

## Corporatization Through Democratisation

Are 'Globalisation' and 'Democracy' compatible or is there inherent contradiction between the two? The debate is on for the last few years, particularly after the impact of globalisation in the political arena started registering its visibility. While the one school argues that economic globalisation threatens democracy since growing inter-connectedness between nations restricts national sovereignty and democratic control over political agenda, another school asserts that globalisation highlights structural weaknesses of contemporary democracies but does not necessarily undermines the principle of democratic governance. The anti-globalisers' assumption is that the increasing transactions across the borders of nation-states are eroding the efficiency of national governing structures, especially democratic ones. They assure that the economic globalisation erodes the ability of democratic governments to manage economic and social affairs in the interests of the people. Known as the "crisis of the state", the debate hots up further as the democratic aspirations around the world has been increasing greatly. By the early 1990s, an astonishing number of autocratic regimes around the world fell from power. They were generally succeeded by regimes that at least aspired to be democratic thus giving rise to the phenomenon that Samuel P Huntington called the "Third Wave of Democratization".

This perhaps forced the writers of Globalisation agenda to revise their strategy. Earlier, their agenda had been to replace democracy as it has evolved since Magna Carta in the year 1215 with the rule by the elite. The agenda of these elites is to see the emergence of a single integrated world economy controlled by them for their own benefits. They are re-building the world to largely eliminate national boundaries and hence the power of the national governments to pass laws for the benefit of their citizens. If they find that taxes are too high or environmental safeguards too rigorous they simply move their activities to another country. And they do this under the umbrella of globalisation. On top of it they brainwash us into believing that globalisation is both inevitable and good for the poor and ordinary people of the world.

But the emerging global scenario has shown that it is neither. It is only good for 3 to 5 per cent of the richest people of the world. For the larger percentage of people it has only led to displacement, hopelessness, poverty and suicides. Globalisation perplexing only if we let it happen. And perhaps people have decided not to allow it happen. They demonstrated their resolve first at Seattle and then at Cancun. Besides, a number of social movements, at the national and international levels, have burgeoned to protest against the increasing onslaught on the democratic rights of the people and free functioning of the democratic institutions.

Thus, the growing pace of transition from dictatorial to democratic regimes and the increasing resistance against globalisation in the third world forced the perpetrators of the global agenda to talk in terms of 'promoting the transition to and consolidation of democratic regimes throughout the world'.

But this talk of Democratic Governance is just a facade. The real intentions are to force the democratic reforms (a la economic reform) to make the democratic institutions subservient to the interests of the global corporate world. The technical publications series brought out by the Center for Democracy and Governance of US Agency for International Development (USAID) seems to be a step in that direction.

In this issue of Infopack, we have given the summary of various programming handbooks and guides prepared by USAID under the title 'Democracy and Governance'.

- Piyush Pant

## **USAID Handbook on Legislative Strengthening**

Centre for Democracy and  
Governance, Washington

Technical Publication Series

February 2000

Pages: 70

## **Bird's Eye View**

The Centre for Democracy and Governance of USAID had launched Technical Publication Series in March, 1998. The series includes publications primarily for the use of USAID personnel and intends "to indicate best practices, lessons learned and guidelines for practitioner consideration" and to stimulate debate and discussion on myriad issues pertaining to democracy and governance. The handbook under review forms part of the process.

The handbook outlines the importance of legislatures which are products of democracy embodied in "free and fair elections". Though they are in a weaker position vis-a-vis the executive, the legislative institutions have to function effectively so that public policies are directed by democratic norms. The public policies may not be successful if those most affected do not have a voice in the policy making process.

Legislatures embody and fulfill a host of functions in a democracy : "they represent people and groups" and reflect their needs and aspirations in the "policy making and policy-amending process". They make laws for effective governance. And they "practice oversight" in that they oversee whether the laws and programmes are implemented legally, effectively, and in accordance with legislative intent. Therefore, the handbook emphasises the urgent task of strengthening legislative bodies for effective and optimal functioning.

The handbook maintains that it has been designed in such a manner so that it assists USAID missions in developing workable strategies for helping legislatures to "perform their functions more democratically and representatively". It identifies "structural factors that influence legislative behaviour and enumerates common problems that legislatures face". The handbook outlines the contours of a legislative assessment framework which would help USAID field officers to develop a legislative strengthening programme for the host country. These programmes are supposed to take into account the country-specific institutional and socio-economic conditions and specific legislative weaknesses and capabilities in five distinct yet interrelated areas of legislative functioning, namely, political will and domestic support, representation, lawmaking, oversight, infrastructure and management.

Political will and domestic support encompasses setting up and strengthening a legislative modernization group; exposure for leaders of the host country to successful group in other nations; organisation of legislative leader study tour; conduct of workshops and conferences on comparative legislative strengthening; organising decision workshops; providing assistance in drafting of legislative development plans; distribution of legislative questionnaires for need assessment etc.

Representation incorporates within its ambit encouraging public interest fora; training citizen organisations and advisory groups; helping candidate information programmes; financing public opinion polling; training journalists and media personnel; providing exposure to other electoral systems to enable electoral reforms; improving the quality, distribution and timeliness of legislative records, developing bill-status systems; developing legislative web sites; conducting media and constituent relations programmes; producing publications on the legislature etc.

Under the rubric of lawmaking are included designing orientation programmes for legislators; strengthening committees and political party caucuses; developing committee staff and infrastructure; consolidation of laws; training committee and research staff; developing expert database; establishment and strengthening of legislative libraries; developing bill-

drafting services etc.

The oversight component includes strengthening the legislature's role in budget making; providing exposure to other systems of formal oversight authority; providing technical assistance on strategies to enhance legislative oversight; improving legislative access to budget information and simplifying budget formats; introduction of budget hearings. Providing expert input and training of professional budget staff; providing legislative budget software etc.

Finally, management and infrastructure segment encompasses such activities as enhancing record-keeping systems; standardising administrative procedures; drafting of manuals for administrative procedures; providing equipment for legislative strengthening etc. The handbook then goes on to compare presidential and parliamentary legislatures and highlights the strong and weak points of both the regimes while admitting that most legislatures are "hybrid" in character incorporating the salient features of both systems. However, a strong bias is discernible for presidential legislatures and that too the US system. Another problem is that the handbook is heavily dependent on quantification and technology for legislative strengthening.

The 'Age of Assessment' is not a phenomenon confined to the industrial countries. In fact, a common vehicle for their extension into the less industrialised world has been the operation of international development aid programmes, particularly those of World Bank and agencies like the USAID. In many countries of the developing world technical needs-assessments, benefit-cost analysis are usually performed by consultants from the donor countries. Given the past experience, their impact has been disastrous for the lives of the people, primarily because the whole business of governance has been reduced to a discourse of risk management. Technical analysis reduces risk to purely quantitative factors determined by calculation without taking into account what ideas people have about distributive justice.

**Finally, the handbook proceeds to outline USAID's activities in many developing countries of Latin America, Africa and Asia heralding their success. But this view can be contested because these initiatives have at best been episodic and at worst sporadic in nature. Secondly, even in these countries, the initiatives have taken place in certain small pockets and they have been few and far between to make any universal impact.**

**The moot question is : why the international monetary and aid agencies are taking undue interest in promoting democracy and good governance now, when their past activities were geared towards the opposite, i.e., supporting pliant and authoritarian regimes in the developing countries. The reality is that promotion of 'low intensity democracies' in the third world is designed so as to sustain favourable conditions for foreign investment which is a prominent feature of the agenda set by these international institutions. The tilt towards democratisation and good governance is due to the fact that in the changed global configuration of forces, there is no need to support authoritarian regimes, as the spectre of communism has receded. Through the deft use of international legal processes, the international laws are being controlled in the crucial areas of economic and political life. Contrary to what these international bodies like the World Bank, IMF and aid agencies like USAID claim, the reality is that relocation of powers from sovereign states to international institutions has severely eroded the capacity of third world states to pursue independent and self-reliant development**

## **Democracy and Governance : A Conceptual Framework**

Centre for Democracy and  
Governance, Washington

Technical Publication Series

November 1998

Pages: 27

### **Bird's Eye View**

This USAID document talks about democracy and governance keeping in mind the US interests and goals. In fact, the first chapter of the document itself is entitled as such. It says - 'Promoting democracy serves vital US national interests, and expanding the global community of democracy is a key objective of US foreign policy'. This chapter also underlines American concern for the phenomenon of failing states. It says - 'A lack of democratic institutions is a common factor among nations that have succumbed to crisis. The document also says that eruption of crises renders mobilisation of US military and humanitarian assistance complex and costly and making US economic interests suffer. Thus, the chapter quotes from Clinton Administration's National Security Strategy of Engagement and Enlargement: ... The core of our strategy is to help democracy and free markets expand and survive in other places where we have the strongest security concerns and where we can make the greatest difference ... Thus, we must target our effort to assist states that assist our strategic interests ... We must focus our efforts where we have the most leverage. And our efforts must be demand driven - they must focus on nations whose people are pushing for reform or have already secured it.

The second chapter titled 'Global Trends in Democracy and Governance' talks about consolidations of democracy. It observes that the number of democratically elected governments worldwide confirms to grow, but many countries have made incomplete democratic transitions, demonstrating only some and not all-fundamental aspects of a democratic political system. For instance, in the vast majority of countries, both economic and political power remain concentrated in the executive branch, with little genuine oversight by other branches of government. Instead, the chapter observes civil society organisations and the media are providing oversight and scrutiny of government actions in many countries around the world. At the same time, the document observes, many governments see increasing capacity of the non-governmental sector as a threat, and continue to support restrictions on the media and civil society.

The document further observes that despite many encouraging trends, most citizens still consider their political systems to be distant and unresponsive to their daily needs since local governments, often, do not have the authority or the means to provide a meaningful opportunity for citizen participation.

The handbook believes that to remain viable, new democracies must improve the management of national economics and expand the provision of essential services keeping in mind, at the same time, that the sustainable economic growth requires not only economic restructuring but also governmental reforms to improve transparency and accountability.

The chapter also notes down the increasing neglect being shown to the women in the developing democracies. It observes, 'though women have been in the forefront of democratisation movements in many countries, yet this involvement has not necessarily resulted in increased political opportunities for women in new democracies'.

Chapter III of the document talks about the USAID's goals of "building sustainable democracies" and the role of Centre for Democracy and Governance in devising the required tools and methodologies to support democratic development. The chapter says that the democracy and governance programming has become an integral component of USAID's

support for sustainable development and puts forward this belief of the Agency that democratic institutions are key to a well functioning government, and that there are direct links among democratic institutions, good governance and sustainable development. It further tells us that the Agency uses four categories to describe its democracy and governance activities i.e. rule of law, elections and political processes, civil society, and governance. This conceptual framework is described in detail in other chapters. But, the document says, these four categories are not always discrete during the implementation of the activities. For instance, an alternative dispute resolution programme may relate to civil society as well as the rule of law; and an anti-corruption initiative necessarily involves economic as well as political reform.

The document also touches upon the concept of Rule of Law. While pointing out that the respect for the rule of law and a well developed justice system are underpinnings of a democratic society and a modern economy, it draws our attention towards the fact that as many states with weak or incipient democratic traditions and underdeveloped economies, the processes and institutions which are necessary to uphold the rule of law are incompletely evolved and ineffective. Often, their legal framework does not correspond to social reality and contemporary needs. Hence, the role of the Centre for Democracy and Governance aims towards supporting work for developing rule of law in three areas. These areas are -

- Improving outdated or otherwise inadequate legal frameworks and codifying human rights.
- Strengthening justice-sector institutions.
- Increasing citizens' access to justice.

It also points out that USAID works with host country actors to develop mechanisms to promote equal access to formal and informal systems of justice, as well as to develop legislative regulations and budgetary provisions for legal defense and dispute resolution.

Chapter V of the document is about elections and political processes. While eulogizing the indispensability of free and fair elections for a democracy, the chapter says that the Centre has identified seven elements that are essential to fair elections and political processes. These elements are -

- Impartial Electoral Frameworks
- Credible electoral Administration
- Effective Oversight of Electoral Processes
- Informed and Active citizenries
- Representative and Competitive Multiparty Systems
- Inclusion of Women and Other Disadvantaged Groups
- Effective Transfer of Political Power

The chapter also talks about USAID providing post-election assistance to political parties and newly elected and appointed political leaders in the following areas -

- Activities to bring together newly elected officials through training workshops on effective political representations.
- Political party training for effective party or coalition governance on the legislature as well as for constructive political opposition.

Document's Chapter VI is about Civil Society and the Centre for Democracy and Governance's strategies towards strengthening the

organised and progressive elements of the Civil Society. While stressing that it is through the advocacy efforts of Civil Society organisations that people are given a voice in the process of formulating public policy, the chapter points out that in many developing countries Civil Societies' active role makes them a target of repression and harassment. In many cases, citizens and business groups are fearful of government reprisal if they are seen to be a source of support for reformist advocacy organisation.

As for the Centre's Civil Society strategies, the chapter says that they focus on those organised and progressive elements of Civil Society that are pressing for reform and seeking to initiate and consolidate the transition to democratic governance. The Centre has identified the following five elements for Civil Society development:

- Legal Frameworks to Protect and Promote Civil Society
- Increased Citizen Participation in the Policy Process and Oversight of Public Institutions
- Increased Institutional and Financial Viability of Civil Society Organisations
- Enhanced Free Flow of Information
- Strengthened Democratic Political Culture

Out of these, the first two are of vital importance to USAID. As the chapter points out - 'The legal enabling environment is becoming an important focus as USAID increasingly looks to Civil Society to help active goals in democracy and governance as well as in other sectors. Similarly a large proportion of USAID's democracy and governance funding goes to activities in the area of citizen participation in the policy process and oversight of public institutions, especially in countries where government will and capacity for reform are weak.

The chapter titled "Governance" says that the Centre organises its governance work in the following five areas:

- Democratic Decentralisation
- Legislative Strengthening
- Governmental Integrity
- Policy Implementation
- Civil Military Relations

Perhaps the most important chapter is the one entitled 'Post Script'. The chapter helps, to some extent, in gauging the real intentions behind this handbook. It says, 'when making programming decisions, USAID works closely with other US government agencies and bilateral and multilateral partners. Numerous US government agencies are involved in promoting democratic initiatives on many fronts. These include the US Department of State (DOS), the US Information Agency (USIA), the Department of Justice (DOJ) and the Department of Defense (DOD). These agencies work to coordinate with each other at all levels.'

It further says that in addition to US government agencies, several quasi-governmental and non-governmental implementing organisations also work to promote democracy in developing countries.

## **The Role of Media in Democracy: A Strategic Approach**

Centre for Democracy and  
Governance, Washington

Technical Publication Series

June 1999

Pages: 47

### **Bird's Eye View**

This document forms the part of a series of documents aimed at advancing the USAID's programming to ensure promotion of democracy and good governance (of course the U.S. version!). This technical document, particularly addresses one aspect of democratic programming i.e. media sector support. It says that 'support for media is an important programme of US governance assistance' in order to deal with the obstacles coming on the way of media freedom and to develop media sectors around the globe that would contribute to democracy. The document further says that the rationale for media-related activities can be found in USAID's strategic objective of increased development of a politically active civil society. While there is a significant range of activities which could fall under the heading 'media support', this document makes a distinction between those activities which might indirectly contribute to media development (such as civic education or communication campaign in the health and education sectors), and those which are directly targeted to strengthen the media as an institution, specifically media sector support. This media sector support, says the document, extend beyond training and includes reforming media laws, removing barriers to access, strengthening constituencies for reforms and capitalising the media.

Section II of the document defines the role of the media in democracy and outlines media's place in USAID's strategic framework and international conventions. This section of the document stresses the need for an independent media. It observes, "free and fair elections conducted through transparent process require a media sector which gives candidates equal access and reports the relevant issues in a timely, objective manner. It further observes - "within the context of supporting democratic transitions, the goal of media development generally should be to move the media from one that is directed or even overtly controlled by government or private interests to one that is more open and has a degree of editorial independence that serves the public interest".

Commenting on the role of media, it says "if the media is to have a meaningful role in democracy, then the ultimate goal of media assistance should be to develop a range of diverse mediums and voices that are credible, and to create and strengthen a sector that promotes such outlets.

The document further observes that a media sector supportive of democracy would be one that has a degree of editorial independence, is financially viable, has diverse and plural voices, and serves the public interest.

In sector IV the document deals with identifying the key actors i.e. who holds the power to communicate in a society, who has access to the means of communication, and who is communicated to?" For example, in some countries the state has exclusive control over the media, directly or indirectly, and dictates the terms of public debate. In such cases, the document says, a suitable sector support strategy might be geared around civil society organisations which are publishing or broadcasting alternative viewpoints, or it might be focused on training state journalists to cover news in a more objective fashion. If it is a particularly innovative strategy, it might include a training component for government ministers in an effort to raise their awareness about how a balanced and objective press contributes to political and economic well being.

As far as the question of "who is communicated to" is concerned, the document says that the answer to this question helps to determine which medium to target in media sector assistance. It says that if a strategy aims to reach the rural masses, a radio campaign (particularly in countries with low literacy rates) might be more effective than a television or print strategy. Thus the document identifies the following actors as relevant allies in media sector reform -

i) Consumers; ii) Individual Producers (reporters, editors, technicians, business managers); iii) Content Provider Companies (wire services, think tanks, NGOs); iv) Training Institutes, Universities; v) Independent Regulators; vi) Media Monitors (political polling agencies, policy institutes, advocacy groups, governments, advertisers); vii) Professional Organisations (journalism and business associations; and viii) New Technology Gatekeepers (infrastructure developers, software creators, trainers, investors).

Section V of the document, is about designing media strategies. Under this head issues like strategy development and identifying a programmatic approach have been discussed. The document point out that there are four basic steps to strategy development for media sector support, namely - i) defining the problem, ii) finding targets of opportunity, iii) assessing the feasibility of activities and iv) evaluating USAID's comparative advantage in carrying out these activities.

The document further points out that in designing a media sector support strategy, a key undertaking is an analysis of the problem to inform the adoption of an appropriate programmatic approach to forward media sector development. These approaches may take a number of forms like shaping the legal enabling environment, strengthening constituencies for reform, removing barriers to access, supporting the capitalisation of media, and/or training. Though the document says, "ideally programmes would undertake a combination of these approaches to provide a holistic mix of activities. However, understanding the political concerns as well as financial and technical constraints, missions may be able to adopt only one or two approaches at a time.

Section VI of the document titled 'Programmatic Approaches' elaborates that after identifying an appropriate programmatic approach for media sector support, attention should then fall to the details of that approach.

Drawing on examples of successful media activities undertaken by USAID, field missions and their partners, as well as those of other donors, this section further details the most common barriers to media sector developments described in Section V and highlights some of the best practices and lessons learned from work to remove these barriers.

In the concluding section, the document says that media activities should not be viewed in isolation from other areas of democracy and governance programmes and understood to only be important in civil society programming. In fact, greater impact may be achieved by integrating USAID's media support into additional democracy and governance areas, particularly rule of law.

It further says that it is also important to continue and to improve coordination of USAID's media sector activities with other parts of the US government, particularly USIA. Effective donor coordination will also



improve programming, leverage scarce resources, and avoid duplication of effort in the democracy and governance area.

The document also has a number of appendices attached to it. Appendix A provides a list of partner organisations, Web sites, and contact information. Appendix B suggests a methodology for conducting media sector assessments, while Appendix C contains the text of the 1991 Windhoek Declaration.

## **USAID Political Party Development Assistance**

Centre for Democracy and  
Governance, Washington

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Pages: 50

### **Bird's Eye View**

This document claims that the Center for Democracy and Governance is committed to political party development assistance as a crucial element in developing and sustaining democratic societies throughout the World. In this claim lies the hidden agenda of granting United States the status of sole champion of the cause of democracy throughout the World.

The document says that in the course of USAID political party development work over the past decade, four specific programming concerns have been identified as requiring attention throughout the process of designing and implementing political party development assistance activities. These concerns are : the degree of inclusiveness of programming regarding eligible political parties, the degree the political party development assistance may influence the domestic affairs of a country being assisted, the degree such programming directly or indirectly influences the outcome of elections, and the timing of such programming.

Regarding the programme itself, the document says - 'USAID Political Party development assistance is designed to facilitate the democratic process in newly democratising countries, rather than to influence specific political outcomes'. The document further says that promoting and strengthening the broader political process through political party development assistance require long-term support for specific organisational, behavioral and governance aspects of democratic parties, rather than the pursuit of short-term electoral gains. It points out that within this long-term, process-oriented framework, USAID political party assistance has three goals - i) the establishment and organisational development of viable, competing democratic parties at national, regional and local levels; ii) the provision of organised electoral choices to citizens through political parties; and iii) the democratic governance of societies facilitated by political parties in government and opposition. The document claims that these aims fall within USAID's democracy assistance mandate and represent manageable, neutral and efficacious objectives for political party development support.

However, the document puts a rider. It says that not all parties are eligible for assistance. Parties must demonstrate adherence to democratic policies and operating principles. When dealing with governing or ruling parties, such parties must support free, fair and open elections and may not suppress democratic competitions or inhibit the abilities of opposition parties to organise and mobilise political support.

The document also talks about certain 'Neys'. It says that in order to avoid interference in the domestic affairs of sovereign states, domestic laws and regulations regarding assistance to political parties must be adhered to. Similarly, in order to avoid directly or indirectly influencing the outcome of elections, political party assistance activities must be executed

in an inclusive fashion and in an equitable manner and should not include direct financial or intend support to individual political parties.

Section I of the document underlines the role of political parties in democratic development and points out that both political parties and their roles have changed significantly in the past two decades, both in industrialised western democracies and in newly developing democratic nations. However, it concedes that while changes have resulted in weakening of the connections between citizens and the states, there does exist widespread consensus that political parties are essential elements in democratic societies.

It points out that while some analysts would argue that the weak state of political parties, today, does require their strengthening in order to promote democracy, the detractors of political party development assistance argue that the decline in parties reflects the trends that are not likely to be reversed like the rise of civic groups that carry out tasks traditionally associated with political parties and the changing modes of communications that alter the frequency and type of interactions between party officials and citizens.

Elaborating further, the document states that since the late 1980s USAID, through a variety of democracy programming mechanisms, has focused increased attention and resources on the development and institutionalisation of political parties in newly democratising nations around the World. It points out that USAID has funded political party development activities in more than 50 countries, accounting for more than 45 million dollars in support during the past four years (FY1994-97).

Section III of the document deals with the broad goals of political party development and link them to the strategic objectives for elections and political process assistance. It also provides the review of these goals of USAID.

Section IV presents and analyses completed and ongoing political party activities funded by USAID in the 1990s in order to discern common themes and patterns of political party support globally and within particular geographic regions.

In Section V, existing USAID policy statements regarding political parties' activities and programmes are presented and assessed. In addition to Section 116(e) of the Foreign Assistance Act of 1961 and its subsequent amendments, there are also given several policy statements that constrain political party development assistance by USAID. Besides clear guidelines for the implementation of political parties' development assistance within the current USAID policy framework has been presented.

Section VI of the document pays attention to the implementing partners who carry out virtually all the political party development work of USAID. These include the National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI). These two non-profit NGOs were formed with the creation of the National Endowment for Democracy (NED) in 1983. Each institute derives the bulk of its funding from USAID, but also receives direct support for political party development activities from NED.

In the concluding section, this 42-page document presents a synopsis of USAID's experiences in political party development and lessons learned in the process.

## **USAID Handbook on Fighting Corruption**

Centre for Democracy and  
Governance, Washington

Technical Publication Series

February 1999

Pages: 40

### **Bird's Eye View**

This Handbook presents a framework to assist USAID missions develop strategic responses to public corruption, to make informed decisions with regard to developing anti-corruption strategies, mainly in developing countries, and describes anti-corruption work carried out by USAID and other organisations. The framework sets out root causes of corruption, offers detailed descriptions of different types of institutional and societal reforms; offers a strategy to fight corruption; and introduces a methodology for selecting among various measures.

This Handbook on anti-corruption programming contains five sections. Section I provides introduction and Section II provides development problems in the country due to corruption and articulates the need for anti-corruption programming. Section III provides a framework for developing responses to these problems identifying the root-causes of corruption. Section IV of the Handbook provides an overview of USAID anti-corruption efforts. Section V provides an overview of the activities of other donors and organisations working on anti-corruption plank. This Section also includes more information on anti-corruption initiatives by international organisations such as the World Bank, The Organisation for Economic Cooperation and Development (OECD), the IMF and the Organisation of American State (OAS); private and non-government organisations and other agencies of the US government. The Handbook indicates that corruption arises mainly where public officials have wide authority, little accountability and perverse incentive. So, the handbook suggests, strategy choices to fight corruption must be made after taking into account the nature of the corruption problem and the opportunities and constraints for addressing it. In particular, strategy formulation requires taking a hard look at the level of political will for anti-corruption reform in government and civil society. The strategy should target institutions (such as the judiciary, police, or customs, licensing, procurement, and tax offices) where, the USAID feels, the problem of corruption is serious. The handbook also says, 'although corruption is not a new problem, opportunities to work in this area have emerged only recently'. It points out that the policymakers, businesses, civil society organisations, media and donors from all regions are confronting it openly.

The Handbook indicates that corruption is the abuse of public office for private gain. It encompasses unilateral abuses by government officials such as embezzlement and nepotism, bribery, extortion. Corruption arises in both public and private sectors, in political and bureaucratic offices and can be petty or grand, organised and unorganised. In the political realm it undermines democracy and good governance by subverting formal processes. At the same time it also undermines the legitimacy of government and such democratic values as trust and tolerance. It also leads to economic distortions in the public sector. These distortions deter further investment and reduce economic growth. The Handbook further indicates that corruption erodes the institutional capacity of government as producers are disregarded, resources are siphoned off, and officials are hired and promoted without regard to performance. It also increases the cost of business through the price of illicit payments. It shields firms with connections from competition and thereby sustaining inefficient firms. All these lead to increase in budgetary pressure on government and reduce overall development in economic and social sectors of the country.

This Handbook offers a framework of guidelines for developing responses to these problems. In the name of introducing anti-corruption initiatives by international organisations, the USAID suggests some measures to fight corruption including Institutional and Societal reforms. The Institutional reforms include measures to reduce government authority, increase accountability, and align official incentives to public and in all government

institutions and processes. This means the more activities public officials control or regulate, the more opportunities exist for corruption. Independent of opportunities, costs, and professional incentives within government institutions, general attitudes toward formal political processes influence corruption levels. The Handbook further mentions that low legitimacy of government (because it is repressive, ineffective, discordant with culture, or imposed by foreign rule) induces disregard for formal rules. Similarly, dominance of a political party or ruling elite over political and economic processes, or exclusion of marginalised or poorly organised groups, creates incentives for those disadvantaged by the system to operate outside it. As for limiting the government authority, the handbook suggests measures like privatisation, liberalisation, competitive procurement, competition in public services. Similarly, for making governments accountable, the handbook suggests a three-tier reforms i.e. at the levels of Transparency, Oversight and Sanctions. For bringing Transparency it recommends freedom of information legislation, financial disclosure, open budget process, financial management systems; for Oversight it suggests creation of audit offices, inspectors general / ombudsmen / anti-corruption agency, legislative oversight, hot lines; for Sanctions it recommends electoral, criminal, administrative sanctions, and also judicial reforms. And the social reforms, on the other hand, include measures to change attitudes towards formal political processes and to mobilise political will for sustained anti-corruption interventions.

All these anti-corruption initiatives suggested by USAID missions are directed to be applied in all the fields of the government administrations of the host country in such a way that would enable the donor organisations to apply their set of agenda in every field of work. This, at once, exposes the intention of the USAID in getting the handbook prepared.

The handbook mentions that in the name of institutional reforms the USAID missions ask for privatisation and liberalisation as, it seems to them, that these would limit the authority of the government and reduce corruption. Privatisation would deprive the government of the host country of its control over economic activity and their monopoly over trade and finance. And liberalisation offers a straight forward means to limit the state authority depriving the officials of control and power of the host country by eliminating tariffs, restricting exchange rate, controlling prices. For example, in the recent years, accession requirements to the World Trade Organisation (WTO) have pushed many countries to liberalise their economies.

Another measure of anti-corruption offered by USAID missions is competitive procurement, which limits the authority of the government officials and prescribes open bidding enabling the MNCs and the donor countries to make an easy entry into the host country.

The Handbook indicates that anti-corruption agencies, mainly consisting of foreign and private organisations, can improve accountability of the government officials by overseeing its operations. Legislative oversight also provides a powerful check on executive authority and enhance accountability. It seems that, in the name of fighting corruption, the USAID wants to have control in all the fields of administrations of the host country.

Besides institutional reforms, efforts to fight corruption include societal reforms to change attitudes towards formal political processes and to mobilise political will for change. The societal reforms include surveys, public relations changes, investigative journalism, civil advocacy organisations, workshops and many more. The USAID claims that all the anti-corruption agencies were able to control corruption in government administration in Latin America, Africa and other developing countries. But these changes are quite sporadic, they neither can be applied as a model, nor can have good impact on other countries.

# **Decentralisation and Democratic Local Governance Programming Handbook**

Centre for Democracy and Governance, Washington

Technical Publication Series

May 2000

Pages: 80

## **Bird's Eye View**

This Handbook presents a framework to assist USAID missions officers, who are faced with the task of developing programme activities in the areas of decentralisation and democratic local governance. The handbook also indicates that decentralisation and democratic local governance have become global interests of public policy and programme priorities of USAID and many other donors. The handbook is prepared on the basis of 15 years of USAID experience in democracy promotion and of four decades of municipal development work.

The handbook aims to help Democracy Governance (DG) officers decide if, when and how to initiate or enhance programmes in decentralisation and democratic local governance. The handbook also indicates that the Centre for Democracy and Governance hopes that it will enhance awareness and engender productive debate about the dynamics of decentralisation and democratic local governance in host countries and about the ways USAID can most effectively focus its interventions.

It outlines the importance of decentralisation and the development of Democratic Local Governance in developing countries as fundamentally political processes. Decentralisation refers to three dimensions including political, financial, and administrative.

The political dimension involves transfer of political authority to local level through electoral reform, political party reform, authorisation of participatory process, and other reforms. The financial dimension refers to shifting of financial power to the local level. The administrative dimension involves the full or partial transfer of an array of functional responsibilities to the local level, such as health care service, the operation of schools, the management of service personnel, and many more.

The handbook contains eight sections, Section I of which is introduction to decentralisation and democratic local governance including Current Trends, Definitions, and Key Clarifications. In decade past, decentralisation and the democratic local governance continue to sweep the world quietly. It is felt that the prime motivation of USAID mission behind this process of reforms is to weaken the hold of central government by dispersing its power to local levels in the name of nation's democratic improvement, and development of democratic local governance. It seems that these reforms will enable the USAID missions and the donor agencies to intervene in the field of administrative, political, and economic works of the host country.

Section II is an effort to describe USAID's ultimate programming objective: the ideal decentralised system of democratic local governance, then introduces the three central questions for successful decentralisation and democratic local governance. Answers to these questions become the basis for the three stages of decentralisation and democratic local governance programming such as assessment, strategy, and tactics.

Section III provides a model for conducting a general assessment of the prospects for decentralisation programming of any country environment by relying on two fundamental criteria i.e. political will and local

governance tradition. Section IV provides several of the key strategic considerations. The strategy options mainly put focus on three areas like:-

1. Creating an favourable enabling environment, the objective of which is to encourage the national government to institute an effective decentralisation programme, including free and local elections.
2. Developing democratic local governance, the objective of which is to operate in a more democratic fashion.
3. Building local government capacity, activities of which are focused on the improvement of local performance including financial administrative, and management capacity. Section V provides a wide range of programming tools from which officers can choose when developing their activities. The Final three Sections discuss respectively, monitoring and evaluation of programming in decentralisation and democratic local governance; some of the key lessons of USAID experience; and several of the programming issues that have emerged .

The handbook suggests that it is necessary for the USAID personnel and the other foreign donors to understand what "decentralisation" and "democratic local governance" refer to for effectively working in the local systems. Decentralisation is a process of transferring power to popularly elected local government by making the government rely on local authorities with some degree of political, financial, and judicial autonomy

The handbook mentions that strengthening democracy at the local levels (all levels of sub-national government in a country) can help strengthen democracy in the nation as a whole , and can define the role of government and clarify the relationship between government and citizens.

The handbook outlines that many developing countries like Bolivia, Bulgaria, and from West Africa to South Asia are increasing the authority of local government owing to USAID activities. In the name of making the host country effective and responsive, the USAID Missions and the donors are making the country dependent on them, and hamper the country's prosperity

But the preparation of the handbook raises the questions in our mind regarding the actual motive behind this helping hand and why the International Monetary and the Aid Agencies are taking undue interest in promoting decentralisation and democratic local governance, when all their previous activities showed that they want to have an authoritarian regime in the developing countries?

# **Guidance for Promoting Judicial Independence and Impartiality**

Centre for Democracy and  
Governance, Washington

Technical Publication Series

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## **Bird's Eye View**

This document primarily addresses the domain of judicial independence and impartiality and how to promote the twin yet interlinked issues worldwide. For this study, IFES (International Foundation for Election Systems), which has worked in the areas of election, rule of law, governance and civil society across 100 countries, was the principal contractor.

A detailed questionnaire focusing on the "programmatic approaches of USAID used in the past was developed and sent to 26 in-country experts. In most of these countries, the USAID had implemented rule of law programmes. The respondents were asked to identify the right approach in consonance with the country-specific historical and cultural scenario that had affected judicial independence. These conclusions were drawn from the papers presented by the in-country experts and were vetted in a series of roundtables. The first roundtable took place in Guatemala City with judicial reform experts and USAID officers from Central America and the Dominican Republic. This was followed by three roundtables in Washington DC, involving USAID, State Department and Department of Justice Staff; US federal and state judges; contractors; NGO representatives; experts who had responded to the questionnaire; and other experts/practitioners. The conclusions that emerged form the edifice of this guide.

For convenience, the guide has been divided into three main parts. The first section gives a synoptic view of "key processes and institutional arrangements that affect judicial independence, in both positive and negative ways". This section summarizes the findings and conclusions regarding reform efforts around the world derived from the regional and country papers and the expert vetting process in the roundtables. Section II includes six regional and country studies recognising the country-specific legal systems (i.e., common law, civil law, sharia'a, communist and customary law) due to variations in culture, economy, polity and society. This section outlines these variations by taking up case studies on Latin America, Central and Eastern Europe and Eurasia and Anglophone Africa or Common Law Africa, France and Italy representing European traditions, and United States. Section III deals with major themes relevant to judicial independence. These include the themes of judicial independence and judicial accountability; the role of court administration in strengthening judicial independence and impartiality; the context for judicial independence programmes for improving diagnostics, developing enabling environments and building economic constituencies.

We would briefly delineate the contours of each section and their broad parameters. Section I has been sub-divided into six different categories of approaches for strengthening judicial independence. Sub-section A (Building Support for Reforms) emphasizes the rationale and need to build support for reforms "directed at increasing judicial independence". It categorically states that "all donor-supported programmes need to have local ownership and contribute to the will and capacity of local organisations to sustain reforms" in all sectors including judicial independence. It also discusses "strategies for countering opposition to reforms".

Sub-section B (Confronting Interference through the Institutional Structure) outlines the key points in the judicial organisation that can render it vulnerable to interference and dwells upon strategies to minimise such vulnerability. Sub-section C (Developing Judicial Capacity and Attitudes) dwells on the role of an individual judge in promoting judicial independence

and points out that judges can uphold the tenets of judicial independence and apply the law impartially only if they have a comprehensive understanding of the law and share an expectation with the legal fraternity that they will act and deliver the judgement independently. The in-country experts in this part emphasise the need for substantive training of judges who are not well versed in law, as these judges are more susceptible to outside pressures.

Though transparency is the leitmotif of the entire guide, sub-section D specifically underlines the critical nature of this issue and makes pertinent suggestions for increasing transparency, particularly in court operations. Sub-section E (promoting Societal Respect for the Role of an Impartial Judiciary) focuses on the vital role played by the society's expectations of its judiciary in fostering judicial independence and the measures needed for increasing the respect for judiciary and generating high expectations. It also outlines in detail the impact of two particular issues - constitutional review and compliance by government agencies with court decisions. Besides, it discusses why independence and effectiveness are interlinked issues.

Sub-section F elaborates on the tension between independence and accountability though the theme is elaborated in Section II and III in greater detail. Sub-section G (Where to start) defines a few general principles and demarcates several areas that need to be addressed by those undertaking judicial reforms. It points out that "strategy formulation should begin with an analysis of the local conditions" based on a "participatory analysis involving a broad range of stakeholders" in order to establish long-term goals, framing of realistic programme objectives with accountability of implementation. This sub-section also focuses on the role of donors and what activities they should pursue in different contexts and countries.

As mentioned earlier, Section II presents detailed regional and country case studies focusing on judicial independence in Common Law Africa/Anglophone Africa, France, Italy and the United States. This section also highlights the lessons learnt from reform efforts in Eastern Europe and Eurasia, and efforts to enhance judicial independence in Latin America. The section analyses in great detail the specificities in the judicial system in the above-mentioned countries and addresses a host of issues pertaining to judicial independence, viz., the structure of the judicial system; lay participation; resource scarcity and courts in some of these countries; identification of avenues for partisan political influence; selection and appointment procedures for the judges; career path for judges; assignment of cases; financing; disciplinary action for judicial misbehaviour; the problem of judicial corruption and efforts to minimise it; training of judges; extent of judicial review; procedural transparency and public access to the judicial process; the role of civil society as a watchdog; etc. Finally, it makes general recommendations based on a comparative assessment of reforms in the domain of judicial independence. Some of the recommendations deal with training of judges and advocates exposure trips and study tours; need for a bottom up approach regarding reforms; importance of small-scale institutional reforms; the role of an informed and educated media; reforms in the legal education system and the urgent need to combat corruption in the judiciary.

Section III is organised around major themes for broader discussion and implementation. Based on a comparative analysis of the existing judicial systems in the above-mentioned countries, the major thrust of this section



is on the issue of judicial accountability as a consequence of spread of "more democratic political and social cultures. It emphasises that contrary to impressions of some judges, in the present environment judicial independence and judicial accountability are not isolated but interrelated issues. In fact, "more independence seems to require more accountability and accountability in some instances can be seen as enhancing independence". The document goes on to state that though there are enormous variations as far as national systems are concerned, the tendency, however, is to "push judges and judiciaries towards the same forms and accountability" that affect other public officials both in the less juridical aspects of judicial performance as well as those areas which are more central to the judicial role like how decisions are reached, courtroom performance, workload standards, the delicate relationship between the bar and the bench, etc.

The last section of the document is divided into appendix A and B. Appendix A relates to judicial independence standards and principles and lists the international documents, guidelines, and agreements - governmental and non-governmental - hammered out in international conventions. It also includes the draft of the basic principles on the independence of the judiciary adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985 and the Universal Charter of the Judge. Appendix B is a compilation of Web resources dealing with the judicial systems worldwide.

The question arises: why this sudden spurt of interest in democratic governance including judicial systems on the part of international agencies including USAID? Undoubtedly, the creation and reconstitution of international state apparatuses (ISA) take on a new significance in the national context to serve various imperialist functions. In fact, they help to assuage inter-imperialist rivalries and promote the internationalisation of capital according to the relative strengths of different blocks of capital. It is in this light that the move towards standardisation of guidelines for democratic governance in general and judicial independence in particular has to be seen, notwithstanding the admission in the document that there are countless variations across territories which have been examined and conclusions propounded on the basis of them. Like democratic governance, judicial independence has become the battle cry for these international agencies, the hidden agenda being relocation of powers from sovereign states to international institutions thereby severely emasculating the capacity of third world states to pursue independent and self-reliant development.

The document deliberately does not mention the fact that historically judiciary has been an arch-conservative institution. It does not take into account the growing popular impression that if any changes in the present set-up have to be brought about, then one has to be prepared for encountering the resistance of the highest judiciary in the land. If the judiciary is found today to be unaware of the compulsions of social change, the phenomenon could be traced to an outworn western concept about its role, although in Britain, its role as the citadel of conservation has long been recognised. For instance, in the case of India, the highest judiciary of the land struck down such progressive measures as nationalisation of banks and abolition of privy purses of the princely states.

The document claims that "participation of the public, through lawyers and law professors, can help reduce executive partisan or Supreme Court

control. Inclusion of lower level judges can reduce excessive influence by the judicial leadership". But the ground reality belies such expectations. First, given the time consuming litigation process, where lawyers fleece their clients for years together, participation of the public through lawyers and law professors to reduce partisanship in the delivery of judgements sounds preposterous. Secondly, when the lower level executives, and judiciary is no exception, are the most corrupt, how can lower level judiciary minimise corruption and excessive interference by the judicial leadership. The document talks about outside forces influencing the judiciary without bothering to specify what constitutes the so-called outside forces. It treats them as homogenous entity. It goes on to state that "a bar that rigorously polices itself to prevent unethical or illegal practices among its members can make a strong contribution to a good legal system". There is no instance of the bar policing itself in any country in the world. In some cases only when the media has reported such demeanours on the part of legal fraternity that the bar has woken up.

Though the guide is based on a comparative regional and country-specific studies, there is a distinct bias towards "our own arrangement" (real US and European nations). And "our own arrangement" does not represent the uniform judicial system even in US. There are state courts and federal courts, which follow different judicial principles. While capital punishment has been abolished in a few states of US, the others including the federal courts endorse capital punishment. Some of the state courts have even upheld anti-abortion laws while others have upheld the rights of the gay community. Digressing a little, the US Supreme Court's decision upholding George Bush's election is an eye opener. The federal court was responsible for blatant miscarriage of justice. And you have a situation, where the US President, for the first time remains unelected, courtesy the US Supreme Court, and goes on to declare war against Afghanistan and Iraq, sidestepping international conventions and popular outcry.

The whole document is replete with references to the concept of transparency, as a part of popular participation. The real question is "how far is transparent enough". In other words, are people satisfied that the process of judicial decision making has been just and is it in conformity with the popular ideas on re-distributive justice? The laws and the legal questions, in fact, may not be transparent to other technical experts, even in the same field. Critics claim that they remain firmly opaque to ordinary citizens.



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- Decentralisation and Democratic Local Governance Programming Handbook
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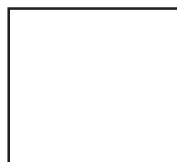
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