

# THE RELATIONSHIP BETWEEN GOOD GOVERNANCE AND ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

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## SUMMARY

Society demands high environmental standards. The need to address a legacy of harm to the environment on a global scale is more pressing than ever but protection, conservation and improvement of the environment can only take place within a framework of good governance and respect for the rule of law. A framework encompassing the principles of good governance is necessary so that policy to protect, conserve and improve the environment can be developed, and so that appropriate legislation is respected. Regulations, enforced fairly, enable business to compete on equal terms.

Assuming a regime where the rule of law applies, within an overarching system embracing the principles of good governance, then compliance with appropriate regulations is more likely. To sustain the ordered structure of good environmental governance, and to ensure the necessary compliance, compliance assurance and enforcement are necessary. But good governance cuts both ways. If governments and regulators expect companies to respect the law and accept good regulatory standards they also need to recognise that regulators are accountable to the public and to customers, as well as to ministers, for aspects of their regulatory practice.

This paper discusses the principles of good governance and briefly describes a few cases where good governance has been put in place to enable good environmental decision making and to support the ensuing regulations. The link between good governance, environmental compliance and enforcement in action is explored.

## 1 WHAT IS GOOD GOVERNANCE?

The term governance has various definitions in the economic, social, environmental and political disciplines.<sup>1</sup> It usually refers to the manner in which political authority is exercised in managing resources, this idea being taken from the World Bank definition. In essence, good governance requires that decisions are made and implemented using a clear and legitimate process, to achieve consistent and effective policies. It can be applied at international, national, local, and organisational levels and to manage many types of resources. When considering environmental resources, good governance means the

manner in which decisions are made which promote sustainable development (which includes environmental protection).

Although terminology may differ, the principles of good governance as recognised worldwide are similar. They are outlined in the white paper by the Commission of the European Communities<sup>2</sup> which suggests that good political governance must be:

- coherent (with good communications between all parties);
- proportional;
- open (with access to information);
- effective;

- participatory (engaging communities); and
- accountable (challenging bias and corruption).

These broad principles are explored later in the paper in the context of compliance, compliance assurance and enforcement.

At a national level, good governance encompasses all aspects of the way a country is governed. Recognition of the role of governments, affected parties and the broader communities is key to understanding good governance.<sup>3</sup> Assuming that a fair legal system is in place as one of the cornerstones of good governance, (also known as the rule of law), then the following actors should be involved to ensure good governance at national and international level:

- legislators and governments - providing appropriate and enforceable legislative frameworks and laws
- regulators – law enforcement agencies ensuring compliance and impartial enforcement
- independent judiciary (objective and reliable) - imposing proportionate penalties for non-compliance, based on intent and impact
- companies - taking responsibility for and managing impacts
- public - exercising democratic control over institutions and providing context for outcomes
- media - demanding accountability and exposing malpractice or corruption
- non-government organisations - influencing, lobbying and exerting pressure for change
- investors - demanding financial returns that are balanced with company reputation
- research institutes - providing the science for policy development and implementation.

The importance of good gover-

nance is being promoted widely to excellent effect. It has long been identified as central to sustainable development, both economic and social.<sup>4</sup> The basic principles behind good environmental decision making were endorsed by the 178 nations that attended the Rio Earth Summit in 1992 and more recently re-emphasised by the international community at the World Summit on Sustainable Development in 2002<sup>5</sup>. With regard to the environment, there are initiatives world-wide which rely upon good governance to ensure a successful outcome.

The United Nations Development Programme has set up an Environmental Governance Initiative<sup>6</sup> designed to generate policy advice, identify good practices and advocate tools that will improve a country's capacity to protect the environment and to promote equitable access of the poor to energy and natural resources. Interestingly, this initiative recognises that environmental decision making has been the pioneering forum of good governance in many countries and that much can be learnt from the work done.

In February 2005, the Arab states of the Middle East and North Africa (MENA) inaugurated a programme "Good Governance for Development in the Arab countries"<sup>7</sup> designed to provide regional support for an ongoing process of governance reform and to create the conditions needed for economic and social development throughout the region. It focuses on six governance areas: civil service and integrity; e-government, administrative simplification and regulatory reform; governance of public resources; public service delivery; the role of the judiciary and enforcement; and civil society and the media. Although some of these areas are progressing rapidly in the light of modern technology and global expectation, it is expected that the project will draw upon the experience of the international community and by using all the modern policy tools available, develop the framework which underlies sustainable development.

## 2 CREATING GOOD LEGISLATION

For compliance and enforcement to be useful in supporting good governance, it is essential that legislation is made in accordance with the principles outlined above and that all these principles are applied to the whole regulatory cycle which includes policy development, legislation writing, permitting, enforcement and prosecution. This emphasis is described by many commentators as “better regulation.”

The UK Better Regulation Task Force<sup>8</sup> has stated that better regulation should be transparent (with access to information), accountable (avoiding bias and challenging corruption wherever it occurs), consistent (with improved communication between lawmakers and enforcers), proportionate, risk-based, and targeted on outcomes (e.g. local/national targets and international commitments). These principles, which overlap with the objectives of good governance, are seen in many different contexts.

However, there is no simple rule for creating good legislation and regulation. For environmental legislation, the policies required depend on the characteristics of the environmental issue under consideration.<sup>9</sup> In order to address different environmental issues, flexibility to use all of a variety of available instruments must be written into the legislation.

Assuming that sustainable development is the overall goal, good governance principles must be integrated in all legislation applying to the environment, the economics and the social development of a country.

The following sections provide a more detailed assessment of the relationship between good governance, compliance and enforcement, and demonstrate the importance of the link between them.

## 3 COMPLIANCE, ENFORCEMENT AND GOOD GOVERNANCE

Traditional compliance and enforcement has been based around command and control methods, where specific require-

ments set in law by government are to be met by business. Technical prescriptions make it clear what is required and give regulations legal certainty. This makes it relatively easy for governments to determine, via an inspection procedure, whether an operator is meeting the requirements. This traditional approach has achieved significant improvement in environmental conditions. For example, in the UK, sulphur dioxide emissions have fallen by 75% since 1990, nitrogen oxides by 52%; water pollution fell by 65% in the 5 years to 2001.<sup>10</sup> However, the command and control approach can be inflexible and does not take advantage of the wider acceptance by business of its role in governance.

Across the world greater emphasis is now being placed on encouraging industry to achieve goals through self-regulation, voluntary environmental performance agreements and a variety of economic instruments such as taxation or trading of allowances. Resources are being set aside for compliance assistance schemes, which can take various forms. Examples can be widely found but often pay special attention to small and medium sized enterprises, and may include, for example, provision of free and easy to obtain information to help businesses to understand their legal obligations or the provision of incentives to encourage compliance. An example of this is the USEPA policies that eliminate, reduce or waive penalties under certain conditions for sites that voluntarily discover, disclose and correct environmental problems.<sup>11</sup> In some countries, such as Thailand, the government provides financial assistance to those who plan to install on site treatment or abatement facilities, to enable them to import relevant equipment and expertise where it is not locally available.<sup>12</sup> Such complementary policy instruments have been the subject of considerable attention over recent years.<sup>13</sup> They do not replace the regulatory framework but supplement it, and are sometimes described as the application of a “lighter touch” to industry.

These different approaches to compliance and enforcement and their role in good governance are discussed below in

the context of the good governance principles set out by the European Commission.

### 3.1 Coherent

If an environmental regulator is to make a real difference, regulation means solving problems with others. It means using incentives and rewards just as much as the threat of tough action, and it means ensuring that legislation is appropriate in the first place. Business also needs to be proactive and take responsibility for their own compliance.

Partnership approaches to compliance and enforcement provide many opportunities to create a climate of good governance through a coherent approach with good communications between all parties, so long as they are also proportional, open, participatory, effective and accountable.

An example of a project that recognises the importance of coherence of approach is the Canadian International Development Agency (CIDA) information network to manage water and land resources on both national and local levels in Bangladesh. It is being developed by a joint Bangladeshi-Canadian initiative, making use of an exchange of technology and knowledge. It is intended to provide timely information and statistics on a number of vital indicators dealing with such issues as riverbank erosion, flooding levels and agricultural production. It will help the Bangladeshi government and stakeholders including farmers, weavers, fishers and small traders, to implement efficient and effective tools and management practices at the national and local levels, to improve the management of natural resources, to combat erosion and flooding in rural areas<sup>14</sup>.

### 3.2 Proportional

Across Europe and America,<sup>15</sup> there has been considerable progress in establishing stronger links between environmental regulation and externally validated environmental management systems. The Environment Agency has implemented

an Operator and Pollution Risk Appraisal Scheme (OPRA) as a way of assessing pollution risk posed by an activity to the environment. It provides consideration of environmental outcomes, financial incentives for improved operator performance, allows benchmarking of operator performance and gives recognition to site governance (e.g. Environmental Management Schemes or certification under ISO 14001<sup>16</sup> or the EU's Eco-Management and Audit Scheme, EMAS<sup>17</sup>) in regulation.

It allows the regulator to plan compliance and enforcement activities to target sites of greatest risk, and allows the best use of limited resources. Businesses with better controls and performance are charged less than those that require more oversight.

### 3.3 Open

Providing information to stakeholders, especially the public (including minority groups), is also key to good governance allowing transparency. The Rio Declaration established that the heart of good environmental governance is accessible decision making. Access to information about the environment, about the decisions to be made and about the decision making process is required to enable public participation. Communities need appropriate information to ensure that their best interests are represented when decisions are under consideration. (In some areas, for example the highland areas of Vietnam and Cambodia, it is important that access to environmental information is available in more than one language and in non-written form so that it is accessible.)

Compliance and enforcement activities can provide good information for all stakeholders and allow them to engage in the regulatory process. Publication of information can help reward good performers, and shame the poor performers (also see 3.6).

Similarly, part of good governance by the state is enabling the regulated community to comply by providing information and guidance. Businesses and individuals

need to be made more aware of how their actions impact on the environment and human health, and what they can do to reduce these impacts. Education and advice can help raise awareness of these issues through providing clear information, demonstrating potential improvements through case studies, and highlighting good practice.

Regulating small and medium enterprises (SMEs) can provide a greater challenge for compliance and enforcement than large companies. SMEs usually have few resources to spend on capital investment and innovation, generally have poor environmental and legislative awareness, and only have public pressure from a localised area. Therefore, regulators need to use alternative approaches effectively to encourage good governance within this sector. Education, awareness raising and providing advice can contribute significantly to delivering higher levels of compliance and to reducing the administrative burden placed on business.

In the UK, "NetRegs" (a joint venture between the UK environmental regulators), is a web-based system launched to provide clear, plain English guidance on what small businesses need to do to meet the requirements of environmental legislation.<sup>18</sup> The website is accessible freely without the need to register. Currently, NetRegs is used by 28,000 different visitors a month and receives 190,000 hits a month in total.

### 3.4 Participatory

The issue of participation has been acknowledged globally to be essential to good environmental governance, whether for environmental enforcement in the UK<sup>7</sup> or America,<sup>19</sup> sustainable land development in Bangladesh<sup>20</sup> or pollution control in India.<sup>21</sup> In this context, participation includes seeking stakeholder opinion to ensure that practices match expectations as far as possible. In Denmark, some municipalities have extended this to polling opinion regarding the working of their inspectors.<sup>22</sup>

Stakeholder involvement can take many forms, and embraces many types of stakeholders. Consultation at the outset of introducing new regulatory tools is perhaps the most obvious form of stakeholder involvement. There is a need to identify affected businesses and local communities and other interested parties (industry or sector representative groups, non-governmental organisations, local liaison bodies etc) and approach each of these individually to ensure full participation in a manner that is appropriate for the stakeholder.

In a mature relationship with business, regulators should consider incentivising good performance and not just punishing poor performance. With the recognition of the need for the more wide-ranging principles of good governance and the need to build on the reductions in environmental impacts, there is now a need and willingness to explore such new approaches. There is also the ability to go beyond compliance where there are gains to the regulator, the regulated community, the local community, the environment and other important stakeholders such as investors. To ensure the success of such approaches it is important that all stakeholders are fully involved from the earliest stages.

Approaches that go beyond compliance are being operated in many large companies in the industrial sector.<sup>23</sup> This has been driven partly by sensitivity to adverse publicity of poor environmental performance. Their strategies for operating maximise compliance, minimise the costs of enforcement and encourage innovation.

Going beyond compliance supports many of the principles of good governance, and also is a good example of the regulated community taking full responsibility for their own compliance. This type of approach also enables engagement of all stakeholders from the legislators to civil society.

An example of this is the Wisconsin 'Green Tier' initiative<sup>24</sup> in the US. Green Tier is a program that gives responsible companies the flexibility they need to exceed environmental requirements while boosting productivity and cutting costs. The

program adapts to the needs of the company, community and environment by using collaborative contracts and charters, and environmental management systems. The goals of the programme include both environmental and economic gain.

Another example where the importance of participation is demonstrated is the SDC (the Swiss agency for development and co-operation), Livelihoods, Empowerment and Agroforestry project (L. E. A. F) in Bangladesh. The purpose of this project is to reduce the poverty of small and marginal farmers in the northwestern part of Bangladesh through better management of resources — particularly land. The project supports and fosters local participatory governance and works through four main action lines: 1. improvement of the knowledge and skills 2. strengthening farmers organisations 3. promotion of the enabling environment, and 4. promotion of rights and social issues. There are many partners involved including government institutions, local NGOs and the association of commercial nurseries.<sup>25</sup>

### 3.5 Effective

If industry can identify the benefits of regulatory compliance and enforcement, there is an incentive for adopting good governance principles. Effective regulation is integral to successful markets, an essential ingredient of a vibrant, modern economy. Unregulated markets would be chaotic, unfair and unlikely to deliver what people want — safe, reliable products and a clean environment.

Oppressive regulation can be damaging, but a modern approach, including market-based measures such as emissions trading, can help to deliver the environmental improvements people want in a way that fits with a competitive economy.

Business can benefit directly because regulation in areas such as energy efficiency and waste reduction can deliver cost savings and help companies develop more attractive products. Some industries depend for commercial success on high environmental standards, most obvi-

ously those providing clean technology and waste management. Danish leadership in wind turbine technology is an example of a country gaining competitive advantage by pursuing environmental leadership.

High standards are also important in sectors such as tourism and leisure, which rely on an attractive physical environment to win customers.

Where there are gaps in the legislation and conflicts in existing policies and legal frameworks, these need to be addressed. There are ongoing projects worldwide<sup>26</sup> carrying out investigations and rationalising legislation to ensure the effectiveness of legislation.<sup>27</sup>

### 3.6 Accountable

There is still a wide gap at an international level as regards the accountability of international bodies, especially where they fail to deliver on agreed obligations and duties. It is important that the principles of good governance are better incorporated and that all countries are accountable for ensuring their part in driving towards the overarching goal of sustainable development. Improving institutional accountability is a key priority in the reform of international governance systems.<sup>28</sup>

IMPEL, the European network of regulators, consider that “inspection has an obligation to transparency in its actions.” To this end, inspectorates must seek to explain their range of powers, the way they conduct business, publish results and indicate where progress by operators is required. In addition, where illegal activities are a major concern, transparency of revenue collection and spending promotes trust and community stewardship.<sup>29</sup>

The US Environmental Protection Agency has, for many years, published its Toxic Release Inventory. The Environment Agency for England and Wales also regularly publishes environmental performance information of the businesses that it regulates. This includes communication tools such as the Pollution Inventory, What’s in Your Backyard (where you can search for environmental performance information

about regulated industry online) and Spotlight on business environmental performance to provide information about environmental performance to a wide audience.<sup>30</sup> Spotlight both publicly praises good performers and names and shames poor performers. This we believe helps companies internalise their environmental performance.

An example of a project which has recognised the importance of accountability is the Canadian International Development Agency (CIDA) project to help protect and manage water resources in Bangladesh. This initiative will assist the Bangladesh Ministry of Water Resources to develop better planning, budgeting and operating abilities in water resource management.<sup>31</sup>

It is important though that, whether traditional or partnership approaches, regulatory regimes are backed up by the rule of law - by penalties or disincentives to non-compliance. Where businesses do not comply with legislation, regulators must use their enforcement powers firmly and fairly to prevent pollution or environmental damage, or to require remedial action. Where innovative approaches have been used for regulation and a relationship of trust has been built between stakeholders the penalties for breaking this trust and for the reduced regulatory oversight must be greater than in traditional regimes.

Prosecution, fines and penalties are usually the tools of last resort to improve compliance performance but this ability to escalate the enforcement action may be required to ensure that standards are met.

#### 4 CONCLUSIONS

Good environmental regulation is central to good governance. Good governance from the State should be able to respond positively to good governance by business. Compliance and enforcement are powerful tools that provide support for good governance. There is a wide range of tools and approaches that can be taken, but to be effective and to contribute to sus-

tainable development, they must incorporate the principles of good governance. Several economic studies have exposed the myth that regulation leads to competitive disadvantage. Indeed, regulation and business performance should go forward hand in hand. The World Bank has observed, "Contrary to common perceptions, higher environmental standards in industrial countries have not tended to lower their international competitiveness."<sup>32</sup>

#### 5 REFERENCES

- 1 Governance – what is Governance? Europa (31 January 05). Available at [http://europa.eu.int/comm/governance/governance/index\\_en.htm](http://europa.eu.int/comm/governance/governance/index_en.htm).
- 2 Commission of the European Communities. European Governance: A white paper. COM 428, 2001. Brussels.
- 3 Statement from the international conference on "Biodiversity: Science and Governance", 24-28 January 2005. Available at <http://www.recherche.gouv.fr/biodiv2005paris/en/index.htm>.
- 4 DAC Orientations on Participatory Development and Good Governance, OECD 1993, OCDE/GD(93)191. Available at [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/HRDG/\\$file/Dac-e.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/HRDG/$file/Dac-e.pdf).
- 5 World Resources Institute Research Topic paper: Governance and Institutions, principles of environmental governance. Available at [http://governance.wri.org/pubs\\_content\\_text.cfm?ContentID=1698](http://governance.wri.org/pubs_content_text.cfm?ContentID=1698).
- 6 UNDP Environmental Governance. Available at <http://www.undp.org/energyandenvironment/envgov.htm>. Capacity development for Environmental Sustainability UNDP country level initiatives 2004. Available at [http://www.undp.org/energyandenvironment/docs/CD12\\_CD\\_Rom.pdf](http://www.undp.org/energyandenvironment/docs/CD12_CD_Rom.pdf).
- 7 OECD to join Arab states in launching "Good Governance for Development" programme. Organisation for Economic

- Co-operation and Development (18 February 2005). Available at [http://www.oecd.org/document/36/0,2340,en\\_2649\\_201185\\_34368484\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/36/0,2340,en_2649_201185_34368484_1_1_1_1,00.html).
- 8 UK Cabinet Office Better Regulation Task Force principles (18 February 2005). Available at <http://www.brtf.gov.uk/>.
  - 9 Gunningham, N. and Grabosky, P., *Smart Regulation: Designing Environmental Policy*. 1998 Oxford University Press.
  - 10 Environment Agency. *Delivering for the Environment: a 21<sup>st</sup> century approach to regulation*. 2005.
  - 11 USEPA Compliance Incentives & Auditing 2004. Available at <http://www.epa.gov/compliance/incentives/>.
  - 12<sup>i</sup> Fourth International Conference on Environmental Compliance and Enforcement 1996. Available at <http://www.inece.org/4thvol1/yingphan.pdf>.
  - 13 Harvey, F., *Stumbling block that poses threat to Kyoto protocol*, Financial Times, FT.com, 15 February 2005.
  - 14 Canadian International Development Agency (CIDA), Available at [http://www.acdi-ida.gc.ca/cida\\_ind.nsf/0/5642efc2198fefdt85256ca8005a02eb?OpenDocument](http://www.acdi-ida.gc.ca/cida_ind.nsf/0/5642efc2198fefdt85256ca8005a02eb?OpenDocument).
  - 15 Commission for Environmental Co-operation. *Improving environmental performance and compliance: 10 elements of effective environmental management systems*. CEC 2000, Montreal, Canada.
  - 16<sup>i</sup> ISO 14001:1996. *Environmental management systems – Specification with guidance for use*. The international standard for environmental management systems.
  - 17 European Union. *Eco-Management and Audit Scheme*. A voluntary scheme specified by Regulation of the European Parliament and Council (Regulation 3658/2000).
  - 18 Environment Agency, Scottish Environment Protection Agency, Northern Ireland Environment & Heritage Service, Welsh Assembly, Local business Link and Envirowise. *Plain language Guidance for Businesses on environmental legislation, and how to comply with it*. (18 February 2005) available at [http://www.environment-agency.gov.uk/netregs/?lang=\\_e](http://www.environment-agency.gov.uk/netregs/?lang=_e).
  - 19 Bailey K. *Citizen participation in environmental enforcement in Mexico and the United States: a comparative study*. *Georgetown Internet Law Rev* **16**, 2004, 323-358.
  - 20 Khan NA and Khisa SK. *Sustainable land management with rubber based agro-forestry: a Bangladeshi example of uplands community development*. *Sust Develop* **8**, 2000, 1-10
  - 21 US-EPA. *India Workplan, project 7: Environmental Governance and Capacity Building*, 2003, US Agency for International Development.
  - 22 Department of the Environment, Hoje Taastrup Municipality, Denmark, cited from reference 4.
  - 23 Gunningham, M., *Compliance, Enforcement and Innovation*. 2004.
  - 24 Green Tier. *Wisconsin Department of Natural resources (18 February 2005)* available at <http://dnr.wi.gov/org/caer/cea/environmental/faqs.htm>.
  - 25 SDC Livelihoods, Empowerment and Agroforestry project (L. E. A. F. ) Available at <http://www.sdc.org.bd/index.php?navID=3744&IID=1&userhash=22757091&officeID=63>.
  - 26 *Land and Agriculture: From UNCED, Rio de Janeiro 1992 to WSSD, Johannesburg 2002* available at [http://www.fao.org/documents/show\\_cdr.asp?url\\_file=/DOCREP/006/Y3951E/Y3951E00.HTM](http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/006/Y3951E/Y3951E00.HTM).
  - 27 IUCN Bangladesh Environmental Law, planning and assessment Programme available at <http://www.iucn.org/places/asia/old170603/bangladesh.htm>.
  - 28 *Governance for Sustainable Development* available at <http://www.earth>

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summit2002.org/es/issues/Governance/Montreal-IEG.pdf.

<sup>29</sup> EcoGovernance. The Philippine Environmental Government Project, 2004. Information available through the United Nations Environment Programme at <http://www.unep.org/>.

<sup>30</sup> Environment Agency. (18 February 2005) available at <http://www.environ->

[ment-agency.gov.uk](http://www.environment-agency.gov.uk)

<sup>31</sup> Canadian International Development Agency (CIDA) Available at [http://www.acdiida.gc.ca/cida\\_ind.nsf/0/5642efc2198fefdt85256ca8005a02eb?OpenDocument](http://www.acdiida.gc.ca/cida_ind.nsf/0/5642efc2198fefdt85256ca8005a02eb?OpenDocument)

<sup>32</sup> World Bank, Competitiveness and Environmental Standards, 1994.



# RULE OF LAW, GOOD GOVERNANCE, AND SUSTAINABLE DEVELOPMENT

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## SUMMARY

This paper reviews the relationship between the rule of law, good governance, and sustainable development, as those terms are used by the relevant development organizations; describes the efforts made by various organizations to promote the rule of law and good governance; and addresses the need to strengthen compliance and enforcement for sustainable development.

## 1 INTRODUCTION

It is widely recognized that good governance is essential to sustainable development. Well-functioning legal institutions and governments bound by the rule of law are, in turn, vital to good governance. Weak legal and judicial systems – where laws are not enforced and non-compliance and corruption are the norm – undermine respect for the rule of law, engender environmental degradation, and undermine progress towards sustainable development.

Practitioners in the development field have increasingly turned their attention to reforms to improve legal and judicial institutions and promote the rule of law and good governance. For example, various United Nations agencies such as the United Nations Environment Programme (UNEP) and the United Nations Development Programme (UNDP), as well as the World Bank and other regional development banks, are directing increasing

resources to reform legal and judicial institutions.

To date, however, most of these efforts have concentrated on developing new laws and creating new institutions, rather than building capacity for ensuring compliance with existing rules. Yet without compliance, laws and regulations are meaningless – or worse, they undermine respect for the rule of law – and cannot promote sustainable development. As a result, many developing countries and countries with economies in transition still suffer from weak legal and judicial systems, lack investment, and have poor development prospects, sustainable or otherwise. Thus, donor-driven reform efforts need to ensure that their rule of law efforts include sufficient training and capacity building to establish the institutional foundation for compliance and enforcement, through both instrumental and normative efforts.

The first section of this paper reviews the relationship between the rule of law, good governance, and sustainable