the needs and aspirations of the people.”

particular, the Commission on Human Rights recognized as key elements of good governance, *transparency, responsibility, accountability* and *participation*, in a government “responsive to the needs and aspirations of the people.” Furthermore, good governance has been linked to sustainable human development through the building of effective and accountable institutions. Accordingly, the role and effectiveness of national human rights institutions is of extreme importance. Such institutions are usually ombudsmen, human rights commissions, hybrids and variations.

Here we will consider two models of good governance. Central to both models are the concepts of democracy and development. The first approach views the notion of good governance from the standpoint of the international community or donor vis-à-vis the State or government authority. We will refer to this as the international relations approach. In this model, the assessment tool is political. The State is seen as one entity, and the concern is with government credibility. Hence, the relationship, cooperation or non-cooperation, depends solely on whether the government meets the good governance criteria. Individuals are not considered at this level. Therefore, if the State actor is not accepted, regardless of whether the people support the authorities or not, the individual is automatically alienated.

The second approach adopts a more inclusive notion of good governance which focuses on the international community vis-à-vis the State with the individual as the central concern. This can be termed as the human rights-based approach. In this model, the international community has obligations to monitor the State and its practices, in other words, to monitor the domestic implementation of good governance. International human rights legal standards are the tool by which to measure and assess this. Central to this approach is the idea of individual participation in the decision-making process.

With these models in mind, the current situation in the Palestinian Occupied Territories (the Gaza Strip and the West Bank) will be examined, bearing in mind that any discussion of the term ‘good governance’ in the context of the Palestinian Occupied Territories must take into account the complexities of the historic development of the area.

On Dec.12, 2006, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) announced that:

“... living conditions amongst Palestinians in Gaza and the West Bank have slumped to levels unseen since 1967. Every aspect of life has been affected The crisis that began in September 2000 has deepened dramatically during 2006, as a result of the international isolation of the Palestinian Authority (PA), the conditions of siege imposed on Gaza and the ongoing fragmentation of the West Bank. The majority of Palestinians are now dependent on food and cash handouts. Violence, poverty and despair are overtaking hopes for recovery and prospects for development.”

It is important to question the international community's failure to address the rather large elephant in the room. That is, why did Hamas win the 2006 elections?

The current situation in the Palestinian Occupied Territories as described by UNRWA raises important questions with regard to the practical implementation of good governance theory. If good governance is to be understood as a combination of development, democracy and human rights standards, then the effective sanctioning of the Palestinian population after the 2006 Palestinian National Authority (PNA) democratic elections must be analysed and questioned.

The Palestinian Occupied Territories came under Israeli control after the Six Day war in

1967 and as a result, conflict has existed between the two sides to this day. In 1993, historic agreements were reached, resulting in the establishment of the Palestinian Interim Self-Government Authority or Palestine Authority. Under these agreements, the PNA effectively became a transitional, self-government with restricted jurisdiction over specified areas. Israel retained control over internal and external movement of peoples and goods. In the first legislative elections, January 1996, Fatah won 30 per cent of the votes but due to the system of proportional representation in place at the time, this translated into 58 seats. Yasser Arafat, leader of the Palestine Liberation Organization (PLO) and founder of the Fatah movement, led the PA until the outbreak of the Second Intifada. Hamas, founded in the mid-70s by Sheikh Yassin Ahmed, is one of the main actors on the Palestinian scene. Hamas' main differences with the PLO are its non-recognition of a two-State settlement and its aim for the creation of an Islamic state. Hamas did not participate in the first legislative elections.

The second legislative elections, run under a mixed electoral system, took place on Jan. 25, 2005 under the continued president Mahmoud Abbas (Abu Mazen). Eleven parties took part in these internationally monitored elections for the parliament of the PNA. The Hamas movement ran for the first time and was represented by 'List for Change and Form.' It won the election with 74 seats. The Fatah movement obtained 45 seats and the remaining 13 were won by minority parties. The European Union Election Observation Mission labelled it "an open and fairly contested electoral process."

Hamas' legitimate introduction onto the domestic Palestinian political scene was facilitated through the Cairo Declaration of March 19, 2005. Hamas committed, along with the other factions, to a temporary ceasefire with Israel in return for its integration into the PA's electoral system. The international community failed at this point to take note of the challenge posed by Hamas' entrance into the electoral process. During the Cairo Declaration negotiations, the international community had an opportunity to exert a positive influence on Hamas' extremist policies (attacks against civilians and opposition to the two-State solution). Neither the Quartet on the Middle East (representatives of the four entities involved in the peace process – the EU, US, UN and Russia) nor the EU took this opportunity to place pressure on Hamas regarding its political policies.

It is important to question the international community's failure to address the rather large elephant in the room. That is, why did Hamas win the 2006 elections? Is this evidence of Palestinian support for Hamas extremist ideology? Or is it simply evidence of the failures of the PNA?

The Hamas electoral campaign emphasized themes of good governance, economic development, reform of the PNA and personal and social security and stability. The conflict with Israel and religious issues were not on the agenda. The movement had gained support during the Second Intifada because of the already established effective social and welfare infrastructure coupled with disillusionment due to the PNA's inefficient and corrupt leadership. Furthermore, support culminated with the Israeli disengagement from the Gaza Strip in 2005, which was perceived as a victory for the Hamas' armed struggle and not for PNA negotiations. Accordingly, it is fair to suggest that it was not a huge surprise that Hamas won the elections. In fact, they had already gained considerable ground against Fatah during the 2005 municipal elections, particularly in urban areas.

Nevertheless, the Hamas victory came as a shock to the international community, which refused to recognize the election result because the movement is listed as an international terrorist organization by the US and EU, among others. The humanitarian crisis which has ensued is a result of the termination of funding since Hamas was elected to office. The Israeli government is withholding funding to the PNA amounting to US\$50 to 60 million per month. In addition, funding from donor countries and agencies, including the Quartet and the EU, has been withheld. A Temporary International Mechanism (essentially humanitarian aid) has been developed by the EU at the request of the Quartet. The removal of funding directly

affects the PA and consequently the Palestinian population. To demonstrate this, the PA has 172,000 employees; thus, it can be estimated that the PA sustains approximately one million dependents – a considerable percentage of the West Bank and the Gaza Strip.

If democracy means that the power of governance belongs to the people on a majority basis, the international community, by failing to accept the outcome of the Palestinian vote, does not acknowledge the will of the Palestinian people. Moreover, an evolved understanding of the right to development also recognizes the human person as the central subject and the active participant and beneficiary of the right. The international community's termination of funding to the PNA deprives the Palestinian population of their right to development. Furthermore, it compels them into a dependence upon humanitarian aid. By undermining the Palestinians meaningful participation with regard to both development and democracy, the international community has essentially neglected the central elements of good governance.

The humanitarian crisis which has ensued is a result of the termination of funding since Hamas was elected to office.

Instability now governs the Palestinian Occupied Territories which is on the brink of civil war. Mahmoud Abbas has called for new elections, which threatens to further destabilize an already fragile environment. Effective functioning of the PNA has been challenged by arrests of Hamas ministers and attacks on government buildings and democratic institutions as a result of the ongoing military occupation. It is impossible under these conditions to measure whether the PNA has the ability to exercise good governance. Faced with the ongoing occupation and an internationally unrecognized government, the international community already has an increased responsibility to protect the rights of the Palestinian people. However, as John Dugard, Special Rapporteur on the Situation of Human Rights in the Palestinian Occupied Territories has observed, “in effect, the Palestinian people have been subjected to sanctions, the first time an occupied people have been so treated.”

In conclusion, if the ultimate goal of good governance is stability, and if development requires a sustainable environment for the achievement of growth, the international relations approach, on its own, is clearly insufficient. By failing to adopt a human rights based approach and to assume its responsibilities to the individual, the international community risks paralyzing development and democracy, isolating the population and, in essence, engendering a counter-productive effect.

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Land reform in South Africa

By Arun Krishnamurti

Under Nelson Mandela, the African National Congress (ANC) created the South African Land Reform Program to address the issues of land restitution and land redistribution in post-apartheid South Africa. Through this program, the ANC promised to compensate individuals and groups who had land taken from them during apartheid, as well as purchase land from current landowners and redistribute it to those in need. This willing-buyer, willing-seller model was unique in that the State would act within market mechanisms attempting to address a social issue. However, in the 12 years that this program has been in existence, it has not worked as well as anticipated.

According to the *Mail & Guardian*, a leading South African newspaper, this willing-buyer, willing-seller approach does not adequately address the needs of an increasingly vulnerable section of the population. As such, the South African government has stated that it intends to start expropriating land from owners with whom negotiations have gone on for more than six months. So far this approach has not yet materialized, perhaps out of fear of experiencing similar economic problems as witnessed in neighbouring Zimbabwe.

The issue of land reform and land rights has always been a very racially polarized affair in South Africa. During the apartheid era, it was abundantly clear that the landowners were white and the labourers were black, and yet this has held true even years after the birth of democracy. Race, as embarrassing as it may seem, often plays a rather large role in social conflicts.

Another aspect of the South Africa Land Reform Program was tenure security. This was aimed at protecting farm workers and dwellers from illegal eviction and termination. To this end, the government introduced the Extension of Security of Tenure Act (ESTA). This act, according to the University of Witwatersrand, is designed to “protect rural occupants of land against arbitrary eviction.” It sets out a protocol that must be followed if an eviction is desired and is meant to ensure that due process is given in all cases.



A recent rally held the rural town of Citrusdal, Western Cape

(Photo © Arun Krishnamurti)

According to several NGO groups, the Act has not sufficiently addressed the needs of the people. The Surplus People Project, an NGO that frequently intervenes in cases of illegal evictions, argues that while the ESTA appears to be a step in the right direction, it has not prevented the illegal evictions and dismissals of farm dwellers and workers. The Nkuzi Development Association conducted a National Eviction Survey and concluded that over a million farm dwellers have faced eviction since 1994. This number is despite assurances from all levels of government that illegal evictions will not be tolerated.

The case of David Fouche is an example of one of the more common scenarios of these illegal evictions. Fouche and his family lived on the same farm, Draaihoek, for 18 years. Early in 2006, he was dismissed from employment on the farm and was illegally evicted from the premises. According to section 10(1) of the ESTA, Fouche's right of residence on Draaihoek could not legally be terminated as he did not resign his employment and did not commit such a fundamental breach of his contract that there was no option other than termination.

Section 8(4) of the ESTA clearly states that if an occupier has resided on the owners land for more than 10 years and "is an employee or former employee of the owner or person in charge, and as a result of ill health, injury or disability is unable to supply labour to the owner or person in charge...", then they cannot be evicted unless they have committed a fundamental breach of the contract between the occupier and the landowner. Yet, with no breach committed, Fouche was both terminated and evicted from his rightful abode.



These evictions continue to occur. This represents a fundamental breach of the government's duties and an immense failure on the part of all representative stakeholders. The primary duty of a government is to safeguard its citizens, especially those without the means to protect themselves. The South African Police Service has chosen not to act in several eviction cases and the Department of Labour has not adequately enforced the terms of the legislation.

In order to counteract this perceived failure, with the help of organizations such as the Surplus People Project, farm workers and dwellers have attempted to mobilize and make their grievances public. A recent rally was held in the rural town of Citrusdal, Western Cape. Michael Morobi, a farm leader from nearby Piket-Bo-Berg, voiced the common sentiment that, "the ESTA legislation does not protect the rights of the workers and farm owners use the loopholes in the law to promote their own interests."

In the interests of continuing a constructive dialogue, this rally ended by presenting a memorandum to officials from the Departments of Labour, Land Affairs, the South African Police Service, the Cederberg

In 1994, the Government of South Africa inherited one of the most racially skewed land distributions in the world – whites owned 87 per cent of agricultural land, while blacks owned only 13 per cent. (source: World Bank)

This rally ended by presenting a memorandum to officials from the Departments of Labour, Land Affairs, the South African Police Service, the Cederberg Municipality, and the West Coast District Assessment Committee.

(Photo © Arun Krishnamurti)

Municipality, and the West Coast District Assessment Committee. This was a vital action because these officials have publicly pledged to follow up on the issues outlined in the memorandum. This not only personalizes the struggle, but also ensures that the various government entities are held responsible for their failure to adequately perform their duties.

In South Africa in particular, the nature of the struggle transcends simple economic logic. Due to the complex social and political legacy left behind by apartheid, citizens are extremely sensitive about perceived racism and inequality. The government of President Thabo Mbeki is well aware of this and has repeatedly pledged to deal with the issue. The government has even gone so far as to adopt several resolutions, at various national land summits, committing themselves to preventing illegal evictions.

Unfortunately South Africa, like many nations, appears to have fallen into the common trap where well-intentioned laws are left toothless because of the lack of enforcement. In the vast majority of cases, economically advantaged individuals are much more influential with the various government levels than those who require protection. Dr. Siphso Sibanda, the former director of tenure reform at the Department of Land Affairs (DLA) has publicly acknowledged the weakness of the ESTA, saying that:

Since the DLA has admitted that they cannot adequately enforce tenure security, they appear to believe that it is up to civil society to try and call attention to this issue and help protect the victims.

“Although there are no accurate statistics available, the DLA believes that there is an increase in illegal evictions and a decrease in legal evictions. The DLA does not have the personnel or resources to ensure that the ESTA is effectively communicated and enforced. Neither does the justice and policing system. The problem is exacerbated by the financial constraints on State-funded legal aid. Organized agriculture remains firmly opposed to the ESTA calling for its repeal or amendment ...”

The growth of several social movements aimed at addressing the concerns of land reform is an ideal example of the way the social market will respond to perceived government failure. The birth of the Landless Peoples Movement, emerging farmer forums and NGOs such as the Surplus People Project, all feature in the government’s plan to utilize civil society to correct this error. Since the DLA has admitted that they cannot adequately enforce tenure security, they appear to believe that it is up to civil society to try and call attention to this issue and help protect the victims.

Clearly South Africa faces a series of very difficult challenges to address the social and political legacy of apartheid. Land reform is an increasingly important part of this, as the undeniable link between adequate access to land and a reduction in poverty cannot be refuted. It is no longer acceptable for governments to leave issues like this up to civil society to address; instead they must take an active role in ensuring that they deliver on their responsibilities and protect those who need it the most.

Arun Krishnamurti is a commerce graduate from Queen’s University in Kingston, Canada. He is currently an HRI NetCorps intern with the Surplus People Project in Cape Town, South Africa.

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El Paradigma democrático y la gobernabilidad regional

Por Juan Antonio Blanco

Las instituciones y procedimientos democráticos no han demostrado ser lo suficientemente eficientes como para airear y resolver los conflictos sociales que se vienen acumulando en una región cuyo prometedor crecimiento económico se distribuye de manera más desigual que en cualquier otra región del planeta. Tampoco para superar el racismo, la discriminación y la intolerancia. Los 40 millones de indígenas y 150 millones de afro descendientes coinciden en gran medida con los doscientos millones de personas que viven bajo el índice de pobreza en América Latina y que se localizan en ciertos países y sub-regiones. Además, hay otros grupos que sufren discriminación por sus cualidades de ser discapacitados, de orientación sexual minoritaria, u otra característica. En más de un lugar los partidos políticos desaprovecharon el momento democrático, perdieron legitimidad y llegaron a mayores niveles de opacidad e incluso corrupción provocando una crisis de representación que ha abierto cauce a una cierta desilusión respecto a la democracia y contribuido a dar vida a nuevos neopopulismos.

Si el camino de las dictaduras de izquierda y derecha fue ya recorrido en el siglo XX y los populismos estatizantes del pasado fracasaron sólo para ser sustituidos por regímenes políticos neo liberales de débil institucionalidad democrática que tampoco han sido una respuesta apropiada a los retos regionales, ¿hacia dónde podría ahora encaminarse América Latina y el Caribe? La respuesta más atractiva parece ser la que se deduce de un informe del PNUD elaborado en el año 2004 bajo la dirección del ex canciller argentino Dante Caputo, hoy Secretario Adjunto para Asuntos Políticos de la Organización de Estados Americanos. Si seguimos la lógica de ese informe la clave reside en el fortalecimiento de la ciudadanía para promover una transición no violenta hacia nuevos regímenes de gobernabilidad democrática entre el Estado, el Mercado y la Sociedad Civil. En resumen: lo que se requiere no es abandonar la democracia sino transitar hacia otras formas más avanzadas que sean representativas y participativas al mismo tiempo. Ello implica fortalecer y proteger la soberanía nacional que es, ante todo, la que ejercen los ciudadanos sobre su propio Estado para asegurarse que las acciones de su gobierno y el sector privado sean para beneficio de la Nación y no de una parte de ella.

Las instituciones y procedimientos democráticos no han demostrado ser lo suficientemente eficientes como para airear y resolver los conflictos sociales que se vienen acumulando en una región cuyo prometedor crecimiento económico se distribuye de manera más desigual que en cualquier otra región del planeta.

Reconceptualizar la política

Esto supone la reconceptualización de “la Política,” o sea, de los mecanismos de representación y de las instituciones (parlamentos, partidos, gobiernos, organizaciones ciudadanas) que intervienen en el proceso de toma e implementación de decisiones políticas. En ese ejercicio de imaginación y activismo se hace necesario:

- Liberar el quehacer político de las influencias de los poderes financieros.
- Asegurar la autonomía plena de las organizaciones de la sociedad civil y su funcionamiento democrático interno sin interferencias ni manipulaciones desde el Estado o el Mercado
- Proteger el pleno e irrestricto ejercicio de los derechos civiles y políticos (en particular los de libre expresión y prensa, asociación y reunión).
- Fortalecer la eficacia de la diplomacia ciudadana propositiva en las instituciones multilaterales

A los autoritarios, opositores del paradigma democrático, nunca les ha faltado un inventario de quejas y acusaciones legítimas para demostrar las limitaciones de una “democracia de baja intensidad”, de espaldas a la ciudadanía y sus necesidades, plagada de opacidad institucional y corrupción administrativa. Como suele ocurrir en estos casos, si bien el inventario de críticas y demandas puede resultar certero no siempre las soluciones que se avanzan para darles respuesta tienen por ello que serlo.

La derecha regional ha pretendido vendernos la falsa dicotomía de una polarización regional entre elites neoliberales (supuestamente demócratas) y populistas autoritarios. La realidad es más compleja. Una parte de la izquierda pretende ver en el fracaso de las políticas de derecha la reivindicación de algunas de sus viejas interpretaciones y proyectos de corte autoritario. Demasiado simple también. La dicotomía pasa por otro lado: entre un paradigma de desarrollo insostenible desde el punto de vista social y ecológico y los criterios de otro sustentable, humano y democrático.

La crisis de las actuales democracias de mercado y de baja intensidad indican que esos regímenes democráticos necesitan ser revisados y cambiados. Pero de ello no se deduce que se requiera abandonar el *paradigma* democrático, sino alejarse de aquellos *modelos* ya agotados o fallidos de democracia y sustituirlos por otros que incorporen lo aprendido en los últimos dos siglos.

El paradigma democrático

El *paradigma* democrático reclama el respeto a ciertos principios mínimos: a) la rotación periódica en el gobierno mediante elecciones plurales, con voto secreto y universal, b) la división de poderes que se vigilen y contrabalanceen recíprocamente, c) un poder judicial independiente, d) respeto por el Estado de Derecho, e) consagración de los derechos humanos políticos y civiles en la Constitución y toda la legislación nacional en consonancia con los estándares universalmente establecidos, f) consagración constitucional de los derechos económicos, sociales y culturales apoyadas por políticas resueltas a hacerlos valer en la realidad, e instituciones independientes de respaldo legal y jurídico, g) respeto por las minorías de cualquier

naturaleza y solución de controversias por medios democráticos no violentos.

Los modelos democráticos con los que se pretende dar respuesta al paradigma de la democracia pueden variar para adaptarse a la historia e idiosincrasia de cada nación. Pueden existir -y existen- democracias parlamentarias o presidencialistas, republicanas y monárquicas, con parlamentos unicamerales o bicamerales, con tres o más poderes independientes, con elecciones cada tres, cuatro, seis y siete años y otras modalidades. Pero se trata de modelos diversos que deben tener como común denominador garantizar los principios mínimos del paradigma democrático y no la excusa para alejarse de ellos.

En el siglo XXI ya no puede pasarse por democracia la simple rotación electoral. Pero tampoco puede venderse, bajo el rótulo de democracia “participativa”, un régimen autoritario de movilización vertical de la ciudadanía para implementar políticas decididas por una supuesta vanguardia iluminada que, a su inconsulto juicio, las considera beneficiosas para “las masas.”

Pero de ello no se deduce que se requiera abandonar el *paradigma* democrático, sino alejarse de aquellos modelos ya agotados o fallidos de democracia y sustituirlos por otros que incorporen lo aprendido en los últimos dos siglos.

Sin plenas libertades civiles y políticas, violando la autonomía de las organizaciones ciudadanas, construyendo organizaciones sumisas y verticales para recibir de ellas legitimidad y aplastar a sus adversarios políticos, no se construyen modelos democráticos de participación popular sino regímenes políticos autoritarios, sea cual sea su política social. Menos aún son adecuados los sistemas dictatoriales para proteger al Estado de conflictos con potencias extranjeras. Incluso regímenes totalitarios que en ciertos momentos gozaron de altas cuotas de apoyo popular al interior de sus países –como los de Mussolini, Stalin y Hitler- no dejan de ser realidades indeseables que, a la larga o a la corta, sucumbieron pese a sus amplios programas de salud, educación, vivienda y otros con los que intentaban alcanzar legitimidad nacional y reconocimiento internacional.

Curiosamente, el *paradigma* democrático continúa vigente en la medida que sigue reclamando, -cualquiera que sea el *modelo* que se adopte para ajustarlo a las necesidades de cada país-, el respeto al principio martiano de construir repúblicas "con todos y para el bien de todos" y al de Lincoln de “gobierno *del* pueblo, *por* el pueblo y para el pueblo.” Y en esas frases, Martí, que quiso “echar su suerte con los pobres de la Tierra,” y Lincoln, –que se jugó la suya a la causa abolicionista-, no pretenden excluir a ninguna clase o sector. El pueblo que habría de gobernarse de manera democrática era para ellos la Nación con todos los sectores y clases que la conforman aun si tenían una vocación o sensibilidad particular por atender las necesidades y derechos legítimos de las grandes mayorías empobrecidas.

La verdadera revolución inconclusa ha resultado ser la de la democracia. Los esclavos dejaron de serlo para ganar más tarde sus plenos derechos políticos y civiles y las mujeres alcanzaron el derecho al voto y a ser electas en el siglo XX. Pero discriminación racial y de género persistió más allá de esas definiciones legales y ha requerido de una lucha sostenida por hacer valer los derechos de mujeres y grupos étnicos y raciales entre otros. Las democracias –sus múltiples modelos- han de ajustarse al paradigma que exige que sean con todos y para el bien de todos o les será cada vez más difícil reclamar sus credenciales democráticas.

Construir consenso

Las soluciones a los problemas de América Latina y el Caribe no estarán dadas por los conflictos entre diversas visiones y fuerzas autoritarias, emanen ellas del mercado o de la política, se auto-proclamen o sean descritas como de derechas o de izquierdas. La clave radica en la construcción de amplios consensos plurales en torno a la necesidad de:

- Fortalecer la participación ciudadanía y su actuación autónoma e institucional en los espacios políticos.
- Fortalecer y garantizar el pleno ejercicio de todos los derechos humanos.
- Reformar los actuales Estados y sistemas políticos haciéndolos transparentes al monitoreo ciudadano independiente e inmunes a la ingerencia desde los poderes financieros.
- Regular las economías de mercado –al nivel nacional, regional y global- de manera que su necesaria creatividad y eficiencia se haga compatible y complementaria con la necesidad de que las empresas actúen de manera ecológica y socialmente responsable.
- Desplazar las actuales culturas políticas basadas en tradiciones de polarización y confrontación por otras orientadas a la construcción plural de consensos

Para promover esos cambios no hacen falta nuevas vanguardias y líderes iluminados desde la derecha o la izquierda, sino ciudadanos autónomos, libres, deliberativos y activos en un contexto democrático participativo real. Lo que se requiere es la promoción de una poderosa sociedad civil, con vocación democrática, cívica y pluralista, capaz de impulsar – en un marco de libertades democráticas- los cambios estructurales que abran paso a la creación eficiente y redistribución justa de las riquezas que hoy requiere nuestra región y liberándola de las lacras del racismo, la discriminación, la exclusión social y la intolerancia. El verdadero Mesías es el ciudadano organizado como actor colectivo y democrático.

Aquellos líderes políticos que se nieguen a respetar los necesarios espacios y libertades para que las organizaciones de la sociedad civil puedan actuar de manera autónoma -y no como simples correas de transmisión de un partido político- serían hoy tan parte del problema como aquellos otros que han venido prometiendo que la magia del mercado no requiere una ciudadanía que vigile y regule su comportamiento.

**La verdadera revolución
inconclusa ha resultado
ser la de la democracia.**

Pero la democracia es un proceso, un método para la convivencia y el manejo de la conflictividad social. No una herramienta, *per se*, para la creación de riquezas.

Las izquierdas, - signadas por su focalización en el tema de la equidad y divididas en sus dos alas, autoritarias y demócratas-, dedicaron mucho tiempo a lo largo del siglo XX a discutir como tomar el poder y casi ninguno a cómo administrarlo de manera democrática. También desarrollaron múltiples ideas sobre el reparto de las riquezas pero casi ninguna sobre cómo crearlas. El carácter autoritario y la ineficiencia económica de los socialismos de Estado que existieron en diversas regiones geográficas a lo largo del siglo XX no son resultado de la casualidad. Ese común denominador, surgido de una colección de países con historias y culturas variadas y situados en las más distantes regiones, estuvo condicionado por graves insuficiencias conceptuales.

En el nuevo siglo en el que ya nos adentramos sería prudente dedicar más tiempo a concebir nuevos modos de crear riquezas – y no sólo de repartirlas- así como diversas formas institucionales para poder administrar la convivencia y conflictividad social desde una perspectiva democrática. También sería adecuado que esas reflexiones partiesen de que, nos guste o no, vivimos en un mundo globalizado e interdependiente. Movilizar los resentimientos y el odio no nos va a conducir a las sociedades con todos y para bien de todos que se requieren para poder superar la pobreza y la violencia.

Si Marx dijo, acertadamente, que de lo que se trataba no era de comprender al mundo de diversos modos, sino de transformarlo, en esta transición planetaria hay que afirmar el corolario de que sin llegar a comprenderlo no hay transformación positiva posible.

Si urgente resulta la necesidad de impulsar de manera decidida cambios que nos aproximen a la justicia social prudente es hacerlo en esta ocasión desde una perspectiva que incluya nuestros yerros y aprendizajes anteriores. De lo contrario es probable que –como ya ocurrió en el pasado- abramos espacio al surgimiento de realidades que no por distintas serán menos dramáticas que las que deseamos superar. Como decían nuestros abuelos, es siempre sabio recordar que “de buenas intenciones están empedrados los caminos del infierno.” Y recordarlo oportunamente.

Juan Antonio Blanco tiene un doctorado en la historia de relaciones internacionales y dentro de HRI es actualmente el coordinador para América Latina y el Caribe de la Iniciativa en la Diplomacia Tranquila para la Prevención de Conflicto Temprana.

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Using IT to promote good governance: A personal account

By Eduardo Pinto Aponte

Governance deals with the rules, traditions and practices that define how a society operates. The Canada Corps Information Communication Technology for Governance (ICT4G) program was a special initiative of the Government of Canada to help engage more Canadians in international development, with a focus on governance. In the summer of 2005, I embarked on a six month Canada Corps ICT4G placement in Port of Spain, Trinidad and Tobago. My placement was with the Association of Caribbean States (ACS), an international organization that promotes and implements policies and programs designed to improve different aspects of development and interaction within its member countries. With a background in computer science, my role was to aid and support the ACS with any Information Technology (IT) issues.

Upon arriving at the ACS, I was informed that I would be working on maintaining and updating the Association's website. I was handed a matrix of updates and began my work. Through the first updates I began to see how my IT work would contribute to the effective operation of the ACS. With 25 member countries and three observer countries, the membership base of the ACS was geographically large. Keeping members informed of ACS meetings and events within such a large geographical area could at times be a difficult task. However, I was able to accurately display all the meetings and events that the ACS was to hold in 2005 by creating a new calendar page for the web site. With the addition of one page to the ACS website, anybody could go online and see the meetings and events for 2005. People could effectively see that the Association was to hold the Fourth Summit of the Heads of State and Government of the ACS on July 29, 2005, where important issues would be discussed, old strategies reviewed, and new strategies undertaken.

With my arrival so close to the Fourth Summit of Heads of State and Government of the ACS, a web site dedicated to the Summit was discussed. The communications officer was in Panama covering the summit, taking photos, writing news releases and organizing documents. Information prepared in Panama was sent to me in Port of Spain and I posted it on the web immediately. As soon as a document had been signed or a press release concluded, it was up on the internet immediately for people to see. With a dedicated web site to the Fourth Summit, we showed the effectiveness of the ACS and its members in coming together to confirm their support for the development and sustainability of the "Greater Caribbean." We were able to post news releases with accompanying photo galleries, speeches and all the outcomes of the Fourth Summit.

By providing all this information online, the ACS was able to demonstrate that the rules and policies in place functioned and delivered effective outcomes.

By providing all this information online, the ACS was able to demonstrate that the rules and policies in place functioned and delivered effective outcomes.

About halfway through my stay at the ACS, a staff member asked me if the CD commemorating the ACS' 10th Anniversary was online. I told them that I had not put up any such information but perhaps someone before me had and I offered to search the web site for it. Upon searching I found no such material. With the 10th Anniversary CD in hand I went to the communications officer and approached her with the idea of putting the CD online. The idea was immediately accepted and I was hard at work transferring the contents of the CD to the web and scanning the front and back covers to accompany the table of contents. The CD contained a lot of content and transferring it to an online format took a lot of time and effort. I was confident, however, that my time was being used effectively and that the information would prove useful to many.

A month later I was discussing the 10th Anniversary with a co-worker over lunch and mentioned to them that the information on the CD was now online. I received a response of astonishment they couldn't believe the CD material was available on the web site. I realized then that for too long the web site had been outdated and that people (even within the Association) were not checking it regularly and did not consider it a means for new information. Nothing could have been farther from the truth since my arrival, but nonetheless, the lack of knowledge about the web site was there and I felt compelled to change it. It struck me that while the web site was for the benefit of ACS members, staff, and the public, if an update to a web site is never seen, it is irrelevant.

I took it upon myself to meet with people and let them know that the web site was up and running. I made sure to tell people about every new update that was made. Promoting the site did not stop within the walls of the ACS - I wanted to reach other international organizations as well. Luckily, I had friends working or interning in the European Commission and the Economic Commission for Latin American and the Caribbean (ECLAC), so I told them about my work on the site and encouraged them pass on the word. I felt compelled to let people know of the improvements made to the ACS website because of the power the internet can harness when used effectively. Part of my duty at the Association was to use my IT skills to help them with any technical issues they had, which I did. However, how effective was my work if only a few people saw it? With such a great tool at my disposal to show the effectiveness of the ACS and to add a level of transparency to the rules, traditions and practices that govern it - to show people some of the highlights involved in the decision making process and the outcomes - I felt an obligation to get the word out and to get people to visit the site. Sure enough soon afterwards I would receive compliments every time a new update came out. More and more people were drawing on the site and all the information it had to offer.

Not just IT can help in good governance but the people behind the IT can push just a little further and accomplish so much more in working towards good governance.

Near the end of my work term, the ACS, in conjunction with the Mexican Government, hosted a training seminar on investment agreements within the Association of Caribbean States region. I went to work creating a logo for the training seminar, as well as an information web page. The web page contained some background information on the seminar, a program and a downloadable registration form. With the training seminar information online, the ACS was able to point its members to the web site whenever a program or schedule was requested, eliminating the need to send numerous emails or faxes. When the day of the event came I was asked to take some photos. Having worked very closely on the web page and followed the developments leading up to the event, I was more than happy to be involved. I thought to myself that some good photos would make a great addition to the information page I had worked on. I took photographs all through the event and finally,

when the event had finished, I rounded up everybody and got them outside in front of the ACS headquarters to take a group photograph. As soon as I had finished with the photo, people came up to me and asked me if I could send them copies of the photos. I smiled and told them that the photographs would be up on the ACS web site by tomorrow.

Not only did the photos go up on the web site, but numerous documents and presentations that were part of the seminar were also available online. I felt confident that people would be visiting the site and downloading photos and documents. It made me think of the ways I had used IT to promote good governance. With the addition of photos and documents to the website, people could see how efficiently the organization was operating and the positive effect it was having. Hosting a training seminar on investment agreements was just one example of a positive measure. The day after the event, the communications officer approached me holding the newspaper so I could see my outdoor group photo along with the title “ACS hosts successful training seminar.” She had sent the photo to the newspaper and sure enough it was printed. Again I thought about how many people would see this and go to the web site. I also thought about how not just IT can help in good governance but how the *people* behind the IT can push just a little further and accomplish so much more in working towards good governance.

Eduardo Pinto Aponte is a former Canada Corps ICT4D intern, as well as a former NetCorps intern through HRI.

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Good governance and the promotion of the human rights of migrants

By Su-Ping Walther

Collaborative working relationships between government and non-State actors are best supported through good governance. Through this system of checks and balances government legitimacy and public agency is enabled.

In 2005, I participated in the Canada Corps Information Communication Technology for Governance (ICT4G) program sponsored by the Canadian International Development Agency (CIDA) and administered by Human Rights Internet (HRI). My host agency was the International Centre for the Human Rights of Migrants (CIDEHUM).

CIDEHUM's E-governance initiative

CIDEHUM is an organization dedicated to promoting and protecting the human rights of migrants. The centre was founded in 1999, with the purpose of constituting a formal space of reflection, research and action to support the objectives and activities of the Special Rapporteur of the United Nations Human Rights Commission for the Human Rights of Migrants.

I utilized Information and Communication Technology (ICT) to improve information on and migrants' access to legislation and measures available to assist them in the prevention of trafficking in persons, as well as to raise awareness on the human rights concerns of migrants, survey the support mechanisms available and reinforce the recommendations of the United Nations Special Rapporteur on the Human Rights of Migrants over the last six years.

This e-governance initiative showed that good governance is a precondition for democracy and helps today's pluralistic societies to flourish in peaceful coexistence. Governance requires States to adhere to everyone's diverse needs (through inclusion) and to adhere to universal human rights. The involvement of civil society and public access to information is a paramount component of democracy and what defines good governance.

The legitimacy of government and its accountability to stakeholders depends upon transparency, adherence to the law and participation through democracy.

The interdependence of human rights (observance and enforcement of law), its non-State advocates and government shapes good governance. This means that one cannot exist without the other. The legitimacy of government and its accountability to stakeholders depends upon transparency and adherence to law and participation through democracy.

Governance and migration issues

A good governance approach is particularly useful in promoting the human rights of migrants. The human rights violations of migrants can be prevented by the contributions that civil society makes in aiding governments enhance governance.

Currently, the numbers of migrants in an administratively irregular situation are rising. The automatic response of nation States is to try to strengthen their border control. However, the (irregular) migration phenomenon is much more complex. With the help of a governance lens, we can analyze deeper structural causes of irregular migration, such as development. Good governance, therefore, is in strong demand to help close development gaps. Moreover, global good governance is the most pertinent and pressing issue in our globalized world.

Moreover, the human rights violations of migrants can be prevented by the contributions that civil society makes in aiding governments enhance governance.

Sustainable governance in migration issues

According to Gabriela Rodriguez, who served as the UN Special Rapporteur on the Human Rights of Migrants from 1999 to 2005, in order to reach sustainable governance on migration policies, public institutions related to migration should be improved. Through monitoring and enforcement, corruption of civil servants can be prevented. Concrete projects such as the formation of migration functionalities with direct reference to the human rights of migrants should also be put forward.

Owing to lack of both information and consular protection, the dangers of networks of trans-national organized crime (such as migrant smugglers and human traffickers), increases. Along with the progressive restriction of regular migration possibilities and gradual frontier closures, this current migration policy stance increases the vulnerability of migrants and vulnerable groups to human rights violations. Instead of toughening both security and foreign policies aiming at decreasing migration, the focus should be on the causes of migration and its relation to development, making it clear that migration is neither a threat nor a negative process.

Dr. Rodriguez has appealed for joint and reflexive international work on sustainable governance on migrants' human rights, in partnership with government authorities. However, such objectives cannot be fulfilled solely through the work of governments and intergovernmental organizations. In all of her reports, Dr. Rodriguez insists on the importance of the role of religious organizations, human rights organizations, trade unions, universities, etc. - that is to say civil society as a whole.

Achieved results

CIDEHUM, has been working on governance issues for a long time. Appropriating the emerging catch phrase of governance has helped put the migrant human rights issues the Center advocates for within a larger perspective. Moreover, the Center was able to disseminate information more effectively thanks to an Internet site. The site was a significant tool for the protection of migrant human rights. There is very little knowledge of the protection mechanisms that are available to migrants. So, the web site included allegations questionnaires in five languages, which are included in both PDF and Word versions in order to increase access to this pertinent information. Through e-governance, access to important information reached as many people as possible in the developing world. This particular e-governance project addressed the core issues of citizenship, the right people have to be informed and hence, to migrate in a humane and orderly manner.

The objective of my project, as an IT and migration policy advisor, was to undertake an advocacy and sensitization plan of action and to insure improved governance in support of migrant human rights, aimed at decision-makers from the public and private sector, the general public and migrants themselves. This was done by increasing the public's and decision-maker's awareness of policy with respect to the planning needs and implementation of safe means of migration. Awareness was raised among the general public of the psycho-social aspects of migration, the role of networks of trans-national organized crime, and trafficking in persons (emphasizing the assault on basic human rights and fundamental freedoms). By building a bridge between the politics of dialogue between governments and non-governmental organizations, the human rights violations of migrants are *prevented*. Supporting government policies on preventing irregular migration and trans-national organized crime, and promoting the knowledge of non-governmental organizations of these policies and programs, enabled civil society to exercise a greater impact.

Global good governance and migration consultative processes

Governance involves a relationship between actors from the public and private sector working together to create transparent and fair policies. This network also intersects the local, national, regional and intra-regional levels to create a transnational plane. The nature of governance is different from government in that it has morphed to take into account the increased interconnectedness *between* governments. Finally, governance promotes relationship building and recognizes interdependence as part of global good governance. Migration consultative processes serve as a best practice of good governance to address migration issues at an international level through the involvement of a representative range of stakeholders.

In an article titled *Broken Borders*, published October 2005 in Newsweek, Moises Naim discusses how trafficking affects the global economy. According to Naim: "... the trafficking boom owes much to globalization. In the last decade revolutionary changes in technology and politics have reduced the obstacles that distance, borders and government policies had imposed on the movement of goods, money and people." Naim goes on to say: "Governments have a very hard time collaborating with other governments; their natural habitat is inside their national borders. In contrast, traffickers are most effective when operating *across* borders – which makes them in many ways better suited to today's world." Set in this context, e-governance initiatives promote the use of technology in a positive way, which is much needed in our society where inter-governmental agreements are paramount to strengthen cooperation between States and promote human rights, democracy and development.

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Migration consultative processes serve as a best practice of good governance to address migration issues at an international level through the involvement of a representative range of stakeholders.

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Encore mieux que de lui apprendre à pêcher, donnez-lui des NTIC et il se nourrira pour toujours

Par Nicolas M. Rouleau

Lorsque Nicholas Negroponte annonça récemment la conception d'un ordinateur portable qui serait vendu à 100\$U.S., muni d'une pile rechargeable à la manivelle et de tout le nécessaire à une connexion Internet, son ingéniosité fut acclamée. Mais lorsqu'il déclara que cet ordinateur serait vendu exclusivement aux pays sous-développés : au Sénégal, au Niger, au Pakistan, pour aider ces pays à se tirer de leur marasme économique, son idéalisme fut questionné. Que feraient donc ces pays d'un tel outil? Lorsque notre soucis primordial est de se nourrir, de nourrir et d'habiller nos enfants, et de chercher à survivre au jour le jour, de quelle valeur peut être un amoncellement de circuits électroniques, même si ces circuits permettent de se connecter au monde entier?

La réponse à ces questions se trouve dans les Nouvelles Technologies de l'Information et de Communications (NTIC). Internet, les téléphones portables, les Blackberries, et autres inventions qui touchent à la télécommunication mondiale et aux réseaux médiatiques de diffusion de l'information constituent des NTIC. Ces technologies permettent à leur propriétaire de communiquer avec le monde entier, de s'informer du monde entier, et d'en apprendre sur le monde entier. Leur impact sur la croissance économique des pays sous-développés par l'entremise de la bonne gouvernance est lui aussi marquant. Il est difficile aujourd'hui d'imaginer des initiatives de bonne gouvernance qui ne seraient liés d'une façon ou d'une autre aux NTIC.

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Il existe plusieurs définitions de la bonne gouvernance. Toutes s'accordent pour reconnaître qu'elle constitue tous les outils et moyens dont on dispose pour mettre en œuvre les principes suivants:

- Un État de droit qui signifie la primauté de la règle de droit ;
- La transparence ;
- L'obligation pour les gouvernements de rendre compte et leur responsabilité ;
- La participation de toutes les composantes sociales dans les domaines politique, économique, administratif et local

En somme, à éliminer la corruption et diminuer l'inefficacité. Donc, les NTIC ont un grand rôle à jouer dans la promotion de la bonne gouvernance puisque la corruption est encouragée avant tout par le manque d'information. D'un côté, les services

publiques inefficace en raison de manque d'information seront aisément corrompus par des entreprises et des particuliers empressés d'obtenir des résultats. D'un autre côté, les autorités publiques, détentrices de pouvoir, seront tentées d'utiliser ce pouvoir pour profiter des particuliers qui sont mal informés sur leurs recours.

Le Programme National de Bonne Gouvernance (PNBG), qui recouvre tout le Sénégal, a été conjointement élaboré par le Programme des Nations unies pour le développement (PNUD) et le gouvernement du Sénégal. Son objectif est de consolider le processus de démocratisation et renforcer l'État de droit ainsi que les capacités nationales de gestion du développement. Le PNBG fut, en fait, initialement élaboré sans aucune référence aux NTIC. Toutefois, il s'est vite avéré évident qu'un programme qui espérait accélérer la croissance économique du Sénégal au 21^{ème} siècle par l'entremise de la bonne gouvernance ne pouvait le faire sans puiser dans les bénéfices qu'offraient les technologies du 21^{ème} siècle.

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La composante « Développement des nouvelles technologies de l'information et de la communication » fut donc ajouté, visant à permettre un meilleur accès à l'information pour le développement (information administrative, statistique, scientifique et technologique) et améliorer la productivité du service public. Elle cherchait aussi à permettre une bonne conservation et une bonne gestion des documents produits par les services publics et à faciliter une rapide transition vers une administration moderne apte à répondre rapidement aux besoins des usagers. Il était devenu évident pour les

créateurs du PNBG qu'un service public performant serait moins assujéti à des pressions corruptrices venant de la part du secteur privé ou de particuliers pressés, et qu'une population mieux informée connaîtrait ses recours face à des tentatives de corruption venant d'autorités publiques. Le renforcement de l'État de droit ne pourrait se faire dans attaquer la corruption par l'entremise de toutes les technologies disponibles. Tout développement aujourd'hui dans le cadre du PNBG est donc élaboré en gardant à l'esprit les avantages qu'offre les NTIC.

Mais franchissant les frontières de la bonne gouvernance, les NTIC peuvent apporter des contributions immenses aux opportunités économiques des individus les plus pauvres en raison de l'ingéniosité et de la créativité humaine. Par exemple, en Afrique et en Asie du Sud-Est, les mêmes doutes que pour les ordinateurs portables planèrent lors de l'avènement des téléphones portables. Il se trouva finalement que des individus innovateurs trouvèrent comment tirer profit de ces inventions de façon imprévue.

Par exemple, un berger faisant paître ses bêtes dans les fins fonds de la campagne, auparavant sans connexion avec le monde extérieur, pouvait maintenant se renseigner par l'entremise d'un intermédiaire sur l'activité des marchés urbains éloignés jusqu'à des centaines de kilomètres. C'est-à-dire que si un marché était particulièrement actif, entraînant des prix de vente profitables pour les vendeurs, le berger pouvait franchir la distance considérable le séparant du marché tout en étant certain de pouvoir y vendre ses bêtes. Auparavant, il fallait que le berger estime le meilleur moment pour faire le voyage. Si ce moment était mal choisi, il devait s'en retourner chez lui ayant vendu ses bêtes à des prix dérisoires, ou même sans les avoir toutes vendues, mais ayant tout de même défrayé les coûts onéreux du voyage. Les fermiers voulant vendre leur récolte au meilleur prix possible et sans qu'elle se gâte en raison d'un marché peu actif pouvaient tirer les mêmes bénéfices des téléphones portables. Pour les ordinateurs portables, qui sait comment ces même bergers et fermiers innoveront pour profiter de bénéfices qui sont cachés aux pays développés?

Bien que les ressources économiques ne soient pas distribuées également parmi les divers pays, l'ingéniosité humaine existe en grande quantité partout dans le monde. Il

suffit donc parfois de donner aux individus les plus pauvres l'occasion de se renseigner à un niveau semblable à celui des individus les plus riches pour qu'ils obtiennent des résultats semblables. Pour quelqu'un qui a travaillé à la fois au Sénégal et au Canada, il est évident que le simple fait d'avoir une connexion Internet fiable augmente dramatiquement l'efficacité et l'étendue des recherches.

Certainement, il est mieux d'enseigner à un individu à pêcher plutôt que de lui donner du poisson. Le don de poisson lui fournirait à manger pour un montant de temps limité, tandis que lui apprendre à pêcher lui permettrait de se nourrir pour le restant de sa vie.

Mais aujourd'hui, peut-être est-il encore mieux de fournir à quelqu'un l'accès aux NTIC que de lui apprendre à pêcher. Les NTIC lui fourniront les outils nécessaires non seulement pour s'apprendre à pêcher lui-même, mais aussi innover ou découvrir de meilleures façon de pêcher alors qu'elles émergent, limitant les frontières de cette soif de savoir qui est particulière à l'être humain.

D'ailleurs, en raison de l'inquiétude constante sur la surexploitation des ressources halieutiques, un pêcheur sénégalais ou thaïlandais serait peut-être avisé de passer quelques heures devant Internet pour apprendre à devenir berger!

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[Bonne Gouvernance \(PNUD Sénégal\)](#)

SOCIO-ECONOMIC RIGHTS AND GOOD GOVERNANCE IN SOUTH AFRICA

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Introduction

In the transition from South Africa's racist authoritarianism to a fully representative and accountable democracy, socio-economic rights are playing a key role in the better governance of the country. Rather than excluding the benefits of socio-economic development from the large majority of the population, the post-*apartheid* constitutional order expressly commits South Africa to governance which benefits the welfare of the whole population, not least in social, economic and cultural terms. This is being given practical effect through a range of policy and legislative measures as well as jurisprudence aimed at ensuring the equitable and accountable distribution of socio-economic resources and benefits.

The South African Constitution is renowned internationally for its holistic Bill of Rights incorporating both civil and political rights as well as economic, social and cultural rights. The relative novelty of the South African Bill of Rights is that it subjects economic, social and cultural rights to judicial enforcement on the same terms as civil and political rights. The courts have wide powers to remedy violations of human rights, including economic, social and cultural rights. This includes the striking down of legislation, mandatory orders against government (with or without on-going judicial supervision), and damages.

The preamble of the Constitution explicitly commits to the transformation of the political, economic and social legacy of *apartheid* and the construction of 'a society based on democratic values, social justice and fundamental human rights.' As expressed by Pius Langa (current Chief Justice of South Africa), a central goal of transformative constitutionalism is the fostering of the human dignity of all groups to enable them to participate meaningfully in the political, economic, social and cultural institutions of our society (see 'Transformative Constitutionalism' (2006) 3 *Stellenbosch LR* 351). Socio-economic rights are particularly aimed at overcoming the marginalisation and disadvantage experienced by the large proportion of the population living in poverty.

The ‘reasonableness’ of the Government’s socio-economic policies

Over 10 years into South Africa’s democracy there is a burgeoning body of jurisprudence on both sets of rights. The foundations of the Constitutional Court’s jurisprudence on socio-economic rights were laid down in the landmark cases of *Government of the RSA and Others v Grootboom and Others* (‘*Grootboom*’, 2001 (1) SA 46) and *Minister of Health and Others v Treatment Action Campaign and Others* (‘*TAC*’, 2002 (5) SA 721). The former case concerned a challenge to the government’s housing legislation policy on the basis that it made no provision for groups who were literally homeless. The latter case dealt with the constitutionality of government’s restrictive programme to provide anti-retroviral therapy in the public health sector to reduce mother-to-child transmission of HIV. In these cases, the Court held that government programmes would be assessed in terms of their reasonableness in facilitating access to socio-economic rights such as housing, health care, food, water and social security (as required by sections 26 and 27 of the SA Constitution, 1996).

Through the aforementioned cases, the following criteria were laid down by the Constitutional Court for assessing the reasonableness of government programmes impacting on socio-economic rights:

- The programme must be comprehensive, coherent, coordinated;
- Appropriate financial and human resources must be made available for the programme;
- It must be balanced and flexible and make appropriate provision for short, medium and long-term needs;
- It must be reasonably conceived and implemented;
- It must be transparent, and its contents must be made known effectively to the public; and
- It must provide relatively short-term measures of relief for those whose needs are urgent and who are living in intolerable conditions.

In *Grootboom*, the Court found that the Government’s housing programme (though in other respects rational and comprehensive) was inconsistent with section 26 of the Constitution in that it failed ‘to provide relief for people who have no access to land, no roof over their heads, and who are living in intolerable conditions or crisis situations’ (para. 99). In *TAC*, the Court found that the Government’s restrictive and inflexible programme on the provision of anti-retroviral therapy violated the right of access to health care services in section 27 of the Constitution.

The contribution of socio-economic rights to governance

But have these rights made a fundamental difference in the governance of the country? I wish to suggest five ways in which they have made such a difference.

First, even in the absence of litigation, government has adopted a variety of legislation that explicitly aims at giving effect to the socio-economic rights in the Constitution. This is illustrated by the range of land reform legislation adopted to give effect to the constitutional mandate to extend security of tenure to those who lack such security (pursuant to section 25(5)-(9)), and to protect people against arbitrary evictions (pursuant to section 26(3)). Examples of such legislation are the *Extension of Security of Tenure Act 62* of 1997 and the *Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 18* of 1998. In the sphere of education, government has responded to civil society mobilisation around the impact of school fees on educational access for the poor by adopting policy which makes the poorest 40% of schools 'fee free'.

Second, in response to socio-economic rights litigation there have been concrete changes in government policy regarding housing, health care and social security. Thus government has adopted an emergency housing programme in response to the *Grootboom* judgment, it has broadened access to anti-retroviral therapy for people living with HIV/AIDS, and it has incorporated vulnerable groups, such as permanent residents, in social security legislation.

Third, these rights preclude government from arguing that it is realising socio-economic rights solely through policies which achieve a statistical advance in the realisation of these rights, or that it is indirectly contributing to these rights by adopting macro-economic strategies of growth and investment promotion. In the absence of concrete measures which address the basic socio-economic needs of those living in desperate situations, the aforementioned strategies will not pass constitutional muster. The Constitutional Court has justified this dimension of socio-economic life, in particular with reference to the value of human dignity. Thus in *Grootboom* (para. 44) it held:

To be reasonable, measures cannot leave out of account, the degree and extent of the denial of the right they endeavour to realise. Those whose needs are most urgent and whose ability to enjoy all rights is therefore most in peril, must not be ignored by the measures aimed at achieving the realisation of the right. It may not be sufficient to meet the test of reasonableness to show that the measures are capable of achieving a statistical advance in the realisation of the right. Furthermore, the Constitution requires that everyone be treated with care and concern. If the measures, though statistically successful, fail to respond to the needs of those most desperate, they may not pass the test.

Fourth, the socio-economic rights in the Constitution foster participation by disadvantaged groups in policies which have a fundamental impact on their socio-economic well-being. These rights preclude poor people from being treated as passive beneficiaries of State largesse, and instead require them to be treated as active agents in the defining and implementation of their needs. The participatory elements of these rights – and the institutions that are available for protecting and promoting them such as the South African Human Rights Commission, the Commission for Gender Equality, the Public Protector and the courts – enlarge the scope of accountability in the governance of the country.

Finally, socio-economic rights in conjunction with the provisions in the Bill of Rights allowing for the application of the rights to private parties (pursuant to sections 8(2) and (3) and 39(2)), also create greater accountability by powerful private actors such as corporations, insurance companies, banks and landowners. These institutions have a major impact on poor people's access to economic resources. For example, the courts and the legislature have effected far-reaching changes to the common law rules relating to evictions to allow a balancing between the rights of landowners and the housing rights of occupiers. Property rights are no longer automatically privileged in eviction situations, but have to be considered in conjunction with the 'new and equally relevant right not arbitrarily to be deprived of a home' (see *Port Elizabeth Municipality v Various Occupiers* 2004 (12) BCLR 1268 (CC)).

Disproving the sceptics

When the Constitution was being drafted sceptics argued that socio-economic rights adjudication would cast the courts in an inappropriate and unmanageable role, resulting in a breach of the separation of powers doctrine. The second predication was that justiciable social rights would amount to a dead letter – no more than window-dressing or aspirational claims. This would result in discrediting the Bill of Rights as a whole in the eyes of the public.

Developments in South Africa's jurisprudence on socio-economic rights since the adoption of the Constitution have disproved the first claim. The courts have shown themselves quite capable of developing innovative models for reviewing and remedying socio-economic rights violations. In doing so, the courts have been able to respect the competencies and roles of the other branches of government while playing a meaningful role in enforcing social rights. The second prediction has also not materialised. There is a burgeoning body of legislation, policy, programmes and jurisprudence based on these rights. In addition, many organisations of civil society are taking these rights seriously and integrating them in advocacy, training and community mobilisation programmes.

South Africa's bold experiment with socio-economic rights has shown that these rights can make government and the private sector more responsive to the needs of the poor, and create more inclusive and participatory forms of governance. For the whole of the population, not least for the disadvantaged, this is good governance.

Further Reading

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