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GOVERNANCE PRINCIPLES FOR PROTECTED AREAS IN THE 21ST CENTURY

A DISCUSSION PAPER

PHASE 2

BY

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April 28, 2003

The Institute On Governance (IOG) is a non-profit organization founded in 1990 to promote effective governance. From our perspective, governance comprises the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.

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In pursuing these themes, we work in Canada and internationally. We provide advice to public organizations on governance matters. We bring people together in a variety of settings, events and professional development activities to promote learning and dialogue on governance issues. We undertake policy-relevant research, and publish results in the form of policy briefs and research papers.

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EXECUTIVE SUMMARY

Parks Canada is leading the planning and implementation of a governance stream at the fifth World Parks Congress, to be held in South Africa in September 2003. This paper's objective is to provide a thought-provoking look at the principles of sound governance for Protected Areas (PAs) to aid Parks Canada in the pursuit of its objectives at the Congress.

Governance and Sound Governance

We define governance as *the interactions among structures, processes and traditions that determine how power is exercised, how decisions are taken, and how citizens or other stakeholders have their say.* Fundamentally, it is about power, relationships and accountability: who has influence, who decides, and how decision-makers are held accountable. While sound governance can be seen as an end unto itself, it is also a process that can be undertaken by any number of actors, and is distinct from the institutions of government.

Defining the principles of sound governance is difficult and often controversial. However, there is likely a list around which there might be considerable agreement, even beyond western, liberal democracies. Such agreement rests in part on the considerable work done by the United Nations in fashioning a body of international law around human rights.

In advancing such a list, we note that:
- No principles are absolute. Most conflict with others at some point and this calls for balance and judgment in their application
- Social context (history, culture and technology) will be an important factor in how this balance is determined and how these principles play out in practice
- Complexities abound in the application of principles: "the devil is indeed in the detail"
- Governance principles are both about ends and means - about the results of power as well as how it exercised

With these points in mind, this paper suggests five key principles of sound governance for Protected Areas, based on a United Nations Development Program's list of the characteristics of good governance:

The Five Principles	The UNDP Principles on which they are based
1. Legitimacy and Voice	- Participation - Consensus orientation
2. Direction	Strategic vision, including human development, and historical, cultural and social complexities
3. Performance	- Responsiveness of institutions and processes to stakeholders - Effectiveness and efficiency
4. Accountability	- Accountability to the public and to institutional stakeholders - Transparency
5. Fairness	- Equity - Rule of Law

In applying these principles to protected areas, we undertook three steps.

1. Understanding the Means and Ends of PA governance

IUCN-The World Conservation Union has developed six categories of Protected Areas, based on different combinations of objectives. For the purposes of this paper, the variety of objectives can be summarised under four headings: nature conservation, science, visitor opportunities (recreational, educational, spiritual, etc.), and local and indigenous needs. In order to meet these objectives, those responsible for Protected Areas may exercise a number of different types of powers: regulatory and planning powers, spending powers, revenue-generating powers, and the power to enter into agreements. Regulatory powers deserve particular attention due to their potentially coercive nature and their capacity to become politically charged. Sound governance is about the responsible exercise of these powers (means) in order to meet objectives (ends).

2. Developing specific criteria for each principle

Based on this understanding of the means and ends of PA governance, we develop specific criteria for each of the five principles. In recent years, there has been experimentation with a diversity of new governance models and structures for protected areas, beyond the traditional direct management by a government agency. These include various forms of collaborative management, management by local communities or indigenous people, and delegated management by third parties such as NGO's and the private sector. It is not the purpose of this paper to recommend the best governance approach for a given situation, but to set out general principles of sound governance and related criteria which, to the extent possible, are relevant and applicable in a wide range of circumstances. These criteria now follow for each principle:

LEGITIMACY AND VOICE

- **Existence of a supportive democratic and human rights context** through
  - democratic institutions based on free elections, 'one person one vote', and a viable multi-party system
  - respect for basic human rights including freedom of speech, association, religion
  - lack of discrimination based on gender, race, colour, religion

- **Appropriate degree of decentralization in decision-making for PAs**; any devolution or divestment is through local bodies that
  - are accountable to local people
  - have the requisite powers and capacity to perform their functions
  - have some constraints, such as minimum environmental standards, to act in the broader national interest

- **Collaborative management in decision-making for PAs** involving representatives of all affected parties, particularly local and indigenous people

- **Citizen participation occurring at all levels of decision-making** related to PAs (legislation,

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system planning, PA establishment, management planning, operations) with special emphasis at the local level

- **Existence of civil society groups and an independent media** to act as a check and balance on the exercise of the powers granted to PA political leaders and managers

- **High levels of trust** among the various actors, governmental and non-governmental, national, state and local, involved in the management of PAs

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DIRECTION

- **Consistency with international direction relevant to PAs (as appropriate):**
  - international conventions – World Heritage Convention; Convention on Biological Diversity, Ramsar Convention on Wetlands of International Significance
  - intergovernmental programs – UNESCO Man and the Biosphere
  - other guidance documents – IUCN/WCPA best practice guidelines

- **Existence of legislative direction (formal or traditional law)** that:
  - sets out a clear purpose and objectives for the PAs
  - establishes clear authorities relating to means (governance instruments)
  - provides for viable organizations to administer the PAs
  - includes requirements for citizen participation in decision-making
  - is elaborated in written policy statements

- **For national PA systems, existence of system-wide plans** that
  - have quantified, science-based objectives, e.g. representation, biodiversity conservation, for the full range of PA management categories
  - provide priorities for the planning period
  - include provision for citizen participation, particularly local and indigenous people, in their implementation

- **Existence of management plans for individual PAs** that:
  - reflect citizen participation, particularly local and indigenous people
  - have formal approval of the appropriate authorities
  - set out clear objectives consistent with legislation
  - set out measurable results to be achieved within specific timeframes
  - are reviewed and updated on a regular cycle (e.g. every five years)
  - are implemented through annual work plans

- **Demonstration of effective leadership** – including political leaders and managers responsible for systems as well as individual PAs that:
  - provides a consistent and stable vision for the long term development of the PA system or individual PA
  - mobilizes support for this vision
  - garners the necessary resources to implement the various plans for the system or individual PA

PERFORMANCE

- **Cost Effectiveness** – Efficiency in achieving objectives: conservation, science, visitor opportunities, local and indigenous communities

- **Capacity** – Capacity to undertake required functions, particularly in regard to its mandate (i.e. conservation, science, visitor opportunities, local needs) and authorities (i.e. regulation and planning, spending, revenue-generation, agreements); its policy capacity and the adequacy and security of its funding

- **Co-ordination** – Ability and capacity to co-ordinate efforts with the principal affected 'players' both within and outside government

- **Policy Learning** – The ability to provide for policy learning on the basis of operational experience. There may be significant risks in de-coupling policy development from service delivery

- **Performance Information to the Public** – Provision of sufficient information to facilitate the assessments of performance by governments and the public

- **Responsiveness** – Responsiveness in dealing with complaints and public criticism

- **Internal Evaluations** – Capacity to undertake internal program evaluations and respond to findings

- **Risk Management** – Capacity to identify key risks and manage them

ACCOUNTABILITY

- **Clarity** – Clarity in the assignment of responsibilities and the authority to act is critical in being able to answer the question "who is accountable to whom for what?"

- **Role of Political leaders** – Appropriateness of responsibilities assigned to political leaders as opposed to non-elected officials or arms length bodies

- **Public Institutions of Accountability** – Effective public institutions of accountability, including access to information, capacity to analyze and report, ability to get action, comprehensiveness of mandates

- **Civil Society and the Media** – Effectiveness of civil society and the media in mobilizing demand for accountability

- **Transparency** – The capacity of citizens, civil society and the media to access information relevant to the performance of PA management and to its use of regulatory, spending and other powers

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FAIRNESS

- **Existence of a supportive judicial context** characterized by respect for the rule of law including
  - an independent judiciary
  - equality before the law
  - the requirement for government and its officials to base their actions on a well-defined legal authorities
  - citizens having the right to seek legal remedies against the government and against their fellow citizens

- **Fair and impartial enforcement of any PA rules restricting the use of PAs** including
  - the transparency of the rules themselves (their existence is known and accessible)
  - the absence of corruption among public officials
  - the right of appeal for those charged with transgressions

- **Fairness in the process for establishing new PAs** including
  - respect for the traditional uses made of the area by local and indigenous peoples
  - their participation in the process of establishing the PA
  - the appropriate balancing between local uses, conservation objectives and use by visitors

- **Fairness in the management of PAs** including the existence of
  - practices that achieve a favourable balance of costs and benefits to local and indigenous peoples (e.g. traditional uses, revenue-sharing, preferential employment and contracting procedures)
  - mechanisms for sharing or devolving the management decision-making of the PA with local and indigenous people
  - equitable human resource management practices for the staff of the PA
  - processes for recognizing and dealing with past injustices resulting from the establishment of PAs

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3. Applying the Principles and Criteria

Using these five principles and related criteria, we undertook a third and final step of analyzing specific governance challenges in a PA context. For illustrative purposes we discuss three examples: 1) comparing governance options to deal with a particular challenge or problem; 2) using a principle-based approach to develop and interpret governance rules; and 3) using the principles and criteria as an analytical tool to pinpoint gaps or weak points in a governance regime for the purposes of building governance capacity.

Conclusions

"Governance" opens new intellectual space. It provides a concept that allows us to discuss the role of government in coping with public issues and the contribution that other players may make. It opens one's mind to the possibility that groups in society other than government (e.g.

'communities' or the 'voluntary sector') may have to play a stronger role in addressing problems. In short, it is an ideal topic for a World Congress, the theme of which is "Benefits Beyond Borders".

The central conclusion of this paper is that a universal set of principles for defining sound governance can be fashioned and that these principles can be usefully applied to help deal with current governance challenges in a PA context. The five principles themselves appear to be relevant to the full range of models of PA governance, and our intent has been to describe the related criteria in words that resonate beyond the traditional government agency model.   We encourage participants in the Congress to work with these principles and criteria in light of their experiences and help refine them into a useful tool for meeting the future governance challenges of protected areas.

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INTRODUCTION

Governance has become a 'hot' topic as evidence mounts on the critical role it plays in determining societal well-being. The Secretary General of the United Nations, Kofi Annan, reflects a growing consensus when he states that "Good governance is perhaps the single most important factor in eradicating poverty and promoting development"[1]. That a principal element of the Fifth World Parks Congress, to be held in South Africa in September 2003, will be a governance workshop stream is therefore both fitting and timely.

Parks Canada has offered to lead the planning and implementation of this stream, which will pursue two related objectives:
1) assess the effectiveness of traditional and non-traditional approaches to governance of individual protected areas and systems; and
2) provide guidance for decision-makers of the future.

These are ambitious objectives and suggest the need for a thought provoking paper on the principles of sound governance. Such a paper might suggest topics that might not otherwise be canvassed at the Congress, assist participants in raising questions and issues based on 'first principles', and help the Congress adopt a set of governance principles as one of the enduring results of the event.

But principles, to be meaningful, should have practical application. Thus, the objective of this paper is not only to propose governance principles but also to demonstrate how they might be used to assess the quality of existing governance regimes and options.

The organization of the paper is straight forward and consists of two sections. In the opening section, the paper explores the definition of governance, how governance differs from government, and why this distinction is important. It considers the concept of "sound governance" and concludes by proposing a set of principles for the sound governance of Protected Areas.

In the second section, the paper takes on the challenge of applying these proposed principles to Protected Areas. In particular, it explores the feasibility of developing a set of analytical criteria derived from the principles. Finally, it focuses on how these analytical criteria might be put to practical use, especially in regards to the difficult challenge of building capacity for sound governance.

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[1] Kofi Anna, www.unu.edu/p&g/wgs/. In a similar vein, the "New Partnership for Africa's Development" (NEPAD), a recent pledge by African leaders in October 2001 to eradicate poverty and achieve sustainable growth, states that "It is generally acknowledged that development is impossible in the absence of true democracy, respect for human rights, peace and good governance". (Clause 79)

I. GOVERNANCE AND SOUND GOVERNANCE

A.   What Is Governance?

Governance is a term which, from about 1990 on, has progressed from obscurity to widespread usage. Not surprisingly, there are differences of view as to what governance means.

A not-uncommon tendency is to use governance as a synonym for "government".   This confusion of terms can have unfortunate consequences. A public policy issue where the heart of the matter is a problem of "governance" becomes defined implicitly as a problem of "government", with the corollary that the onus for "fixing" it necessarily rested with government.

The need for governance as a concept distinct from government began to manifest itself when government became an organization apart from citizens rather than a process. In ancient Athens, reputedly the cradle of democracy, we are told citizens met in the marketplace to deal with issues of public concern. Government in such a setting was simply a process for dealing with issues. Today, however, government is seldom defined as a process; it is instead seen as an institution (or a set of institutions), one of several societal 'players' or actors.[2]

Government became viewed as a discrete entity not only when it assumed an institutional form, but also when representation became necessary. Without representation, government is 'us'. Indeed, in some indigenous languages, the concept of government means 'our way of life' or 'our life'[3]. Representation is inevitable in large societies, but it is inevitably imperfect. Agents do not speak with the same authority as principals. So when the activities of governments are directed by representatives rather than citizens themselves acting in concert, they become something apart. Governance is about how governments and other social organizations interact, how they relate to citizens, and how decisions get taken in an increasingly complex world.

Governance defined

Definitions of governance abound.[4]   Most writers about governance agree that it has to do with taking decisions about direction. One definition we have found useful (partly because of its merciful brevity) is, *governance is the art of steering societies and organizations*. Some observers, however, have wondered whether this formulation has connotations of top-down direction or control that are too strong. Whether or not *steering* is the appropriate word, it seems

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[2] For example, the Concise Oxford Dictionary defines government as the "form of organization of State" or a "body of successive bodies of persons governing a State; … an administration or Ministry." It also defines government as the "act, manner, or fact, of governing" and it employs an almost identical definition for governance - "act, manner, fact, or function, of governing; sway, control". No wonder the terms are confused!

[3] Royal Commission on Aboriginal Peoples, *Restructuring the Relationship, Part One (*Canadian Communications Group, Ottawa, 1996, p.115).

[4] For a collection of some definitions, see Demers, Maurice, "La gouvernance de la governance: Faut-il freiner l'engouement?", in Governance: Concepts and Applications, Corkery, Joan (ed.), with IIAS Working Group, International Institute for Administrative Studies, (Brussels, 1999), pp. 368-371.

clear to us that *governance involves the interactions among structures, processes and traditions that determine how power is exercised, how decisions are taken, and how citizens or other stakeholders have their say*. Fundamentally, it is about power, relationships and accountability: who has influence, who decides, and how decision-makers are held accountable. The concept may usefully be applied in different contexts – global, national, and local; societal and institutional – as we shall see below.
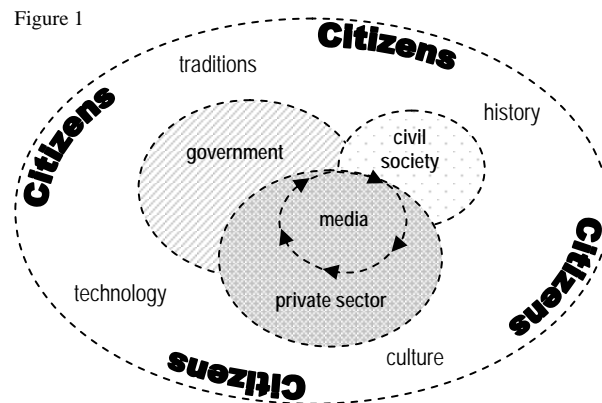
Figure 1

Understanding governance at the societal level is made easier if one considers the different kinds of entities that occupy the social and economic landscape. Figure 1 illustrates four sectors of society, situated among citizens at large: business, the institutions of civil society (including the voluntary or not-for-profit sector), government and the media.[5] Their size as drawn here may provide a crude indication of their relative power in many western countries. They overlap because the borders of these organizations are permeable.[6] (A similar illustration for other countries could show a very different distribution of power. For example, the military or a political party, not illustrated here, might occupy the largest part of the terrain. Government's role might be quite insignificant. In some settings, multinational corporations might play a dominant role.)

Helping to link the sectors, because it carries information from each to the other, and to and from citizens, are the media. Because the media can play a significant role in accountability and in shaping perceptions of public policy, they clearly belong in any discussion of governance.

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[5] There are some complexities in defining these sectors, but they need not concern us here. For example, does government include state-owned corporations? What about partially owned corporations? Are teachers or schools part of government? With respect to civil society organizations: do they include organizations such as lobby groups whose goals are clearly commercial? Is an organization such as a a professional association for commercial entities a business entity or a not-for-profit? Where do labour unions fit? Is the internet part of the media? And what is the appropriate definition of civil society itself? There are different points of view.

[6] For instance, government includes a component designated as "quasi-government". This represents the host of semi-governmental organizations that can be found in most jurisdictions: state-owned corporations, supervisory and regulatory boards, special task forces and commissions, arm's length agencies of various kinds, etc. In some countries, this component of government is larger than the main body of departments and ministries. This component shades into the private sector, since it typically involves various forms of joint ventures and partnerships with that sector.

In most countries, the dynamics at work in this figure are considerable. Power is shifting across borders. The size of the private sector seems to be expanding in many jurisdictions. Some functions previously carried out by the state are being transferred to business; for example, in Canada, business-like entities are now running many airports and NavCan, a not-for-profit organization, operates the air navigation system. In at least one country, even customs operations, an important source of government revenues, have been turned over to the private sector. There are many similar examples.

Shifts are also under way in the sphere of civil society although the pattern is less clear. In some jurisdictions, business is becoming more involved in the operation of some social services, for example, the administration of home care programs. Some governments have also spoken of the need to transfer functions to the voluntary sector, expecting it to 'take up the slack' as government withdraws from funding (as in the case of home care as an alternative to hospitalization).

The idea of governance makes it easier to have discussions about how communities or other social actors can take action in collaboration with, or perhaps independently of, established government structures to address issues of concern to citizens – community governance. Governance also comes into play in circumstances of 'government failure' or incapacity – that is, when governments lack the jurisdiction, capability, or interest to deal with a problem of public concern.

When government does not or cannot act, other actors may do so. Citizens may get together to clean up a neighbourhood. Another example more germane to the Protected Areas is the movement in some countries to establish community conservation areas, which are ecosystems voluntarily conserved by indigenous and local communities through customary law or other effective means. "Public interest partnerships" are yet another example whereby citizens, government officials and business together – at the initiation of any of these players – to address some question of general concern.

Governments themselves are experimenting today with many partnership arrangements within which politicians or public servants share power with other sectors of society. (The theme of the upcoming World Parks Congress, "Benefits Beyond Borders", reflects this trend.) These arrangements evolve for various reasons: perhaps because it is recognized that each group has a special contribution to make on a complex question, and perhaps for more prosaic reasons, such as government's desire to get access to business capital. The prevalence of such new institutional relationships is starting to raise questions about who should properly be involved in what. For example, some voices are beginning to ask to what extent government should form alliances with business in areas of general public interest such as education or health, and about the intrusion of private sector values into these spheres: a classic example of a governance question.

Where governance occurs: the 'zones' of governance

In principle the concept of governance may be applied to any form of collective action. Governance is about the more strategic aspects of steering: the larger decisions about both

direction and roles. That is, governance is not only about *where to go,* but also about *who should be involved in deciding*, and in what capacity. There are three areas or zones where the concept is particularly relevant.

- Governance in 'global space', or global governance, deals with issues outside the purview of individual governments[7].

- Governance in 'national space': i.e. within a country. This is sometimes understood as the exclusive preserve of govern*ment*, of which there may be several levels: national, provincial or state, indigenous, urban or local. However, govern*ance* is concerned with how other actors, such as civil society organizations, may play a role in taking decisions on matters of public concern and how different levels of government interact.

- Organizational governance (governance in 'organization' space): this comprises the activities of organizations that are usually accountable to a board of directors. Some will be privately owned and operated, e.g. business corporations. Others may be publicly owned, e.g. hospitals, schools, government corporations, etc. Still others may be community-based.

The importance of governance: context and outcomes

Governance is concerned with how power is exercised among the different sectors or interests in society such that traditional freedoms may be enjoyed, commerce may occur, the arts and culture may flourish. That is, governance is important in itself. It provides the context for things which, as history demonstrates, people value enormously: personal liberty and freedom of assembly, whether for social, commercial, religious or other purposes, within some kind of overall social framework such as the rule of law and a constitution. Context matters. Thus "sound governance", which we discuss in more detail below, is to some degree an end in itself.

However, governance is also about pathways to desired conditions or outcomes. "Sound governance" might be defined as a mode or model of governance that leads to social and economic results sought by citizens.

There seems to be a growing awareness that institutional structures and relationships, not only within government but between governments and other sectors of society, may have a determining impact on outcomes. Furthermore, it is becoming more widely appreciated that, while government has an important influence on many matters of public concern, it is only one among many.   As issues become more complex, and the limitations of government more apparent, it is becoming clearer that government programs are far from the sole determinants of social or economic conditions. At the same time, many people are beginning to believe that important issues of public concern, such as environmental issues or the development of information and communications technology, are too complex to be addressed by government

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[7] Global governance is becoming an increasingly important issue with respect to Protected Areas in part because of the growing number of international agreements and conventions e.g. World Heritage Convention; Convention on Biological Diversity; Ramsar Convention on Wetlands of International Significance; UNESCO's Man in the Biosphere Program.

acting alone. Distrust of government fuels this point of view. In Thailand, for example, important constitutional changes enacted in the 1990s were inspired by the belief that government needed to become more inclusive, and more effective at working in collaboration with citizens and other sectors of society.

In the world of international aid, there has been growing awareness of the significance of institutional factors in influencing the course of sustainable development. For example, a landmark study by the World Bank in 1998 noted that over the course of recent decades there had been a depressingly negative correlation between aid and growth.[8] Some countries received substantial foreign aid and yet their incomes fell, while others received little assistance and their incomes rose. The Bank study raised the possibility that factors other than money might play an important, if not a determining role, in the development process. Based on a growing body of research and evaluation, the World Bank and others now judge that "poor countries have been held back not by a financing gap, but by an 'institutions' and 'policy' gap."[9]

Another interesting sphere in which to consider the relationship between institutional factors and development is provided by indigenous communities in North America. Research in this area was sparse until recently, when two American scholars, Stephen Cornell and Joseph Kalt, conducted on an empirical study of American Indian Reservations. Their conclusions[10] were in some regards similar to those of the World Bank. According to these authors, three factors determine why some tribes develop while others do not:

- having the power to make decisions about their own future,
- exercising that power through effective institutions, and
- choosing the appropriate economic policies and projects.

B.   What are the Principles of Sound Governance?

If questions of "what is governance and why does it matter?" are challenging, then the follow-on of "what constitutes sound governance?" is even more so. A good starting point is the United Nations Development Program (UNDP), which has published a list[11] of characteristics of sound governance (see Box 1). To make the list more manageable, we have grouped these principles under five broad themes.

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[8] *Assessing Aid: What Works, What Doesn't, and Why, (*Oxford University Press: New York, 1998, 35).

[9] *Ibid*, p. 33. See also Kaufmann, Kraay and Zoido-Lobaton, *Governance Matters* (www.worldbank.org; 1999)

[10] Cornell, Stephen and Joseph P. Kalt, *Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations,* Harvard Project on American Indian Development, (John F. Kennedy School of Government, Harvard University, March 1992).

[11] United Nations Development Program, *Governance and Sustainable Human Development*, 1997

Box 1: **Five Principles of Sound Governance**	
The Five Principles	**The UNDP Principles on which they are based**
1. Legitimacy and Voice	**Participation** – all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their intention. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively. **Consensus orientation** – good governance mediates differing interests to reach a broad consensus on what is in the best interest of the group and, where possible, on policies and procedures
2. Direction	**Strategic vision** – leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.
3. Performance	**Responsiveness** - institutions and processes try to serve all stakeholders. **Effectiveness and efficiency** – processes and institutions produce results that meet needs while making the best use of resources
4. Accountability	**Accountability** – decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external. **Transparency** – transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.
5. Fairness	**Equity** – all men and women have opportunities to improve or maintain their well being. **Rule of Law** – legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

This proposed list of sound governance principles warrants elaboration. First, these principles represent an ideal that no society has fully attained or realized. As the UNDP notes, democracy and human development are a "journey" not a "destination", "…a promise rather than a list"[12]. Furthermore, there is controversy about how best to stage this journey, that is, whether different approaches to governance are suited to different stages of development. What is desirable under some historical circumstances may be different from other such circumstances. For example, some repressive societies with excessive government control have experienced levels of economic development far surpassing that of many of more richly endowed developed countries. Supporters attribute economic success and social stability to their governance policies[13].

An even more fundamental point is whether it is appropriate to even propose a universal set of sound governance principles. Some argue that the emphasis given to different aspects of governance will vary in different settings because societies value outcomes differently. For example, in more utilitarian Western cultures, great store may be placed on efficiency. Elsewhere, a desire for harmony and consensus may override this value. Similarly, some cultures will give primacy to individual rights whereas others will place more stress on communal obligations. Some will accord priority to the 'objective' application of the rule of law, while others may accord more weight to tradition and clan in decisions. Some societies may see economic growth as their primary goal while others may accord more importance to cultural richness and diversity.

Determining what constitutes "sound governance" thus leads to a debate on values and cultural norms, and on desired social and economic outcomes. This in turn leads into questions about the role of government, how governments should relate to citizens, relationships between legislative, executive and judicial branches of government, and the roles of different sectors.

In short, does cultural relativism trump any attempts at developing universal norms of sound governance?

Of the five proposed principles, "Direction" and "Performance" are surely the most anodyne. On the other hand, the most controversial in their claim for universal status are likely "Legitimacy and Voice" and 'Fairness". And yet both of these can rest their case on over a half century of UN accomplishments in the field of human rights, accomplishments that have the broad support of a large majority of UN members. Box 2, for example, links these two governance principles – legitimacy and voice and fairness – with key clauses in the United Nations Declaration of Human Rights adopted in 1948. Since that time the UN has adopted eight treaties and five protocols[14], which together make up the body of international human rights law and which support and elaborate on the original 1948 Declaration.

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[12] United Nations Development Program, "Human Development Report: 2002", P. 61

[13] For an interesting analysis of the relationship between governance and economic growth, see the UNDP's "Human Development Report 2002". One robust finding is that "…while the economic performance of dictatorships varies from terrible to excellent, democracies tend to cluster in the middle. The fastest-growing countries have typically been dictatorships, but no democracy has ever performed as badly as the worst dictatorships". P.56

[14] The eight treaties are: the Convention on the Prevention and Punishment of the Crime of Genocide (1951); the Convention on the Elimination of all Forms of Racial Discrimination (1969); the Covenant on Economic, Social and Cultural Rights (1976); Covenant on Civil and Political Rights (1976); Elimination of Discrimination against

BOX 2: HUMAN RIGHTS PRINCIPLES AND GOOD GOVERNANCE		
Sound Governance Principles	**UNDP Principles**	**United Nations Universal Declaration of Human Rights**
Legitimacy & Voice	**Participation**	▪ "Everyone has the right to freedom of opinion and expression…" (Article 19) ▪ "Everyone has the right to freedom of peaceful assembly and association" (Article 20) ▪ "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives" (Article 21) ▪ "Everyone has duties to the community…" (Article 29)
	Consensus Orientation	▪ "The will of the people shall be the basis of the authority of government: this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage…" (Article 21) ▪ "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society" (Article 29)
Fairness	**Equity**	▪ "All human beings are born free and equal in dignity and rights…" (Article 1) ▪ "Everyone is entitled to all the rights and freedoms set forth in the this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status""(Article 2) ▪ "Whereas the recognition of the inherent of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (Preamble)
	Rule of Law	▪ "Whereas it is essential …that human rights should be protected by the rule of law" (Preamble) ▪ "All are equal before the law" (Article 7) ▪ "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal…" (Article 10) ▪ "No one shall be subjected to arbitrary arrest, detention or exile" (Article 5) ▪ "No one shall be arbitrarily deprived of his property" "Article 17)

Yet another indicator that the international human rights movement is not some "western" ploy occurred at the World Conference on Human Rights in Vienna in 1993. There, 171 States, 800 NGOs, national institutions, academics – altogether 7000 participants – agreed to the Vienna Declaration, which reaffirmed "…the solemn commitment of all States to fulfill their obligations to promote universal respect for, and observance and protection of, all human rights and

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Women (1981); against torture (1987); the Rights of the Child (1990); Protection of the Rights of all Migrant Workers (adopted in 1990, not yet in force).

fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law."[15]   The United Nations Millennium Declaration took up this theme in stating that governments "…will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development."[16]

In summary, there are strong grounds to argue that five UNDP-based principles have a claim to universal recognition[17]. That said, support at a high level of abstraction is one thing; their application is another. In this regard the following are useful reminders:

- No principles are absolute. Most conflict with others at some point and this calls for balance and judgment in their application;
- Societal context (history, culture and technology) will be an important factor in how this balance is determined and how these principles play out in practice[18];
- Complexities abound in the application of these principles: "the devil is indeed in the detail;" and
- Governance principles are both about ends and means - about the results of power as well as how it is exercised.

How these various points play out in the application of these UNDP-based governance principles to Protected Areas is the theme of the next section of the paper.

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[15] See Newton Bowles, "The Diplomacy of Hope" (United Nations Association of Canada; Ottawa, 2001)

[16] The African signatories of NEPAD made much the same declaration: "…Africa undertakes to respect the global standards of democracy, the core components of which include political pluralism, allowing for the existence of several political parties and workers' unions, and fair open and democratic elections periodically organized to enable people to choose their leaders freely." (Section 79)

[17] For an Arab and Islamic perspective on the question of sound governance and human rights, see Muhammad AS Hikam, "Islam and Human Rights: Tensions and Possible Co-operation: The Case of Indonesia", The Asia Foundation, February 1997, and "Liberating Human Capabilities: Governance, Human Development and the Arab World", *United Nations Development Report*, Chapter 7, 2002

[18] For a thoughtful discussion of "… the troubled relationship that is developing between multiculturalism and the defence of women's rights", see Anne Phillips, "Multiculturalism, Universalism and the Claims of Democracy" , United Nations Research Institute for Social Development, December 2001.

II. APPLYING GOVERNANCE PRINCIPLES TO PROTECTED AREAS

The aim of this section is to develop criteria to elaborate each of the five, UNDP-based governance principles in the context of Protected Areas (PAs).

Our perspective will be primarily that of a PA Agency. However, in recent years, there has been experimentation with a diversity of new governance models and structures for protected areas, beyond the traditional direct management by a government agency. These include various forms of collaborative management, management by local communities or indigenous people, and delegated management by third parties such as NGO's and the private sector. It is not the purpose of this paper to recommend the best governance approach for a given situation, but to set out general principles of sound governance and related criteria which, to the extent possible, are relevant and applicable in a wide range of circumstances.

We proceed in three steps. First, since governance concerns both 'means' and 'ends', we identify and analyze these in the context of Protected Areas. This comes down to identifying the principal objectives of Protected Areas and the governance powers required to achieve them. Second, based on this analysis, we return to the five UNDP-based principles with the aim of demonstrating how they might form the basis of a set of analytical tools or 'criteria' to better understand current governance challenges and options to deal with them. Finally, we suggest several ways in which these principles and related criteria can be put to practical use.

A. The Means and Ends of PA Governance

IUCN-The World Conservation Union defines a Protected Area as follows:

> *An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.[19]*

Consistent with this definition, the IUCN has developed six management categories of Protected Areas based on a different combination of objectives. These six categories are briefly summarized in Appendix B.

There are various objectives for each of these categories, but for the purposes of this paper, they can be grouped under four headings:
- Nature conservation
- Science
- Visitor opportunities (recreational, educational, spiritual etc.) and
- Local and indigenous needs.

The emphasis and priority given to these objectives varies among the six IUCN categories. These objectives are not always mutually reinforcing. Indeed some can be in conflict with one

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[19] Davey, AG. *National System Planning for Protected Areas.* IUCN: 1998: Gland, Switzerland and Cambridge, UK. See also http://wcpa.iucn.org/pubs/pdfs/Nat_Sys_Planning.pdf .

another: for example, visitor enjoyment with conservation; visitor enjoyment with local needs; local needs with conservation. Balancing these sometimes competing objectives is an ongoing challenge of PA managers. One rationale for adopting legislation to establish a PA agency is to provide direction on how such a balance is to be defined.

The theme of the Fifth World Parks Congress - Benefits Beyond Borders - reflects the fact that these objectives are in a state of flux, that some rebalancing is required and that possibly new objectives need to be considered.

Objectives are critical but governance regimes cannot be evaluated solely on the basis of their performance in meeting them. Governance is also about the judicious use of power. What types of powers are utilized by those responsible for PAs? Again it is useful to distinguish four:
- *Regulatory and planning powers* around the use of land and resources and for health and safety reasons
- *Spending powers* related to such matters as resource management, interpretation programs, the development and maintenance of infrastructure (trails, roads, interpretative facilities etc.), public safety, law enforcement, public education programs and the carrying out of scientific research programs
- *Revenue-generating powers*, usually in the form of fees, licencing and permit systems but also, in some instances, in the form of property tax powers
- *The power to enter into agreements* to share or delegate some of three powers above or to cooperate with others responsible for land use management in adjacent lands.

Of these four types of powers, the regulatory power demands further attention both because it is so central to meeting all of the objectives of PAs and because it presents so many governance challenges. Why these challenges? There are at least three reasons[20]:

- Regulation can become politically charged and is often regarded as a 'necessary evil' by many. The kinds of criticisms levelled are many and varied. Some examples:
  - There are too many regulations
  - The regulations are too complex or inflexible
  - The regulations are out of date - they don't reflect the new realities of the regulated activity or the development of new technology
  - The regulations are so onerous as to represent an unfair burden in competing in the market place
  - The regulations don't respect indigenous rights or culture or provide for local needs
  - The regulatory agency has been captured by those it is supposed to regulate.

  The politically charged nature of regulation presents potential dilemmas for political leaders, dilemmas resulting from becoming too involved in individual enforcement issues or too removed from an agency needing critical support.

- The essence of a regulatory system is about managing and reducing risk to acceptable levels to protect the public or the environment. Much of what regulatory agencies do is preventive. Specific concrete results are hard to demonstrate. On the other hand, the level of risk can

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[20] Malcolm Sparrow, *The Regulatory Craft*, Council for Excellence in Government, (Washington, D.C., Brookings Institution Press, 2000)

never be reduced to zero. 'Accidents' will occur, leaving the agency open to immense criticism and even legal action for 'regulatory negligence'.

- Effective regulation is all about making choices and exercising discretion. There are never enough resources to inspect or monitor the range of activities to be regulated. Choices have to be made. Further, regulators exercise discretion in choosing among the range of sanctions from warning letters to civil or criminal proceedings to suspension of licences. Such discretion, if not carefully managed, can lead to serious inequities or worse, widespread corruption.

For these reasons and others, regulation has attracted considerable attention from governments and academics throughout the world. The box below provides some of the essential features of sound regulatory governance drawn from several sources including the Government of Canada's central management authority, the Treasury Board[21].

Box 3

Elements of Sound Regulatory Governance

1. **A legislative base -** which, at a minimum, outlines clear, consistent objectives for the program and provides for the accountability of political leaders for the program's results

2. **A Program design –** consisting of an appropriate balance among
    - **Educational activities,** which are directed at the regulated and other affected groups
    - **Monitoring activities,** which provide a current picture on the state of compliance
    - **Enforcement activities**, which provide a range of responses, centre on high risk areas and are isolated from political interference
    - **Appeals and redress,** to act as check against capricious administrators

3. **An adequately resourced and supported regulatory organization**, which has the capacity to carry out its mission in a manner which avoids undue influence by those being regulated and which enjoys ongoing political support

4. **An understanding of the regulated group,** including who they are and how they behave

5. **An identification and enlistment of allies,** who can assist in the promotion and enforcement activities

6. **Ongoing evaluation of the program,** so that it is sensitive to enforcement difficulties, public reaction etc.

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[21] Treasury Board of Canada, "A Strategic Approach to Developing Compliance Policies, Parts I and II", 1992. See also Malcolm Sparrow, *The Regulatory Craft*, Council for Excellence in Government, (Washington, D.C., Brookings Institution Press, 2000)

Similar analyses might be useful for other complicated powers that a PA might use - for example, in the administration of a leasehold management system and the planning, construction and maintenance of complex infrastructure.

With a firmer understanding of the means and ends of PA governance, we can return to the five UN-based principles outlined earlier - legitimacy and voice; direction; performance; accountability; and fairness. The contention of this paper is that these principles are broadly relevant to any model or structure for PA governance, from government-managed park systems to community conservation areas. Rendering the principles useful for analysis demands further elaboration of each in a series of related criteria. In doing so, we make every effort to describe the related criteria in words that resonate beyond the traditional government agency model.

B. Legitimacy and Voice

The principle of legitimacy and voice goes well beyond the holding of periodic elections. As the UNDP notes, "It would be a mistake to equate democracy with regular elections and to fall into the fallacy of "electoralism""[22]. Well functioning political parties, politically neutral security forces, independent media, a vibrant civil society, institutions underpinned by a respect for human rights, checks and balances against the risks of tyranny and populism – these are some of the necessary ingredients to achieving legitimacy and voice[23].
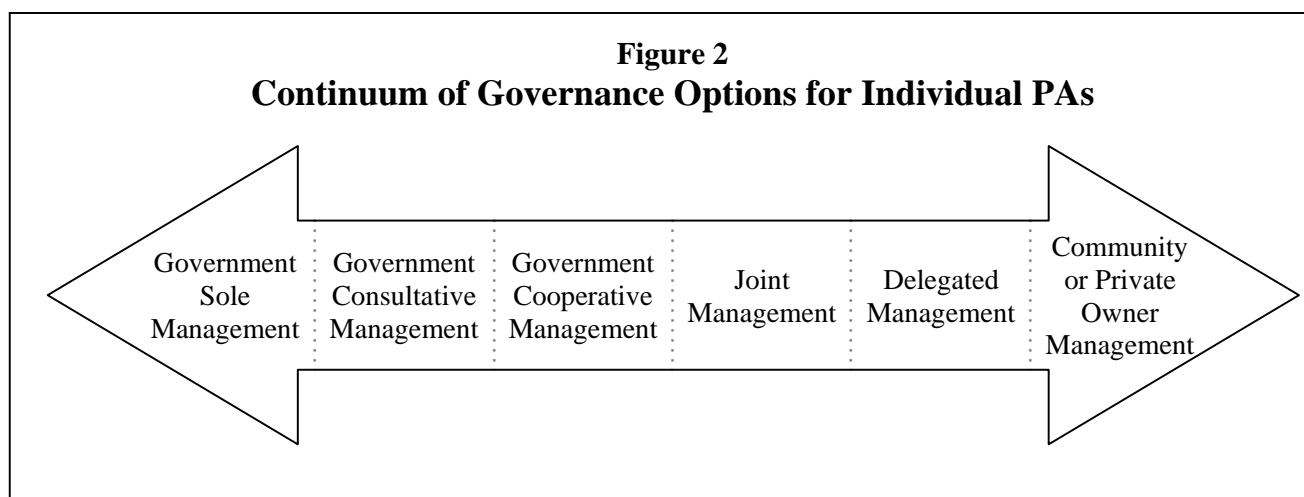
But even more than these ingredients may be required. Citizens are not content to have their say only in periodic elections. They want to influence the decisions affecting them, a phenomenon that is now well known in the management of Protected Areas. Indeed, the governance of individual Protected Areas has experienced rapid experimentation over the last several decades as PA agencies have attempted to incorporate a variety of stakeholders into the management of their parks and reserves. At the same time others have taken leadership in managing protected areas outside of any formal government regime. Reducing conflicts, recognizing local and indigenous peoples and achieving more sustainable management appear to be the principal 'drivers' of this experimentation.[24]

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[22] UNDP, op. cit. P. 54
[23] For an instructive examination of the destructive affects of a mixture of free markets and elections in illiberal, ethnically diverse societies, see Amy Chua, "World on Fire" (Doubleday, New York: 2003). The adverse impacts of 'first past the post' electoral systems in Africa are also well documented. See Ben Reilly and Andrew Reynolds, "Electoral Systems and Conflict in Divided Societies", Papers on International Conflict Resolution No. 2, (Washington, National Academy Press, 1999). A similar case can be made for First Nation elections in Canada.
[24] Viviane Weitzner and Micheline Manseau, *Taking the Pulse of Collaborative Management in Canada's National Parks and National Park Reserves: Voices from the Field*, from "Crossing Boundaries in Park Management: Proceedings of the 11th Conference on Research and Resource Management in Parks and on Public Lands" (Hancock, Michigan: The George Wright Society, 2001)

For our purposes it is useful to develop a continuum of options[25] as outlined in the figure 2 below to describe the variety of forms that 'collaborative' management has taken in a PA context. (See Appendix C for a brief description of each of the options on the continuum.)

Figure 2
Continuum of Governance Options for Individual PAs

Government Sole Management	Government Consultative Management	Government Cooperative Management	Joint Management	Delegated Management	Community or Private Owner Management

Several points of clarification are required. First, there is no 'right' option to choose along the continuum. Context again matters. History, culture, legal issues, capacity - all of these are factors determine what might be the most appropriate spot on the continuum for a given set of circumstances. Further, an initiative may move along the continuum as time passes. A collaborative management regime is, as one author notes, more a "process" than "a fixed state of affairs".[26]

Secondly, this continuum of governance regimes is complimentary to the IUCN categories of PAs in that this continuum can be applied to any of the six IUCN categories. Finally, there is another way of looking at this trend of local empowerment and that is through the variety of initiatives grouped under the rubric of "de-centralization". The UNDP identifies four approaches to de-centralization:

- *Devolution* of authority to autonomous local units of government…Under devolution, local units of government are autonomous, independent, and have legally recognized geographical boundaries. Central authorities exercise little or no direct control over these local units.

- *Delegation* generally refers to the transfer of government decision-making and administrative authority to semi-independent local units who may still be legally accountable to the central government. Financial autonomy is not normally a feature of delegation.

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[25] This continuum might need to be expanded to encompass governance structures involving several countries for Marine Protected Areas in the high seas.
[26] Grazia Borrini-Feyerabend, *Collaborative Management of Protected Areas: Tailoring the Approach to the Context*, (Social Policy Group, IUCN: http://iucn.org)

- *Deconcentration* customarily involves a very limited transfer of authority and financial management to local units such as district offices. These are normally outposts of the central government, which maintains control over them.

- *Divestment* involves the transfer of planning and administration functions to voluntary, private or non-governmental institutions.[27]

The above discussion leads to the development of the Legitimacy and Voice criteria as illustrated in Box 4.

Box 4

LEGITIMACY AND VOICE

- **Existence of a supportive democratic and human rights context** through
  - democratic institutions based on free elections, 'one person one vote', and a viable multi-party system
  - respect for basic human rights including freedom of speech, association, religion
  - lack of discrimination based on gender, race, colour, religion

- **Appropriate degree of decentralization in decision-making for PAs**; any devolution or divestment is through local bodies that
  - are accountable to local people
  - have the requisite powers and capacity to perform their functions
  - have some constraints, such as minimum environmental standards, to act in the broader national interest

- **Collaborative management in decision-making for PAs** involving representatives of all affected parties, particularly local and indigenous people

- **Citizen participation occurring at all levels of decision-making** related to PAs (legislation, system planning, PA establishment, management planning, operations) with special emphasis at the local level

- **Existence of civil society groups and an independent media** to act as a check and balance on the exercise of the powers granted to PA political leaders and managers

- **High levels of trust** among the various actors, governmental and non-governmental, national, state and local, involved in the management of PAs

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[27] United Nations Development Program, "UNDP and Governance: Experiences and Lessons Learned", Lesson-learned Series No.1, http://undp.org/docs/gov/Lessons1.htm

C. Direction

Like performance, the principle of direction tends to be one of the least controversial of the five principles proposed in this paper. Benefits tend to be well understood. One is stability. With a clear sense of direction come useful touchstones to which citizens, civil society organizations, political leaders, public servants and private sector leaders can turn. For example, if legislation provides a set of objectives and establishes an organizational framework, then the various players have a set of parameters around which to structure their relationships and build trust over the long term.

Direction also provides the environment in which planning can usefully take place. Thus in the PA context, plans both for the system as a whole and individual PAs become useful managerial tools. Planning process also provide opportunities to involve stakeholders in a meaningful way.

Another important benefit to direction is the ability to mobilize support and resources. Such mobilization in a complex political environment with a multitude of competing demands for funding usually takes time. Stable, long term direction backed by specific plans for the use of financial and human resources increases the likelihood of generating the necessary support.

Within the PA context, several developments that affect direction are noteworthy. The first is the increasing importance of international conventions, programs and guidance documents, a trend that is evident in many other fields ranging from environmental protection to international trade. A second is the growing realization that an integrated approach to conservation and sustainable resource use is required, one that encompasses protected areas linked with neighbouring landscapes and seascapes. Finally, a trend that will also affect direction is the increasing importance of IUCN Categories V (Protected Landscape/Seascape) and VI (Managed Resource Protected Area), enlarging the range of possibilities for management of protected areas.[28]

This discussion leads to the following criteria for direction:

Box 5

DIRECTION

- **Consistency with international direction relevant to PAs (as appropriate):**
  - international conventions – World Heritage Convention; Convention on Biological Diversity, Ramsar Convention on Wetlands of International Significance
  - intergovernmental programs – UNESCO Man and the Biosphere
  - other guidance documents – IUCN/WCPA best practice guidelines

- **Existence of legislative direction (formal or traditional law)** that:

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[28] Adrian Phillips, "Turning Ideas on their Head – the New Paradigm for Protected Areas"

- sets out clear purpose and objectives for the PAs
- establishes clear authorities relating to means (governance instruments)
- provides for viable organizations to administer the PAs
- includes requirements for citizen participation in decision-making
- is elaborated in written policy statements

- **For national PA systems, existence of system-wide plans** that
  - have quantified, science-based objectives, e.g. representation, biodiversity conservation, for the full range of PA management categories
  - provide priorities for the planning period
  - include provision for citizen participation, particularly local and indigenous people, in their implementation

- **Existence of management plans for individual PAs** that:
  - reflect citizen participation, particularly local and indigenous people
  - have formal approval of the appropriate authorities
  - set out clear objectives consistent with legislation
  - set out measurable results to be achieved within specific timeframes
  - are reviewed and updated on a regular cycle (e.g. every five years)
  - are implemented through annual work plans

- **Demonstration of effective leadership** – including political leaders and managers responsible for systems as well as individual PAs that:
  - provides a consistent and stable vision for the long term development of the PA system or individual PA
  - mobilizes support for this vision
  - garners the necessary resources to implement the various plans for the system or individual PA

D.   Performance

The principal, short term issue in assessing performance is effectiveness – that is, the extent to which the agency is achieving its objectives related to conservation, science, visitor opportunities and local and indigenous communities. Assessing effectiveness presupposes a clear articulation of objectives and an understanding of how conflicting objectives are in practice balanced. It also raises the fundamental issue of whether the agency has the required capacity to carry out its mission. For example, meeting objectives for visitor opportunities would demand among other things: safe infrastructure; a well functioning regulatory program to control visitor behaviour and associated commercial development; a capacity to monitor the PA to ascertain environmental impact and the state of conservation of natural and cultural resources; and evaluative mechanisms to receive visitor feedback.

Efficiency is another important concern. "Are current resources being used in an economical manner?" is a question that is relevant to all protected areas.

There are, in addition, other important performance factors[29] that determine agency performance in the longer term. These have to do with interagency coordination, the capacity to learn and adjust from experience and the ability to recognize risks and manage them. These short and long term performance factors are summarized in box 6 below:

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Box 6

PERFORMANCE

- **Cost Effectiveness** – Efficiency in achieving objectives: conservation, science, visitor opportunities, local and indigenous communities

- **Capacity** – Capacity to undertake required functions, particularly in regard to its mandate (i.e. conservation, science, visitor opportunities, local needs) and authorities (i.e. regulation and planning, spending, revenue-generation, agreements); its policy capacity and the adequacy and security of its funding

- **Co-ordination** – Ability and capacity to co-ordinate efforts with the principal affected 'players' both within and outside government

- **Policy Learning** – The ability to provide for policy learning on the basis of operational experience. There may be significant risks in de-coupling policy development from service delivery

- **Performance Information to the Public** – Provision of sufficient information to facilitate the assessments of performance by governments and the public

- **Responsiveness** – Responsiveness in dealing with complaints and public criticism

- **Internal Evaluations** – Capacity to undertake internal program evaluations and respond to findings

- **Risk Management** – Capacity to identify key risks and manage these risks

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[29] Many of these performance factors are laid out by Mark Winfield and Hugh Benevides in their paper prepared for the Walkerton Inquiry, *Drinking Water Protection in Ontario: A Comparison of Direct and Alternative Delivery Models* (October 2001, Pembina Institute for Appropriate Development, www.pembina.org)

E.   Accountability

One author describes the case for accountability succinctly as follows:

> Power, and the need to control it, define the basic bargain between those who govern and those who are governed.[30] Citizens grant sweeping powers to the political executive: to tax, to spend and to make and enforce policies and laws. In return, citizens demand accountability. They expect the government to explain and justify publicly the way it uses its power, and to take prompt corrective action when things go wrong. Accountability, viewed in this way, serves two purposes. Its political purpose is to check the might of the political executive – it is a mechanism for minimizing abuse of power. Its operational purpose is to help ensure that governments operate effectively and efficiently.[31]

In assessing the quality of accountability arrangements in a particular context, at least three questions need to be posed. The first is whether there has been a clear assignment of responsibility for functions such that an individual has the authority to act and is responsible for outcomes.

The second is whether those responsibilities assigned to political leaders and non-elected officials are appropriate. Some argue, for example, that political leaders should not delegate certain functions to arms length organizations such as:
- Policy and program development,
- Intergovernmental relations,
- Regulatory proposals and standards, and
- Programs with strong requirements for equity and fairness[32].

A third question relates to the accountability arrangements themselves. Framers of democratic governments (including the Iroquois Confederacy whose system of government inspired many features of the Constitution of the United States) have known for centuries the importance of checks and balances vis-à-vis the exercise of power. Thus, direct accountability to citizens via the ballot box is not sufficient to ensure a healthy relationship between governors and the governed. There is a requirement for another complimentary set of accountability relationships: the government must *restrain itself* by creating and sustaining independent public institutions empowered to oversee its actions, demand explanations for improper or illegal behaviour and, when circumstances warrant, impose penalties.

These two kinds of accountability are referred to by some as "vertical accountability" (to citizens directly or indirectly via civic organizations or the news media) versus "horizontal

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[30] Andreas Schedler, "Conceptualizing Accountability," in Andreas Schedler, Larry Diamond and Marc F. Plattner, eds., *The Self-Restraining State. Power and Accountability in New Democracies*, Boulder and London: Lynne Rienner Publishers, 1999.
[31] Mark Schacter, *When Accountability Fails: A Framework for Diagnosis and Action* (May 2000, www.iog.ca)
[32] Government of Ontario, Management Board Secretariat, *Alternative service Delivery Framework* (Toronto: September 1999 Revision)

accountability" (to public institutions of accountability imposed by the government upon itself, including the legislature, the judiciary, auditing agencies, ombudsperson, human rights commissions). Figure 3 below illustrates these two kinds of accountability relationships.

Figure 3
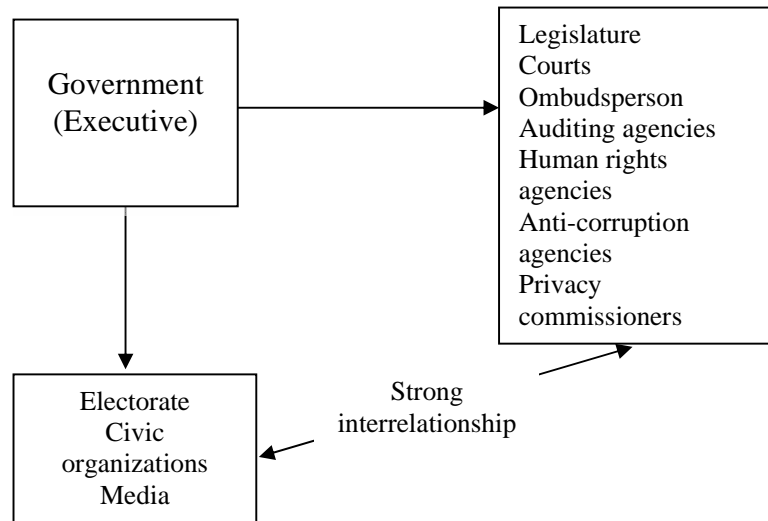
The performance of any of the public institutions of accountability will revolve around three broad questions: 1) what information can the institution obtain about the government's activities; how relevant, accurate, timely and comprehensive is the information; 2) how well is the institution able to analyze the information and develop action-oriented conclusions; and 3) what kind of response is the institution able to generate from the executive.

The role played by civil society and the media is another key factor in assessing the quality of the accountability regime. The degree to which they can articulate and mobilize demand for accountable government has an important impact on strengthening the position of institutions of accountability with respect to the executive[33]. And like these institutions, their access to information about the performance of the PA management and its use of regulatory, spending and other powers is critical to the effectiveness of the role they play. Thus, transparency is an indispensable handmaiden of accountability.

While we have pitched this discussion in a governmental context, the accountability issues are largely similar for a non-governmental organization, so long as a group of leaders purports to act in the interest of a broader group of members or citizens. Institutions of accountability may be much simpler and less numerous – perhaps confined to an outside auditor or some independent dispute resolution mechanism. That said, issues of clarity of roles, transparency, periodic scrutiny of the exercise of power by the media or other outside groups, reporting on results to members – all of these are still relevant to a non-governmental organization.

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[33] Mark Schacter, Op. Cit.

In sum, analytical criteria for assessing the quality of the accountability arrangements might look like this:

Box 7

ACCOUNTABILITY

- **Clarity –** Clarity in the assignment of responsibilities and the authority to act is critical in being able to answer the question "who is accountable to whom for what?"

- **Role of Political leaders –** Appropriateness of responsibilities assigned to political leaders as opposed to non-elected officials or arms length bodies

- **Public Institutions of Accountability** – Effective public institutions of accountability, including access to information, capacity to analyze and report, ability to get action, comprehensiveness of mandates

- **Civil Society and the Media –** Effectiveness of civil society and the media in mobilizing demand for accountability

- **Transparency** – The capacity of citizens, civil society and the media to access information relevant to the performance of PA management and to its use of regulatory, spending and other powers

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F. Fairness

Central to the governance principle of fairness is the rule of law, a complex and evolving concept that among other things:
- Assumes that laws must be accessible, clear and stable and have a moral basis
- Regulates and restrains the behaviour of government officials – it prevents the use of arbitrary power
- Upholds the rights of individuals and provides for legal remedies against government, should these rights be violated
- Assumes judicial independence
- Provides for equal treatment of all citizens before the law
- Allows for the neutral resolution of disputes among citizens or among commercial interests, and
- Finds its basis in a country's constitution, whether written or unwritten.

As one Asian scholar notes "[The rule of law] provides the country with a safe political and social environment, guarantees the enforceability of commerce and business transactions,

improves economic productivity, and safeguards property and freedom."[34]   Given these benefits, it is not surprising that over the past decade a plethora of aid agencies, development banks, and NGOs have promoted programs to facilitate judicial reforms in developing and post-communist countries.

The principle of fairness, nonetheless, goes beyond the realm of the law to encompass the treatment of those groups that face discriminatory practices – women, children, ethnic and religious minorities to name a few. In the context of PAs, it has meant growing awareness and respect for the role that local and indigenous peoples should play in the development and management of protected areas. It has also focused more attention on the benefits to be derived from devolving power from the centre of government to local areas and from placing more emphasis on the role of community conservation areas in sustaining natural ecosystems .

These considerations lead to the development of the following criteria on the fairness principle:

Box 8

FAIRNESS

- **Existence of a supportive judicial context** characterized by respect for the rule of law including
  - an independent judiciary
  - equality before the law
  - the requirement for government and its officials to base their actions on a well-defined legal authorities
  - citizens having the right to seek legal remedies against the government and against their fellow citizens

- **Fair and impartial enforcement of any PA rules restricting the use of PAs** including
  - the transparency of the rules themselves (their existence is known and accessible)
  - the absence of corruption among public officials
  - the right of appeal for those charged with transgressions

- **Fairness in the process for establishing new PAs** including
  - respect for the traditional uses made of the area by local and indigenous peoples
  - their participation in the process of establishing the PA
  - the appropriate balancing between local uses, conservation objectives and use by visitors

- **Fairness in the management of PAs** including the existence of
  - practices that achieve a favourable balance of costs and benefits to local and indigenous peoples (e.g. traditional uses, revenue-sharing, preferential

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[34] Dr. Zhenim Wang, "The Developing Rule of Law in China", Harvard Asia Quarterly, Autumn 2000, P. 7

employment and contracting procedures)
- mechanisms for sharing or devolving the management decision-making of the PA with local and indigenous people
- equitable human resource management practices for the staff of the PA
- processes for recognizing and dealing with past injustices resulting from the establishment of PAs

G.   Applying the Principles and Criteria

Developing a set of governance principles at a high level of abstraction is not difficult. Few would disagree with the list developed by the United Nations Development Program. But governance is about power, how it is exercised and how individuals are held accountable. It would be surprising if applying governance concepts did not present a major challenge, one that is further complicated by the importance of context – culture, history and technology – and whether we are dealing with a parliamentary, congressional or some other system of government.

The question to which we now turn is how these principles and criteria might be applied in practical settings. For illustrative purposes we provide three examples: 1) comparing governance options to deal with a particular challenge or problem; 2) developing rules to dealing with governance issues; and 3) using the principle and tools for building governance capacity.

Comparing options

That there is a diverse range of governance issues facing Protected Areas is no longer in doubt. In Appendix A we present a small sample of these broken down into the following categories:
- Global perspectives
- Agency-wide perspectives
- Individual PAs and
- Governance of Eco-systems

For any of the governance challenges canvassed in these four areas, there is usually a range of options decision-makers can develop to deal with them. And this is where the governance criteria developed in this Section can play a useful role. They are a helpful tools to bring some order to comparisons which otherwise might be difficult to fashion in a comprehensive and logical manner.

For illustrative purposes, we examine one of these challenges – the degree of independence that a PA agency should have from government. We do so for two of the five principles, accountability and performance, and summarize the results of our analysis in Appendix D.

Rules Versus Principles

An important element of governance is rule-making. Indeed some argue that deciding on the key rules that define relationships within a society is the essence of governance and this is what distinguishes governance from management and administration[35].

The discussion of governance in this paper suggests that governance is a richer concept than the rule-makers would suggest but nonetheless rules are critical. But a strict diet of rules often leads to problems: they can be overly prescriptive leaving little room for creativity and entrepreneurship; they can lead to sustained efforts on the part of some to find loopholes; and they can lead to a checklist approach to governance, an approach which is at odds to a dynamic process about power and its uses.

What is required is what one author[36] describes as a "principled interpretation of rules" – good rules in an environment of sound principles.   In this sense, the five principles can serve as valuable touchstones or reference points, both in developing rules for sound governance and in interpreting them.

Building Governance Capacity

With the growing realization of the importance of governance as a necessary building block in achieving improved socio-economic outcomes has come increased emphasis on the part of aid agencies on building capacity for sound governance. For example, the UNDP focuses its capacity-building resources on the following priority areas: public and private sector management; governing institutions (legislatures, judiciaries and electoral bodies); decentralisation and local governance; civil society organizations and governance of countries in crisis. It is indeed appropriate that one of the streams in the upcoming World Parks Congress is focused on capacity building.

The diagram on the following page, figure 4, provides a framework for developing a plan for building governance capacity[37]. The principles and related criteria developed in this paper would be useful at the stage of assessing the gap between the current and desired state of governance whether at an agency level or in an individual PA. Further, they might prove helpful, as noted above, in analyzing options, developing strategies and setting priorities.
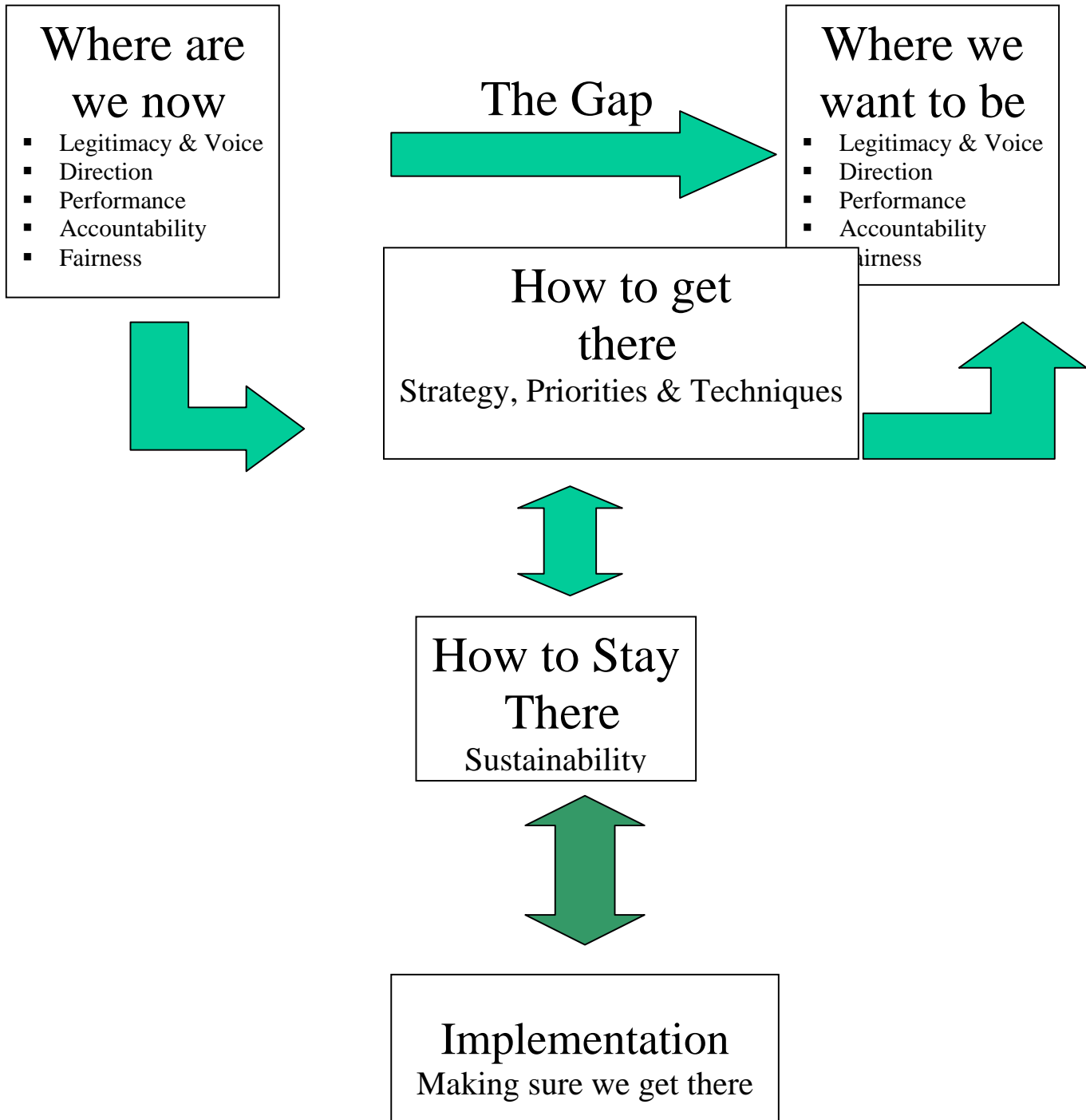
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[35] See Goran Hyden and Julius Court, "Governance and Development: Trying to Sort out the Basics", unpublished paper, court@hq.unu.edu

[36] Mark Schacter, "2003 National Governance Conference – Observations", Conference Board of Canada, www.conferenceboard.ca

[37] For an example of the use of this framework in an indigenous context, see Institute On Governance, "Building Capacity for Sound Public Works in First Nation Communities: A Planning Handbook", www.iog.ca/publications.

Figure 4

ANALYTICAL TOOL FOR DEVELOPING A PLAN FOR CAPACITY DEVELOPMENT

Where are we now		Where we want to be

Where are we now
- Legitimacy & Voice
- Direction
- Performance
- Accountability
- Fairness

The Gap

Where we want to be
- Legitimacy & Voice
- Direction
- Performance
- Accountability
- Fairness

How to get there
Strategy, Priorities & Techniques

How to Stay There
Sustainability

Implementation
Making sure we get there

Adapted from Capacity Assessment and Development, UNDP, January 1998, p. 12.

In reflecting on capacity building from a governance perspective, it is useful to note how the understanding of PA governance has evolved. One author's analysis[38] of the agendas of the five World Parks Congresses from 1962 to 2003 suggests that many items over this forty year period could be grouped under two of the five governance principles, Performance and Direction. For example, "technical assistance and finance", "standards, definitions, information" and "law, planning and management" all appear to be performance-related themes that have recurred throughout the period. Similarly "biodiversity" and "threats, pressures, global change" have been ongoing direction-related themes.

Starting in the 1982 Congress, however, topics clearly related to Legitimacy and Voice and Fairness began to appear on the Congress agendas, topics such as "building support", "partnerships" and "indigenous peoples". Accountability has also become more prominent in more recent Congresses with discussions on results-based management.

A corollary to this widening array of governance issues is the need to build capacity at all levels to deal with them. But the difficulty of doing so should not be underestimated. Figure 4 has a beguiling simplicity about it that masks the complexity of any attempt to build governance capacity. We include in Appendix E a brief overview of some of the lessons gleaned from international experience.

One indicator of the challenges facing PA agencies and individual PAs are the contextual criteria found in both the Legitimacy and Voice and Fairness Principles:

Box 9

Contextual Factors affecting Protected Area Governance

- **Existence of a supportive democratic and human rights context** through democratic institutions based on free elections, 'one person one vote', and a viable multi-party system; respect for basic human rights including freedom of speech, association, religion; lack of discrimination based on gender, race, colour, religion

- **Existence of a supportive judicial context** characterized by respect for the rule of law including: an independent judiciary; equality before the law; the requirement for government and its officials to base their actions on a well-defined legal authorities; citizens having the right to seek legal remedies against the government and against their fellow citizens

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It will be difficult, if not impossible, for PA agencies to make significant headway on either of these principles without a supportive environment in society at large. Individual PAs would face similar constraints.

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[38] Adrian Phillips, op. cit. P. 9

CONCLUSIONS

"Governance" opens new intellectual space. It provides a concept that allows us to discuss the role of government in coping with public issues and the contribution that other players may make. It facilitates reflection on strategies that may be adopted by a society in instances of government incapacity. It opens one's mind to the possibility that groups in society other than government (e.g. 'communities' or the 'voluntary sector') may have to play a stronger role in addressing problems. It is no accident that much of the discourse about governance is directed toward the subject of partnerships among different sectors of society, and toward public participation in decision-making.

Further, it invites us to consider to what extent the attainment of desired social and economic outcomes may depend upon governance arrangements, and to ask which kinds of arrangements result in what kinds of impacts. There is certainly no guarantee that governance arrangements that "worked", in some sense, in the last century, will be appropriate or even sustainable in the context of the kinds of social, technological, demographic and other trends with which countries will have to contend in this century.

Governance is a concept that resonates well with those involved in environmental issues. One of the central ideas underlying governance – that it is concerned with relationships among a number of political actors – meshes with the ecological notion that "everything is connected to everything else". Consequently, it is not surprising that those involved in Protected Areas might find the concept attractive.

Accepting that governance goes beyond government helps identify unifying threads in the seven workshop streams of the upcoming World Parks Congress in Durban. Indeed, the six "non-governance" streams all have governance sub themes running through them. For example, integrating PAs into the broader landscape (Linkages In the Landscape/Seascape) has an important governance dimension as do the other streams dealing with management effectiveness, finance and resources, capacity building, building awareness and support, and gaps in the global system.

The central conclusion of this paper is that a universal set of principles for defining sound governance can be fashioned and that these principles can be usefully applied to help deal with current governance challenges in a PA context. That said, their application has reinforced many of the conclusions we reached in the opening section of the paper: that there are no absolutes; that principles often conflict; that the 'devil is in the detail'; that context matters. Further, the nature of governance of Protected Areas – both the means and the ends – need to be understood. Only then does it make sense to elaborate the principles in order to create a meaningful analytical tool.

The five principles themselves appear to be relevant to the full range of models of PA governance and our intent has been to describe the related criteria in words that resonate beyond the traditional government agency model. We encourage participants in the Congress to work with these principles and criteria in light of their experiences and help refine them into a useful tool for meeting the future governance challenges of protected areas.

APPENDIX A

EXAMPLES OF GOVERNANCE CHALLENGES[39]

From a Global Perspective

- **Role of Global Conventions** - What role should global agreements have? Should they bind governments in legally enforceable ways or are they best left as guidelines to sound conduct?
- **Future priorities** - What gaps exist in the current suite of global initiatives and where should future energies be directed?
- **Other examples** - Are there other areas of public policy where global initiatives have proved effective, and if so, what can be learned from these for application to Protected Areas?

From an Agency-wide perspective

- **Decentralization of PA governance -** what has been the impact of this trend, often encouraged by international donor agencies? Is there a need for national agencies?
- **Appropriate range of responsibilities -** what are the advantages and disavantages of having one agency responsible for i) the full range of PA categories? ii) marine and terrestrial PAs? iii) PAs and in addition historic sites, wildlife and tourism?
- **"Homes" for PA agencies -** What are the principal advantages and disavantages of departments responsible for the environment? land and/or ocean planning? heritage? tourism? resource management? Indigenous affairs?
- **Degree of independence from government** - What are the implications of the following: i) totally integrated into a larger department ii) a distinct unit within a larger department iii) a separate operating agency reporting to a Minister iv) an arms length agency reporting to a board of directors?

Governance of Individual PAs

- **Collaborative management -** How are local interests balanced with national interests? What approaches will ensure greater equity for local communities? Are there distinct challenges to collaborative management for each category of PA? What powers should collaborative boards have?
- **Adaptive management -** Are there models of governance for PAs that favour and support an adaptive approach?
- **External aid -** How does the need to obtain and manage external support affect elements of a governance regime e.g. structure, policies?
- **Issues related to non-governmental entities involved in PA management**
    - **Capacity -** How can such organizations develop and sustain the necessary capacity to assume important governance functions?

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[39] Material in this Appendix is based primarily on an unpublished discussion paper written by Bruce Amos of Parks Canada entitled *Key Governance Issues for Protected Areas in the 21st Century*. The paper is available from Parks Canada.

- **Accountability -** To whom are such organizations accountable? What happens to these accountablility mechanisms when organizations receive funding from governments or external aid agencies?
- **Legitimacy –** How can such governance structures ensure that all voices are represented at the table?
- **Direction –** How can broad national interests be realized in these local governing structures?
- **Private sector -** What roles should for-profit entities play in PA governance?

Governance of Eco Systems

- **Links to the broader ecosystem -** What types of integrative governance mechanisms appear to be working best: i) UNESCO biosphere reserves ii) model forests that include PAs iii) transborder collaboration including peace parks iv) joint structures for regional integration v) integrated conservation and development projects

APPENDIX B

IUCN SYSTEM OF PROTECTED AREA MANAGEMENT CATEGORIES[40]

The six management categories are defined by the primary management objective, as follows:

I.   **Protected area managed mainly for I(a) science or I(b) wilderness protection**. Areas of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring; or large areas of unmodified or slightly modified land, and/or sea, retaining their natural character and influence, without permanent or significant habitation, which are protected and managed so as to preserve their natural condition. (Strict Nature Reserve/Wilderness Area).

II. **Protected area managed mainly for ecosystem conservation and recreation**. Natural areas of land and/or sea, designated to (a) protect the ecological integrity of one or more ecosystems for this and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible. (National Park).

III. **Protected area managed mainly for conservation of specific features.** Areas containing one, or more, specific natural or natural/cultural feature which is of outstanding or unique value because of its inherent rarity, representative or aesthetic qualities or cultural significance. (Natural Monument).

IV. **Protected area managed mainly for conservation through management intervention.** Areas of land and/or sea subject to active intervention for management purposes so as to ensure the maintenance of habitats and/or to meet the requirements of specific species. (Habitat/Species Management Area).

V.   **Protected area managed mainly for landscape/seascape conservation and recreation.** Areas of land, with coast and sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, cultural and/or ecological value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance and evolution of such an area. (Protected Landscape/ Seascape).

VI. **Protected area managed mainly for the sustainable use of natural ecosystems.** Areas containing predominantly unmodified natural systems, managed to ensure long-term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs. (Managed Resource Protected Area).

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[40] *Guidelines for Protected Management Categories*. Part II: The Management Categories. IUCN.
http://wcpa.iucn.org/pubs/pdfs/IUCNCategories.pdf

APPENDIX C

CONTINUUM OF OPTIONS FOR GOVERNING INDIVIDUAL PROTECTED AREAS[41]

One way that Protected Area governance can be described is through the degree of collaborative management involved in governance. This approach reflects the evolution governance of PAs and allows distinction in the range of traditional and innovative approaches.

Government Sole Management
Accountability for management of the PA rests solely with a government agency (national, state, or local) which does not have any obligation to involve other stakeholders prior to making decisions. Lands comprising the PA are normally in public tenure.

Government Consultative Management
Accountability for management of the PA rests with a government agency (national, state, or local) which has normally consults (and may have an obligation to consult) other stakeholders as appropriate prior to making decisions. Lands comprising the PA are normally in public tenure.

Government Cooperative Management
Accountability for management of the PA rests with a government agency (national, state, or local) which has a requirement to cooperate with other identified stakeholders in managing the area and in making decisions. Lands comprising the PA are normally in public tenure.

Joint Management
Accountability for management of the PA rests jointly with a government agency (or agencies) and representatives of other non-government stakeholders who together collaborate in managing the area and in making decisions. Lands comprising the PA may be a mixture of different forms of tenure - public, private, indigenous.

Delegated Management
Accountability for management of the PA has been delegated by government to one or more clearly designated organizations (this could include local government bodies, indigenous people's organizations, private corporations, environmental NGO's or multi-stakeholder groups) who manage the area and make decisions within mandated directions. Management delegation relates to public lands and the lands are normally retained in public ownership.

Community or Private Owner Management
Accountability for management of the PA rests with non-government individuals, corporations or representatives of indigenous people who are owners of the lands, who have formally dedicated the lands to conservation, who manage the area and make the decisions.

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[41] Material in this Annex is taken from unpublished work done by Bruce Amos and Jim Johnston of Parks Canada. Contact Parks Canada for more information.
See also: Borrini-Feyerabend, Grazia. *Collaborative Management Of Protected Areas: Tailoring The Approach To The Context.* Issues in Social Policy, Social Policy Group, IUCN. http://iucn.org/themes/spg/index.html.

APPENDIX D: APPLYING THE PRINCIPLES: THE AGENCY INDEPENDENCE CONUNDRUM

For the past several decades, advocates of the "New Public Management" have proposed alternatives to the traditional delivery of government programs through government departments. The rationales behind these proposals have been several. For one, Alternative Service Delivery mechanisms, ranging from semi-autonomous agencies within government to contracting with private sector firms, can escape the "suffocating" controls imposed by central agencies on human resource management and on other administrative aspects of running large public enterprises. In short, they can be more efficient, more service-oriented. In addition, some of these new delivery mechanisms are premised on insolating the agency from inappropriate interference by political leaders. A final rationale is often the ease of imposing new cost recovery regimes.

In the context of PA agencies in a parliamentary system, the degree of independence runs along a continuum punctuated by four options: i) totally integrated into a larger department ii) a distinct unit within a larger department iii) a separate operating agency reporting to a Minister iv) an arms length agency reporting to a board of directors. For the purposes of this paper, we have chosen to compare the two 'extremes' on the continuum - total integration versus an arms length agency - using the two criteria developed in the previous section bearing on performance and accountability.

Performance

The arms length agency has some clear advantages over the total integration option based on many of the performance criteria:

- **Capacity** - Increased independence provides the potential for developing its own policy capacity. Further, agency funding levels (and therefore any budget cuts) would be more transparent to stakeholders
- **Cost effectiveness** - Control over its personnel and other administrative policies provides the potential for greater efficiencies
- **Responsiveness** - The agency would have greater control over responding to complaints
- **Internal evaluations** - Increased independence provides the potential that internal reviews could occur with greater frequency and relevance
- **Performance information to the public** - Higher visibility and independence make this more likely to occur.
- **Risk Management** - Not having to rely on overall Ministry resources and approvals makes effective risk management more likely to occur

On the other hand, the greater distance from the Ministry and therefore the government in general plays against the arms length agency on several counts:

- **Policy learning** - the arms length agency de-couples the link between government policy on PAs and service delivery; consequently, the government's capacity to learn, based on operational experience, will likely decrease
- **Co-ordination** - interministerial co-ordination on PA related matters becomes more difficult as does intergovernmental coordination, given that the Minister's role is a less active one.

In sum, on performance grounds, the arms length agency appears to have some distinct advantages and would be a clear winner if the policy learning and co-ordination difficulties could be attenuated to some degree through secondments and other integrating devices.

Accountability

It is on the accountability front, however, where an arms length agency, governed by its own board of directors, runs into serious difficulties. Here is how the four criteria developed in the last section play out:

- **Clarity** - Having a board between the Minister and the agency creates the potential for significant ambiguity about who is responsible for what. The legislative base for establishing the agency might alleviate this to some extent but, given the politically charged nature of PA governance, the temptation for Ministers to avoid criticism by pointing to the Board would be great as would the reverse - for Ministers to take credit for achievements. Thus, ambiguities might abound.

- **Ministerial Role** - In parliamentary systems of government, there are certain functions which some believe Ministers should not delegate. Ultimate responsibility for use of coercive powers of the state inherent in regulatory and tax programs is one. Another might be programs with strong requirements for equity and fairness. On both counts an arms length agency raises serious concerns. That said, there is a contrasting potential of inappropriate interference by Ministers in directing individual enforcement activities, a danger which would be alleviated by an arms length agency.

- **Public Institutions of Accountability** - A key issue is the extent to which an arms length agency, in escaping the administrative controls of the government, also avoids many of its accountability mechanisms such as Auditor Generals, anti-corruption agencies, parliamentary committees, human rights commissions and so on. There are also important tenets of the common law that apply to governments in terms of assuring administrative fairness. Should the establishment of the arms length agency result in its 'escaping' many if not all of these institutions of accountability, then this option would be seriously flawed.

- **Civil Society and the media** - There is as strong relationship between the effectiveness of the media and civil society in acting as a counter weight to the power of the executive and that of accountability institutions. The loss of the information and analysis from these institutions likely means that civil society and the media can be much less effective in their roles.

In summary, the arms length agency raises serious concerns around accountability, concerns that likely outweigh the potential performance benefits that such a governance regime might produce. Examining other options that would give the agency additional administrative independence from government but would continue to have the Minister clearly responsible for the policy and regulatory aspects of the agency appears to be the prudent course of action.

APPENDIX E: INTERNATIONAL LESSONS IN BUILDING GOVERNANCE CAPACITY

Here is a range of considerations based on international experience[42]:

- **Capacity-building is a political undertaking.** Governance is about power, who yields it and how decision-makers are held accountable. Improving the capacity to govern in any significant manner will modify these power relationships.

- **It follows therefore that any capacity building initiative to be successful has to have sustained political support from within the affected governing bodies**. Imposing governance change by an outside agency has little chance of sustained success. Moreover, should there be a change in political leadership, reform efforts can quickly cease or dissipate.

- **Building governance capacity, especially on a national scale, can be a massive undertaking**. One Asian scholar describes current efforts to establish the rule of law in China as "…perhaps one of the largest social infrastructure projects in the history of mankind."[43]

- **Consequently, effective capacity-building must be a long term enterprise**. It has taken centuries for western governments to reach their current state of evolution; therefore, expecting former communist countries or developing countries to make dramatic improvements in their governance in a few short years is unrealistic. Time frames are more likely to be measured in decades.

- **Those countries requiring the most significant governance reforms are often the least well equipped from a resource standpoint to effect them**. This means careful priority setting, modest objectives and a long term commitment on the part of aid agencies if efforts are to bear fruit.

- **It is important to distinguish the target of capacity-building**. Is the target individual public servants or politicians, specific agencies or entire systems like the administration of justice? Efforts aimed at individuals tend to be low risk and low cost and have very modest objectives. Just the opposite is the case for system reform.

- **In a similar vein, because sound governance demands a vibrant civil society and an effective, independent media, capacity building efforts can not be confined to the public sector**.

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[42] These points come from a variety of sources and the Institute's own experience. One insightful piece is Merilee Grindle, "Good Enough Governance: Poverty Reduction and Reform in Developing Countries", prepared for the Poverty Reduction Group of the World Bank, November 2002

[43] Dr. Zhenim Wang, op. cit.

- **Because of the above points, aid agencies tend to have circumscribed roles in building capacity.** They can not lead initiatives; moreover, their own internal accountability systems often do not lend themselves to long term projects with uncertain results.

- **Much more research is required**.   We need to know more about what has worked and not worked and why. Further, there are some difficult questions around sequencing. What should be tackled first – for example, should legislative strengthening precede initiatives focused on the rule of law or vice versa? What initiatives can proceed in parallel?