

Dear Kaushik and WDR team:

Thank you for the opportunity to comment on the WDR on Governance and Law. The overall theme of the report has the potential to have a powerful influence on how the WBG and other development partners approach governance issues as we try to attain the twin goals. With the governance practice as a central part of EFI, we are naturally interested in ensuring that emerging messages represent a full set of perspectives and evidence, and can lead to appropriate operational responses. Correspondingly, the comments from within the VPU have been voluminous and often critical about many dimensions of the report and these concerns merit a fair hearing by the team. Hence, by way of overarching comments, we express concerns and offer argument for how we might re-visit the framework of the report. But in view of the importance of addressing some of the details, we also attach comprehensive comments from GPs within the VPU, as well as a range of specific feedback received from staff in the Governance GP.

Overall Assessment

Overall, EFI has strong reservations about the document at this time across several dimensions. We offer 3 here although again the team is referred to the appended documents for more expansive discussion.

1. **Excessively narrow optic on unequal power.** As discussed in various meetings, that unequal power affects governance is not a new insight, but elevating it to the unique driver of the analysis does not do justice to the extensive existing literature and restricts the richness of the debate. The literature review and references are selective with opposing viewpoints at best summarily addressed. In particular, the new proposed definition of governance includes the word “power” and the definition of power suggests that power is used only for purposes that advance individual’s interests. Given that, if adopted, this will become the new formal definition of Governance for the WBG, we would like to see this discussed as part of the agenda of the meeting. The three organizing themes, analysis of power, form follows function, role of law are not necessary new, and their integration into a cogent organizing framework is not fully clear in the draft.
2. **Weak empirical evidence supporting this perspective and subthemes:** The topic is hard to approach empirically and this leads to reliance on evidence that is often anecdotal, of ambiguous causality, or of questionable external validity. This at very least should dictate a more balanced presentation of various optics through which to view G&L. At times, the analysis seems almost captured by an enthusiasm that undermines the reports objectivity. To say, for example, that “**Law is not, however, simply a tool of the powerful**” is somewhat comforting, but not a fair distillation of this literature or well defended. The discussions of growth, and poverty, among other topics are often on similarly weak empirical ground.
3. **Clarity of messages and policy implications:** The single optic of unequal power leaves the policy community with few levers of influence and implicitly undercuts many interventions that would be valid under alternative optics. In some cases, the discussion requires some more clarity as in the case of the relationship between power and aid in chapter 9. Overall, the report

significantly misses the opportunity to reach policy makers and development practitioners with a “road map” of the policies required to sustain and promote governance reforms.

II. Broadening the analytical approach

In our comments here, we do not attempt to be comprehensive- the attached more detailed comments, not necessarily of lesser importance, will do that. **Rather, our goal is to argue that expanding the range of perspectives could strengthen the report’s own framework, and expand the scope of policy debate.**

The subtitle of the overview chapter begins “From unequal power to equitable development” and then elides into an echo of Acemoglu and Robinson’s *Why National Fail* – “Why Policies Fail”. Both the subtitle (and those subsequent) and the reference the AR canon immediately establish the role of unequal power relationships as the central leitmotif of the report. This is a very important optic in the context of a broader report on G&L. Dating from at least Marx and Weber, the idea of there being underlying power relations that drive the “superstructure” of institutions and norms has been a compelling one. Those authors and the AR restatement are indeed important to understanding the policies we see and why it is so difficult to implement land reforms even when congresses pass them, why income distribution moves so little, why passing modest gun legislation in the US seems impossible etc.

However, there are other lenses, some treated in the report, that the empirical evidence presented cannot rule out, and supports including as co-pillars in the conceptual approach.

1. *Coordination and Commitment*: the issues of coordination and commitment discussed in chapter 1 provide reasons that we need governance at all and offer an important optic in themselves. In the overview there is only a quick reference to these as part of a cryptic “It also involves identifying the hidden institutional forces of commitment and collective action that underlie all these relationships. The definition of governance immediately, in box 1, begins with “a set of rules that shape and are shaped by power” where power is defined as “the ability of one actor to make others undertake an action that is in that actor’s interest and that the other’s would not otherwise take.” This, combined with the overview subtitle, establishes that the overriding thesis is that asymmetries in power are the primary barrier to progress in security, growth and equity. But Coordination and Commitment can stand on their own without mentioning power asymmetries –the prisoner’s dilemma, for instance, abstracts from them. Many issues in governance- ranging from the establishment of central banks, to reasonable traffic behavior and tax compliance- are more about coordination and a WDR on “Governance and Law” as resolving Coordination and Commitment issues, with no reference to unequal power, would seem entirely viable.
2. *Knowledge*: The Godfather of the World Bank, J.M. Keynes took a the opposite position to the WDR: “The ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. **Indeed the world is ruled by little else.... I am sure that the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas.**” (*The General Theory*, italics ours). Knowledge is power, but not defined as “the ability of one actor to make others undertake an action that is in that actor’s interest and that the other’s would not otherwise take” as the report does. Keynes

would argue that the report focus on interests is misplaced and implicitly cuts off one of our vital channels of influence as the Bank. The premise of the WDR and of Bank analytical work in general is precisely the non- coercive power of persuasion. This knowledge could extend from how to build a well-functioning bureaucracy and establish legitimacy of the state, themes that Weber pioneered, to establishing the ideals of social justice. In fact, our guess is that the Swiss female suffrage example in .5 makes far more sense as a contest of ideas than of power, in the same way it probably was in the US (para 2.13).

We cannot say whether Marx's or Nash's or Keynes' or any other observer's optic should get the greatest weight in approaching the broad topic of governance and law, nor can this report- the evidence is just too thin and anecdotal. **A more ecumenical approach would allow for much richer policy discussions, yes, dealing with power asymmetries, but also a wide range of more prosaic issues, many of which we already work on as the Bank.**

Further, broadening the set of underlying drivers of the report would inform and better ground the three basic principles of the report which are, at present, uncomfortably nested under the organizing framework of asymmetric power and not entirely coherent.

- a. *Think of functions not form.* This is a very useful takeaway, for a variety of reasons. Often a policy problem is "addressed" by creating an agency- policy by organogram- that is born inert. A land distribution agency can be instantly neutered by the virulent subterranean opposition of the landowning elite. But again, the unequal power optic is limiting and the other two may be as or more important. Design of the Mongolian wealth fund requires insulating it from political pressures, as noted, but arguably, this is a coordination/commitment issue like a central bank or traffic lights, and not particularly related to unequal power. (In Chile, the pressures on the Socialist Bachelet government to spend their wealth fund were very broad based and only during the most recent crisis was the policy seen as far sighted.) In general, the design of agencies in terms of mission definition and incentive structures as well as the ability to staff them with the correct human capital remain more than second order knowledge issues that the Bank can help with.
- b. *Role of law.* The above quote about law not being simply a tool of the powerful probably understates. Again, can we not see the law as a coordination mechanism among even equal citizens without any discussion of power asymmetries? In fact the discussion in 1.18 "How can those in power bind themselves in such a way that their promises become credible even when it is in their short-term interest to break them?" is about coordination and commitment, not unequal power. Our guess is that Gordon' Brown's excellent quote about the first 500 years being critical for establishing the rule of law refers to the long process of evolving coordinating law and norms, as much as contestation. ("For my friends, anything, to my enemies, the law" is indeed a common quote in Latin America, but again, it is less a statement about asymmetric power than the inability of especially but not exclusively the elites to coordinate on the idea that the welfare pie will grow bigger if all agents can play by and thereby count on stable and transparent rules of the game through the universal applicability of a perceived neutral law.)
- c. *State capacity is determined by power.* Chapter 7 reiterates even more starkly "**Capacity over time is a function of power: the ruling coalition invests in the capacity of governing structures when it is in its interest to do so—and neglects those investments when it is not.**" Conceptually the mechanisms here remain undeveloped in the report and empirically the dominance of the unequal power dynamic is only slightly beyond conjecture. Just as example,

while the Argentine manipulation of inflation data is a fair case, the report would also need to explain why Brazil and Mexico have extremely competent statistical agencies despite their own often difficult politics. Is it really a question of interests undermining data collection, or is it, again a question of elite coordination and capabilities? As an example from a different angle making the same point, that the FARC guerrilla got within a 20 minute drive of Colombia's financial sector in 1994 seems more of a coordination failure on the part of the elites than a decision that a competent army was not in their interest. Similarly, would we argue that Brazil is not prepared for the Olympics because powerful people never really wanted them to happen? Historically, there is a strong human capital (ideas as power) dynamic underlying capacity from the Meiji period to the Latin reform movement across the 20th century, with those having studied abroad having immense influence on the structure and efficacy of emerging institutions. Often the elite may not know what they don't know and hence benefit from knowledge transfer. The Bank at its best serves this same purpose.

Again, I summary,, we would urge that the conceptual framework of the WDR be significantly recast and broadened, and see this as necessity for both its intellectual rigor and completeness, and its operational viability. We look forward to Monday's important discussion. (Detailed comments are attached)

Best, Jan

Jan Walliser
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