

15 April 2016

Committee of Experts on Public Administration
Fifteenth session, 18-22 April 2016

Background note on possible development of a set of internationally-recognized principles of governance by CEPA

Why enumerate a set of international governance principles?

This note has been prepared by the Secretariat in response to suggestions from members that CEPA should reinforce efforts to shift from discussions of principles to consideration of more action-oriented advice in the Committee's deliberations. It is also a partial response to indications from the Bureau of the ECOSOC that countries would benefit from expert guidance on implementation of international agreements and norms.

The landmark 2030 Agenda for Sustainable Development commits countries to "Building effective, accountable and inclusive institutions at all levels." Enshrining institution building in the global development agenda was a major achievement, but also begs the pragmatic question of what it means and how to go about it. As an aspirational goal, it also raises the question of whether its constituent elements – of effectiveness, accountability and inclusion – are universal and durable principles of governance, or discretionary and therefore subject to continuing interpretation and negotiation. Clarity with regard to governance is particularly relevant to Goals 16 and 17 and also supports the overall Agenda. Some Member States will already regard their interpretations of 'governance' as standards to be adhered to and they may be enshrined in national legislation and/or codes.

In intergovernmental resolutions, good governance is often linked to the rule of law, and sometimes also democracy or human rights. The concepts of the rule of law, democracy and, especially, human rights are explicitly elaborated and codified in a substantial body of international law. Important features of good governance, by contrast, such as integrity, transparency and accountability while frequently held up as ideals, are diffuse in their expression with no clear indications at the international level as to their meaning and application in different institutional contexts.

For some CEPA members, an internationally-recognised set of fundamental principles on governance could inform the study of more specific issues that cohere with the SDGs and ECOSOC priorities and serve as a normative baseline for future policy and practice, including possibly informing a global research agenda for public administration and development.

What form should a set of international principles take?

There is no hard and fast rule regarding the expression of international principles, and there is a wide variety of guideposts in the international arena. Some principles have the force of law (United Nations Charter, human rights and corruption prevention conventions). Others are contained in non-

binding commitments (Rio Principles on Environment and Development, Fundamental Principles of Official Statistics). Still others are reflected as technical standards (Principles of Sovereign Debt Restructuring Processes, Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems) or policy guidance (General Assembly and ECOSOC resolutions). Such distinctions between legally binding international agreements, non-binding commitments to principles as set out in the 2030 Agenda and the outcomes of other major United Nations conferences and summits, and principles of public administration identified in the literature, could provide a basis for further study.

With regard to form, three general patterns have been identified in initial research:

- i. International principles can be expressed very concisely where the underlying concepts do not require elaboration and/or are intended to be left to interpretation and adjudication by others, as seen for example in the International Covenant on Civil and Political Rights (“Every citizen shall have the right and the opportunity...to have access, on general terms of equality, to public service in his country” – Article 25), and in the Rio Principles (“The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.” – Principle 3).
- ii. They can be articulated concisely in one form, such as in the 1994 Principles Governing International Statistical Activities (“High quality international statistics, accessible for all, are a fundamental element of global information systems”) and subsequently expanded upon elsewhere, as in the Declaration of Good Practices in Technical Cooperation in Statistics of 1999 (“Good practices include: Having regular consultations with key users both inside and outside the relevant organisation to ascertain that their needs are met...”).
- iii. And, they can be spelled out in a somewhat self-contained document as found, for example, in the United Nations principles and guidelines on access to legal aid in criminal justice systems (“States should consider the provision of legal aid their duty and responsibility. To that end, they should consider, where appropriate, enacting specific legislation and regulations and ensure that a comprehensive legal aid system is in place that is accessible, effective, sustainable and credible. States should allocate the necessary human and financial resources to the legal aid system. The State should not interfere with the organization of the defence of the beneficiary of legal aid or with the independence of his or her legal aid provider. States should...” - Principle 2).

With respect to eventual application, and to paraphrase one CEPA member, the principles should be useful to people in implementation roles who do not necessarily follow United Nations deliberations but who might welcome concrete, action-oriented guidance. The formulation of a set of principles could thus reflect a set of ingredients which, in various combinations around the world and according to circumstance, are likely to contribute significantly to successful SDG implementation. To put it another way, principles of good governance may be most useful if they can be built into workable solutions to the institutional challenges of sustainable development that require them.

What might be some of the core elements?

Various attributes of good governance have been referred to as a foundation of development in numerous international agreements and commitments including such diverse instruments as the

2030 Agenda for Sustainable Development, Addis Ababa Action Agenda, Rio+20 outcome document, Copenhagen Declaration (“democratic, transparent and accountable governance”), Plan of Implementation of WSSD (“democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality”), Sendai Framework for Disaster Risk Reduction (“good governance in disaster risk reduction”), Millennium Declaration (“democratic and participatory governance”), Istanbul Declaration and Programme of Action for LDCs (“democratic processes, institutions and the rule of law”) and NEPAD framework document (“transparency, accountability and participatory governance”), among others.

Good governance has also been affirmed, recognized, underlined and acknowledged in some 350 General Assembly and ECOSOC resolutions as essential for sustained economic growth, sustainable development, the eradication of poverty, hunger and malnutrition, and other major development outcomes. When general principles – such as social equity, the rule of law and “leave no one behind” – as well as more specific notions are considered, the list grows longer. By way of illustration, some of the key goals associated with the good-governance agenda appear to include: non-discrimination, integrity, participation, transparency, accountability, subsidiarity, competence, effectiveness, intergenerational equity and international cooperation. These and other elements, such as those explored in previous work undertaken on core issues and good practices in governance for the MDGs,¹ could be reflected in a compilation for further discussion by the Committee.

Consideration should be given to setting basic parameters for development of a set of principles of governance, for example along the following lines:

- i. The principles must be consistent with the principles of the United Nations Charter.
- ii. The principles must be consistent with international human rights law. Some principles could be based on the Universal Declaration of Human Rights and related covenants.
- iii. The principles must be consistent with the United Nations Convention against Corruption. Some principles could be based on UNCAC, and specifically provisions relating to the public sector.
- iv. The substance of the principles should be consistent with governance-related principles previously adopted by the United Nations General Assembly and Economic and Social Council, including the 2030 Agenda (unless they have been superseded).
- v. The principles should be few in number, expressed in non-technical language, and relatively easy for non-specialists to recall. Grouping of related objectives may be considered.

At the same time, Member States have stressed in the 2030 Agenda that “there are different approaches, visions, models and tools available to each country, in accordance with its national circumstances and priorities, to achieve sustainable development.” Each government will need to decide “how these aspirational and global targets should be incorporated in national planning processes, policies and strategies.” By the same token, development of a set of governance principles must take differentiation into consideration and account for different political systems.

¹ See Governance for the Millennium Development Goals: Core Issues and Good Practices, prepared by the United Nations Department of Economic and Social Affairs, Division for Public Administration and Development Management for the 7th Global Forum on Reinventing Government (June 2007). Publication symbol ST/ESA/PAD/SER.E/99.