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8

THE ROLE AND REFORM OF THE STATE

Sanjay Reddy and Anthony Pereira

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Sanjay Reddy and Anthony Pereira

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Office of Development Studies
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Foreword

There is a growing consensus that development suffers from both market failures and state failures. Sustainable human development depends on market efficiency, secured through state action that creates the social and legal conditions for sustenance of markets. Exposing the state to market expectations enhances its capacity for such action.

The question is not “how much state?” Rather, it is about what is the role for public policy and action at different levels—local, national and international. The key issue is the reform of the state.

In this synthesis of the literature, Sanjay Reddy and Anthony Pereira argue that state reform has two important dimensions: the desired outcome and the process leading towards that outcome. To address both dimensions, reform should strengthen state effectiveness and legitimacy and reduce the incompatibility between private and public interests.

The paper identifies a lack of legitimacy in the selection and pursuit of objectives as a major aspect of state failure. State objectives lack legitimacy when they are not accountable to the affected populations for their actions. The paper examines various means to enhance accountability through transparency and restructuring of the value and incentive structures of public institutions. It emphasizes the synergy between effective civil society and effective states. State reform should capitalize on this by, for example, institutionalizing links between civil society and the state to enhance accountability.

We are sharing this general literature review with you because it might be a useful complement to specific country-based analysis and experience. As with all the publications of the Office of Development Studies we submit the analysis and views presented in this Working Paper for further policy debate and follow-up research. We welcome your comments (please see our contact information on the inside of the cover of this publication) and look forward to hearing from you.

Inge Kaul
Director
Office of Development Studies

Executive Summary

In recent years the role of the state in developing countries, as in developed countries, has been widely assailed. This critique has been in considerable measure justified. State performance in developing countries has often been extremely poor. To rectify this, states have been advised to withdraw from many activities and to minimise their scale. An alternative prescription, recommended here, is for states to be reformed so that they are capable of effectively undertaking the functions with which they may be charged. There is a considerable ongoing need for public action in a range of areas, which makes state reform vitally necessary.

State reform should focus both on enhancing the effectiveness with which states pursue their aims, and on enhancing the democratic legitimacy of the process whereby states adopt and pursue particular aims. Discourse on "governance", should focus both on outcomes and on the procedures by which states act — i.e., the criterion of democratic legitimacy. Effective state reform requires that attention is paid to the compatibility of the incentives that agents—politicians, administrators, and citizens—have with the goals with which public institutions are charged. However, effective state reform must also be built upon a recognition and cultivation of the broad and diverse range of motivations of which agents are capable. The public purpose of the state cannot be maintained if the state is viewed simply - as in the currently dominant "public choice" perspective - as an amalgam of private interests.

State reform should address specific issues such as the design of concrete mechanisms which can make politicians and administrators accountable to citizens, the professional structure and organisational design of the civil service, and the crucial significance for state performance of the relations between state and "civil society". Reconsideration of the role of the state should focus not only on its "direct" role but also on its role as a regulator, as a coordinator, and as the provider of the formal organisational framework of the economy and society. Concrete issues relating to state reform raise a promising agenda for action-oriented research and analysis in the service of sustainable human development.

The paper does not pretend to offer a comprehensive analysis of state reform or to provide an examination of the political processes and institutions that facilitate it, such as elections, parliaments, representation, decentralization, etc. Instead the paper provides a conceptual framework for state reform that emphasizes the importance of participatory political processes and institutions. It then focuses on specific reform contexts such as economic and industrial policy, provision of social services, judicial reform, etc.

Systematic reform of the state requires comprehensive rethinking of the underlying principles for state action. For example, instead of thinking of the state as a unitary entity, it may be desirable to shift to an image of the state as a diverse (and at times internally and externally competitive) ensemble of public institutions.

The emerging concern for the reform of the state can enable development studies to move beyond the now sterile and straight-jacketed debate over the respective roles of state and market.

I. Analysing the Problem

1. Introduction

Development thinking today stands at a watershed.¹ Once-prevalent development models assigned a central role to the state in the design and execution of policies to attain both economic and social objectives. However, over the last two decades, with the increasing influence of the private initiative centred development paradigm, the role of the state in both developed and developing countries has been placed in serious doubt. Nevertheless, it has also become increasingly evident that private initiative cannot, by itself, guarantee sustainable human development (i.e., development which is environmentally sustainable and people-centred). Rather, sustainable human development requires a balanced vision of how states can be revitalised in order to best perform their roles.

In the last quarter of the twentieth century, the development debate has concentrated on the respective roles that should be assigned to state and market, taking current levels of state performance as a given. The emerging phase of the development debate, however, will also ask how the quality of state performance can be enhanced. An attempt is made here to present, in outline form, the major conceptual elements of the current debate on the role of the state, with a focus on possible approaches that could enhance state capacities. Two remarks about the nature of this ambitious endeavour are appropriate. The first is that it is not possible in this space, and at this stage in the debate, to definitively resolve the questions that we ask. Rather, it is hoped that this paper will suggest promising general directions for future action-oriented study and analysis. Second, the breadth of the questions precludes definitive answers, even in the best of scenarios. The institutional arrangements and policy solutions relevant to a particular national setting must ultimately and necessarily be determined in a context-sensitive manner. The purpose of this paper is to outline the contours of this historical debate, and to identify the possible elements necessary for the re-imagination of the state's role in a manner which is visionary yet viable.

The first section of this paper seeks to clarify the objectives of state reform and to provide a conceptual framework for the design and evaluation of practical measures for state reform. The second section examines some specific aspects of state activity and, where possible, selected practical approaches to state reform.

We define the state as a compulsory political organisation that claims to control a geographically bounded territory and the people within it, and which claims to be the highest rule-maker within that territory. The state is a set of continuous administrative, legal, extractive, and coercive institutions (Evans et al, 1985: 7), each with their own personnel, and which together serve as the guarantor of a particular form of social domination. We recognise that there are multiple theoretical perspectives on the state that lay particular stress on one or more of these definitional elements. Some perspectives, for example, stress the state's monopoly of the legitimate means of violence. Others emphasise factors such as the perception of legitimacy, and the willingness of

citizens to accept the state and consent to its rule. Yet another perspective underlines the role of the state in coordinating, regulating, and reproducing society's productive forces. Our purpose here is not to enumerate this rich and varied literature but merely to furnish a clear working definition.

The state should be distinguished from a temporary collection of top officials who rule the state for a particular period of time (a government), and a particular set of institutional relationships determining leadership selection and basic features of state-society relations (a regime). More problematically, the state must be distinguished from society. An intense debate exists over how the two can be distinguished, with some critics even disputing the utility of the state-society distinction altogether (Mitchell, 1991). However, while the boundaries between state and society have blurred, and could become even more indistinct due to the proliferation of new forms of public-private cooperation, the distinction remains valuable. The state exists as an entity distinguishable from its societal environs—but the debate over where, exactly, the line should be drawn, is not only an analytical exercise, but a reflection of a shifting historical reality that the present debate will help influence.

2. What are the Questions?

Re-appraisal of the role of the state should focus on two types of questions:

(1) What should the state's functions be?

This question concerns the scope and scale of the state's activities. For example, in what sectors should the state operate? What should it seek to accomplish in these sectors? Is there reason to expect that private actors by themselves could not or would not undertake these tasks as well as the state? This question has been widely considered in existing development debate.

(2) How can states be helped to perform their functions well?

This question concerns the *quality* of the state's activities. Many recent analyses of the role of the state have treated the state as being uniformly incapable of performing its functions well, and as universally subject to "rent-seeking" and other predatory behaviour on the part of sectional and private interests. These analyses neglect the wide variation in the actual performance of states, which have at times, effectively furthered both economic and social objectives. A better approach to this question would enter the largely uncharted "black box" of the state to ask what are the social and institutional mechanisms and administrative structures that allow states to do their work well.

These two questions are inter-dependent rather than independent. Whether a state should perform certain functions at all is dependent on whether it can perform them well. Similarly, whether a state can perform certain functions well may depend on what other functions it is asked to perform.²

3. A Conceptual Framework

i. The State's Functions

In answering the question of **what** functions states should perform, it is useful to distinguish between different types of such functions. The possible functions of the state may be divided into four overlapping categories. They are presented here to facilitate conceptual distinctions rather than to enable particular examples to be designated as belonging exclusively to one of them.

Direct functions: These are state interventions where the state is the actor which exercises the primary, active and usually most visible role in attempting to further a particular objective. Examples of direct functions include the provision of health-care or education by state financed or run hospitals or schools, the construction and maintenance of roads, the provision of national defence, and the production of steel by a state-run plant.

Regulatory Functions: These interventions include those in which the state acts to restrict or supervise the actions of private actors. Examples of regulatory functions include supervision of banks to ensure their financial solvency, restrictions on manufacturing techniques to minimise pollution, and regulation of monopolies and restrictive trade practices to ensure efficient and socially desirable economic outcomes.

Coordinative Functions: In this role, the state coordinates the actions of private actors to ensure superior outcomes to those which would otherwise be achieved. Examples of coordinative functions include traffic rules mandating that all vehicles should drive on the same side of the road, and "incomes policies" or centralised wage bargaining arrangements overseen by the state which ensure simultaneous wage and price restraint by workers and firms across industries.

Organisational Functions: Here the state provides the enabling legal and social framework within which the market and civil society take on a particular institutional form. In this role, for example, the state creates the framework for property law, including the law of enterprises, bankruptcy, inheritance, and contract, the framework of family law, and frameworks for the formation, structure, and obligations of non-governmental, community, and political organisations. In its organisational function, the state attempts to define and enforce, primarily through the legal order, the nature, roles and boundaries of distinct types of social and economic institutions.

Particular state interventions will often fall into more than one category. For example, state manipulation of the money supply can, in a particular instance, conceivably embody a direct function (it typically involves an active and visible intervention to serve a particular objective — such as higher output or lower inflation — with the state as its prime protagonist), a coordinative function (changes in the money supply may induce firms to make decentralised decisions to simultaneously expand or contract output), and a regulatory function (the change in money supply may be induced

by manipulating the reserve requirements to which banks are legally subject).

Although much recent discussion on the role of the state has focused on the direct and regulatory functions of the state, it can be argued that there has been far less, and inadequate, attention given to the coordinative and organisational functions of the state.

ii. Reform Objectives and Evaluation Criteria

Clarification of the objectives of state reform is an indispensable prerequisite to the design and evaluation of practical approaches to reform. At its most general level, state reform should have as its objective enhancing the fulfilment of two distinct evaluation criteria:

1) **Consequential Efficacy**. This criterion relates to the worth of the consequences generated by state action. The criterion of consequential efficacy may be further broken down into two dimensions. The first of these is the **efficiency** of state action. A state acts efficiently when it acts to serve a particular objective to the greatest possible extent, given available resources and constraints, **without regard** to the nature of the objective being pursued.

The second dimension of the consequential efficacy of state action is the **quality** of its objectives. Such a judgement inherently carries a subjective element which is unavoidable. For example, from the standpoint of a commitment to sustainable human development, state objectives which are directed towards the enhancement of overall living standards, social equity, and environmental sustainability are of high "quality" whereas objectives which are primarily directed towards the personal enrichment of a small and powerful group, irrespective of consequences for nature and for the poor or excluded, are not. For the criterion of consequential efficacy to be satisfied, it is necessary that **both** the objectives of state action be of high quality and that these objectives should be pursued with a high degree of efficiency.

2) **Procedural Legitimacy**. This refers to the extent to which state actions are formulated and executed according to **procedures** which are in accordance with ideals—usually democratic in character—embodying the ideas of fairness or legitimacy. Democratic ideals include the principle that states should consult and include those affected by its actions in the decision-making process wherever possible. Democratic ideals also encompass the principle of respect for fundamental rights and freedoms which, except under exceptional circumstances, should circumscribe the limits of public action.

The criteria of consequential efficacy and procedural legitimacy are distinct. Both of these must be satisfied before a state may be deemed to be performing its functions "well". Recent discussion of the role and reform of the state has focused almost exclusively on the consequential efficacy of state activity (see for example, World Bank (1997)). However, considerations of procedural legitimacy should be given due consideration in any adequately comprehensive evaluation of state performance. Although these two criteria are conceptually distinct, there are

important empirical links between them. In particular, greater procedural legitimacy may be associated in many situations with greater consequential efficacy. For example, allowing communities a role in deciding on the characteristics of public goods (such as the location of a school or health clinic) may enhance the value to the users of the service provided (it might be difficult for a planner to identify an appropriate site without engaging in such consultation). This is an **instrumental** linkage (i.e., adherence to procedural legitimacy is valuable in this example in that it serves as an instrument for the furtherance of good consequences). However, procedural legitimacy should also be treated as having an **intrinsic** value (i.e., a value in itself), even where it may not further valuable consequences of other kinds.³

In circumstances where the criteria of procedural legitimacy and consequential efficacy come into conflict, it is unavoidable that difficult judgements of prioritisation and selection will have to be made, on the basis of prior moral considerations and consensual social judgements. State reform should seek to redesign public institutions in a manner that both their consequential efficacy and procedural legitimacy may be furthered to the maximal extent possible.

iii. The Architecture of Accountability

What accounts for state failure (and thereby the need for state reform)? A widespread perception is that states have often been irresponsible in their selection and pursuit of objectives as a result of a lack of accountability to sections of the public potentially affected by their actions.

The question of how to enable states to properly perform their functions may, in this perspective, be posed as “how can they be made both more accountable and responsible.” **Accountability** refers to institutionalised mechanisms which ensure that the state can be called upon to satisfactorily justify its actions to an appropriate constituency, usually to those whom it is meant to serve, and **responsibility** is the diligence and care in the state's selection of goals, and in the execution of its functions. Critics have found both of these elements widely lacking in many countries.

Clearly, responsibility in the exercise of state authority is a necessary condition for high quality state performance. It requires both an effort to exact efficiency in the pursuit of particular objectives, and to be wise in the choice of those objectives. As such, responsibility is a vital element of consequentially efficacious state action. However it is not synonymous with it. High quality state performance may depend on additional factors beyond the simple exercise of responsibility (understood as above in the sense of diligence and care) by those who control the state. For example, states may be constrained by the information about the economy or society which is readily available to them. This informational constraint may in itself place a limit on the consequential efficacy of state action, even where states are highly responsible in their pursuit of given objectives.⁴

What is the relationship between accountability and responsibility? In principle, a state may be responsible even if it is not accountable.⁵ However, it is undoubtedly the case that high levels of

responsibility in the exercise of state power are associated in practice with high levels of accountability to *some* relevant constituency. Where this constituency is very broad, this accountability is correspondingly democratic in character. Of course, where the constituency to which the state is accountable is a narrow one, it is likely that the state will be efficient in meeting the objectives favoured by this constituency, but there is no guarantee that these objectives will be those which are shared by a wider public.

In this conceptual framework for analysing state performance, the design of institutions which enhance accountability is considered as the *key* to enhancing the responsibility for the exercise of state authority, and as a result, to enhancing the consequential efficacy of state performance. Furthermore, there is a considerable overlap between the need for institutions that meet the demands of procedural legitimacy and the problem of designing accountable institutions. In other words, in practice, there can be a area of significant overlap between the goal of enhancing procedural fairness and democratic consultation, and that of bringing about more effective states through enhanced accountability. Of course, these goals may also conceivably conflict.

The view that broader democratic accountability may lead to high state performance as measured by consequences is, in principle, only one possibility (albeit an attractive one). State accountability to a smaller rather than a broader public, may conceivably enhance, rather than diminish, consequential efficacy.⁶ For example, it has been widely argued that central bank independence, meaning that central bank decision-makers are free from the need to be accountable on a continuous basis to those they serve, is likely to (and does) enhance central bank performance in combating inflation. Even so, there is no country with a fully independent central bank because in all countries, other branches of government have a say in the election or nomination of central bank officials at some interval. A similar example is that in many countries (such as in the United States), supreme court justices are appointed or elected to their positions for life, as a statutory means of ensuring their independence, which forces other branches of government to be accountable to the judiciary. Considerable authority is vested in these positions with little ongoing accountability. These examples suggest that there is no universal formula for ensuring the accountability and responsibility of states. The specific institutional mechanisms which will ensure that states are most accountable and responsible will vary according to function and context. What are needed, therefore, are not universal and unvarying formulae but the identification of principles which may be employed in varying combinations and configurations as appropriate to ensure these goals.

Although accountability to a relevant constituency may not be a necessary condition to ensure responsible use of state power, there is no doubt that accountability is strongly associated with responsibility. The problem of institutional design (as opposed to that of bringing about the most effective use of resources within established institutions) of public institutions must therefore confront the detailed architecture of accountability. In the following sections, aspects of this detailed architecture are examined.

(1) Accountability of whom? Accountability to whom?

States are complex and internally variegated institutions. As a result, relationships of accountability may need to be established between a number of distinct social actors in order to enhance the performance of states. At least three broad varieties of relationships should be identified in this respect. It is probably desirable to have some degree of accountability of political leaders to the public, between state officials and political leaders, and between state officials and the public they serve. Successful state design requires that adequate relations of accountability be established along each of these axes. The extent and nature of the accountability which is most appropriate may vary according to the particular relationship. Periodic elections are one mechanism for making political leaders accountable to the public, the threat of dismissal is one mechanism for making state officials accountable to political leaders, and the right of appeal of administrative actions to higher administrators or to the judiciary is a means of making state officials accountable to the public.⁷ It is possible that accountability along any one of these axes will benefit from the presence of relations of accountability and informational flows along the other axes. For example, state officials may be made more accountable to political leaders if there are avenues for the public to let political leaders know about the performance of state officials (which they may not otherwise be able to observe). Similarly, if state officials have the means to provide the public with information concerning the actions of political leaders, then political leaders may be held more accountable to the public.

(2) Accountability when?

Mechanisms designed to ensure accountability can differ widely in the frequency with which they operate. For example, a system of elections at fixed intervals, while ensuring a degree of accountability of elected officials to their electorate, also offers considerable freedom for elected officials to act in the intervening period. While this can allow elected officials to deal rapidly and effectively with unforeseen contingencies, it could also provide them with opportunities to act in a manner not in accord with the preferences of the electorate. In contrast, more continuous methods of ensuring accountability, such as the requirement for a government to maintain the confidence of the majority in a parliamentary system of government, or that officials may be readily dismissed or transferred if they do not maintain the confidence of their administrative or political superiors, can effectively narrow the freedom for the immediate action of individual political leaders or officials.

A second important issue concerns the possible time-inconsistency of optimal plans.⁸ At issue is that a planned course of action which once appeared worthwhile may no longer be attractive to those charged with pursuing it once others have acted on the expectation that it will be pursued. For example, a political party elected on the basis of a particular programme may no longer find it desirable to pursue this programme once elected. Similarly, a political leadership which promises to hold prices in check through controlling the rate of growth of the money supply may have a strong incentive to violate this promise once workers and firms have signed binding contracts on the expectation that this promise will be kept. A general theoretical result is that the threat of time-inconsistency leads to inferior outcomes than would otherwise be experienced. Suggested "solutions"

for the time-inconsistency problem vary depending on specific circumstances. A possible "solution" in the first example is to increase the accountability of political parties to the electorate by increasing the frequency of elections, staggering terms, or creating checks and balances between branches of government. In contrast, the most widely advocated solution to the widely discussed second case has been, in effect, diminish the accountability of central banks to political leaders by giving central banks statutory independence and offering bank officials lengthy terms in office. It is evident then that there is no "general solution" to the problem of the timing of accountability, and that the issues are complex.⁹

Some studies have distinguished between two forms of accountability mechanism, with each form posing a different solution to the timing problem. "Police-patrol" oversight of state agencies occurs when one part of the state apparatus (for example, the legislature) is charged with directly investigating and monitoring the performance of another, through such practices as reviewing documents, conducting field visits, and holding hearings. The timing and duration of this type of accountability is fixed, usually by central authorities. The need to create an institutionalised review structure may also make this form of accountability relatively expensive.

"Fire alarm" accountability, on the other hand, involves the creation, by central authorities, of channels through which citizens or other officials can charge state agents with having violated rules and seek redress for these violations (McCubbins and Schwartz 1984, and Calvert, McCubbins and Weingast 1989). By establishing clear rules, making them public, and encouraging citizens to report deviations, central authorities can use the "fire alarm" model to establish a more indirect, ongoing, and potentially less expensive accountability mechanism.¹⁰

Better state performance require that the design of institutions pay special attention to the geometry of informational flows within public institutions and within the society, issues of time inconsistency, the transaction costs of having agents account too frequently, the value of creating flexible institutions which can deal quickly with unforeseen contingencies, and not least, the inherent procedural value of institutions which generate maximal accountability to the public.

(3) Accountability how?

The question of how to achieve accountability is at the heart of the design of effective state institutions. The following themes are relevant to the design of concrete mechanisms that can promote accountability:

- **Transparency** – The potential importance of the free flow of information for enhancing accountability has been already mentioned. With greater transparency, a third party, such as a free press acting as a representative of the public, can enhance the accountability of the various state actors. The role of the third party, through information revelation (in which the third party may have a comparative advantage) is an important example of the potential importance of free information flows for enhancing state performance.¹¹ More generally, institutional mechanisms for ensuring the

free flow of information (such as laws guaranteeing freedom of access to official information, and freedom of publication) can ensure that the direct parties to a relationship themselves are able to hold one another to account. The number of circumstances in which official secrecy can be justified are likely to be extremely few, whereas the potential advantages of free flow of information for enhancing accountability are, in general, likely to be extremely high.¹²

Transparency encompasses not only the free flow of information about actions taken by the state, but also about procedures. For example, transparency is enhanced by well-defined and widely disseminated rules concerning the allocation of state services and contracts. Although the discretionary element in such decisions cannot, and should not, be entirely eliminated, the presence of well-defined procedures, in addition to mechanisms that ensure openness about discretionary considerations, is certain to enhance accountability. Maximal transparency may require not only the lack of hindrance to the flow of information, but also an active provision of resources to encourage the flow of information of high-quality¹³.

- **Exit and Voice** -- Albert Hirschman (1970) distinguished two mechanisms that can influence an institution to change: exit and voice. Exit refers to the possibility of expressing discontent through ending one's relationship to a particular institution. A consumer's decision not to buy a particular brand of product (whether to express her feelings about the intrinsic merits of the product, or about the firm which produces it) is an example of exit, as is the decision of an individual to move from one municipality with poor public services to another with superior services. Voice, in contrast, refers to the possibility of expressing one's interest in change through articulating it to others who may share that interest and to those in a position to bring about change. An individual's participation in a school parent-teacher association, or on a community health or water board, a response to a survey designed to elicit preferences about a public good, and the decision to vote are examples of the role of voice.¹⁴

Institutional designs for the reform of the state must guarantee exit or voice if they are to ensure any degree of accountability. The appropriate combination of these mechanisms will depend on particular circumstances. For example, in certain circumstances, exposing state owned enterprises to competition with privately owned firms (and thereby to the possibility of "exit") may be an essential element of enhancing their efficiency. In contrast, there are strong (albeit controversial) arguments for the universal provision of some social services, such as health care, which would call for the restriction of opportunities (especially on the part of the better off) to exit, and highlight the role of voice in enhancing the quality and efficiency of service delivery. It has been argued that if there are fewer opportunities for exit for the well-off from a public sector health system, there will be greater demand by politically influential and privileged sections of the society for high quality public services for all.¹⁵ On the other hand, a firm may be all the more responsive to complaints from its customers ("voice") because it knows their customers can exit, and buy from competitors. A monopolist, in contrast, might have little incentive to take account of these complaints. Thus voice and exit can, depending on the specifics of the context, serve either to *complement* or to *substitute* for one another as means of generating accountability.

The discipline of exit and the transformative potential of voice should both be given a central role in deliberations on possible forms of institutional redesign which can undergird the reform of the state.

• **The Principal-Agent Framework** -- In recent debate, the problem of establishing accountability has commonly been described in terms of the contractual relation between principals and agents.¹⁶ In this description, a principal is the party to a contractual relationship which seeks the performance of a service, and the agent is the party which contracts to perform that service in return for appropriate payment. According to the literature on principals and agents, where the principal has less than full information about the agent's characteristics, actions, or particular features of the agent's decision-making environment, the outcomes are likely to be inefficient because both parties could conceivably have been better off if they had acted differently. This has also been an influential way to describe the relation between stakeholders in state institutions.

For example, the relations between the public and politicians, between politicians and state officials, and between the general public and state officials have sometimes been described as principal-agent relations. In this perspective, the problem of designing accountable and responsible state institutions is "simply" one of "solving" the principal-agent problems inherent in complex institutions, where those holding the levers of power are other than those affected. The "solution" of such principal agent problems involves the design, within the constraints of informational and other limitations, of an "optimal" contract between principal and agent which brings about the best possible outcomes, subject to two kinds of constraints known as "participation" and "incentive compatibility" constraints.

The participation constraint requires that in the optimal contract, the agent should find it in her interest to accept the role assigned to her by the contract. The incentive compatibility constraint, on the other hand, requires that in the optimal contract, it should be in the agent's interest to find the actions which generate the "best" possible outcomes. Accusations against public officials for the corrupt abuse of "rents", or illegal trading off of public authority and resources in return for private gains, indicates, according to this perspective, a failure of the contracts to be "incentive compatible".¹⁷

The principal-agent perspective is clearly a powerful analytical perspective for understanding the problem of accountability. Some of its implications, particularly for economic and industrial policy, will be mentioned below. However, exclusive reliance on the language of principals and agents is also likely to deflect attention from some important features of the general problem of accountability. First, the description of the problem of accountability in terms of the interaction of principals and agents focuses only on the outcomes generated by a particular institutional arrangement (usually in terms of material product and its distribution) and not at all on the inherent procedural worth of particular institutional arrangements (due for example to the inherent worth of participatory or democratic processes). Second, in the principal-agent framework the parties are

solely motivated by the gains they realise from the arrangement (once again, conceived usually in terms of material product) and leaves little¹⁸ room for other motivations, related for example for the desire for civic engagement and social responsibility.¹⁹ A third, related criticism of the principal-agent framework for the analysis of institutions is that it considers agents' motivations and constraints within which they operate as "givens" whereas both of these are in fact formed and shaped by institutions themselves (See Rowthorn and Chang 1993, for an elaboration of this criticism). A fourth and final criticism of the language of principals and agents is that, since it is confined to a description of the interaction of principals and agents with regard to the fulfilment or non-fulfilment of contractual obligations, it is incapable of adequately capturing the often crucially important informal interactions and understandings (captured by terms such as "trust") between agents. The crucial importance of such informal relations for successful institutional performance has been discussed extensively by Sabel (1982, 1993), Best (1990) and others.

The principal-agent framework can be a valuable representation of a dimension of the problem of establishing accountability, but only if its inadequacies are fully understood.

iv. Collective Action and Agency

In this discussion of accountability, groups of often large numbers of agents have been treated for simplicity as single actors. In practice, the presence of a number of actors, even where they share an interest, can strongly affect outcomes. This raises the so-called "free-rider problem", which refers to the diminution of incentive for individuals to pursue a course of action which will further collective advantages, as long as they believe that other members of the group are taking action.²⁰ Many practices associated with enhancing accountability, such as public monitoring of state officials, the financing of political parties, and voting, could in principle suffer from this difficulty, which has been a preoccupation of a wide variety of recent literature on political economy.

In practice, however, it appears that many individuals act as if they were not "free riders". Green and Shapiro (1994) for example, argue that the large numbers of people who vote in democracies is evidence that the "free-rider problem" is less important than often believed. Nevertheless, it is possible that problems of free-riding do, within existing institutional settings, affect to a degree the quality of mechanisms for public accountability (for example a smaller proportion of eligible electorates vote in most countries than would be desirable in order to improve political representation and accountability). These difficulties can be overcome, in part, through institutional mechanisms specifically directed at this goal. Examples of such possible mechanisms are public financing of political campaigns and of public interest organisations, and mandatory voting.

More fundamentally, Unger (1997) points out that political and social institutions differ in the extent to which they encourage social and political engagement and participation among citizens. Specific institutional innovations are likely to generate a "higher-energy" politics, which may in turn enhance both the accountability of public institutions and the collective agency of citizens. Neither

identities nor interests are fixed, but rather, are formed under the weight of social experiences and institutions. The conviction that identities are reformable also facilitates gaining access to new conceptions of collective identity, and new experiences of collective agency. Public action can inspire public-spirited and collectively-minded individuals, in part through the educational process, and in larger part through the heightened experience of participation in collective effort and agency. This can, in turn, help to attenuate the logic of non-involvement and enhance the potency and functioning of the mechanisms of responsible citizenship, thereby enlarging both the effectiveness and the democratic legitimacy of state institutions.²¹ The key insight of this perspective is that high levels of social and political engagement are not simply the product of individual "civic virtue" but of the presence of institutional arrangements which encourage, reward and sustain such engagements. Institutions of this kind may well in turn be sustained by these high levels of social engagement and political mobilisation.²²

v. Politics and Pragmatism

Any significant programme of state reform is inherently ambitious. It is ambitious because it is sure to upset some established interests, norms, and patterns of behaviour. As a result, the politics of the process of institutional reform—which allows what is possible and at what time—will be of utmost importance to those who favour significant structural change in the design of the state. Where significant changes to the internal structure of state institutions have been brought about in recent years (for example in the UK), this has often been through the strength of strong and long lasting elected governments, which have brought about changes by proceeding in steps. There is too little evidence and experience, however, to speculate on the pattern of political constraints and opportunities which are likely generally to accompany significant state reform efforts.

A central paradox of the process of state reform is that those responsible for implementing reform (i.e., administrators and politicians) are also those who may have most to lose from reform. As a result, successful state reform may be most likely to occur in conditions of wide popular support and mobilisation in favour of institutional change. This is likely to come about when ordinary people are convinced—as they are today in much of the world—that they require public institutions which are more flexible, responsive, respectful, efficient, and participatory.

Although there are many examples of relatively efficient public institutions operating in relatively undemocratic environments (the Republic of Korea, China's province of Taiwan, and Chile are sometimes thought of as recent historical examples of this kind) the thrust of this paper will argue that commitment to broad-based public participation can be reconciled with efficient public institutions—and indeed, support them. Instead of "insulation" from public pressures being a prerequisite for the hardening of the state, it is argued here that enhanced accountability to as broad a public as possible (i.e., diminished insulation) is compatible with sustainable human development. Indeed, when sustainable human development is properly conceptualised (as involving the broadening of all of the choices which human beings have including their rights of participation in the process of social decision making), enhanced democratic accountability is an irreducible

dimension of this concept.

There are at least two further responses to the view that “insulation” from the broad public is a necessary condition for the sustenance of a “hard” state. The first emphasises that even well-known cases of relatively effective undemocratic states have relied, to some degree, on selective relationships with “civil society” for their effectiveness. The idea of “embedded autonomy” was developed by Evans (1995) to capture this selective relationship with civil society of otherwise undemocratic successful bureaucratic regimes in East Asia and elsewhere. Such links proved indispensable to generating both the necessary flow of information and the willing cooperation of a broad range of social actors which enabled states to be effective. The second response emphasises that while a partially participatory order may at time create obstacles to the coherence, efficiency and equitability of public decision-making, this is likely to be overcome by the employment of heightened and more generalised democratic structures which substitute decisive democratic decision-making for coalitional deadlock. The search for such institutional forms will have to be an essential part of identifying state structures which can generate both good consequences and be democratically legitimate.

vi. Pluralization and Possibility: Beyond the State as a Unitary Entity

The dominant modern view of the state is that it is a unitary entity. The state has been often conceived as a single bureaucratic complex, amenable to a unitary description, if not always subject to unitary control.²³ In this view, authority within the state devolves from a single power source or complex of power sources and extends to the entire "state apparatus". For example, although different "branches" of government (e.g., executive, judicial, and legislative branches) may have the power to "check" and "balance" one another, together they constitute an aggregate which exercises a single and comprehensive (although not necessarily consistent or even) command over all institutions of state. In this common conception, states are best viewed on an anatomical metaphor, as having "heads", "organs" and "arms", possibly akin to rather lumbering giants. This view of the state has never been fully accurate, as states often have internally varied entities, with their parts often acting at variance with one another.

Hence, control of the state, understood as command over the centralised levers of manipulation of state power, has been all important. This has also meant that these levers have often been ineffective, as the massive and complex aggregation of institutions under the heading of the state has proved resistant to effective monitoring and control from any single institutional power centre - giants often are lumbering.

In an age in which new levels of flexibility, accountability and responsiveness are required of public institutions, this "giganticist" conception of the state may no longer be viable. A promising alternative to this dominant conception of the state, which may help to describe the reality of actually existing states and suggest a new vision for state reform, treats the state or its functional equivalent not as a unitary entity with a single site of command, but as an ensemble of public and semi-public

institutions.

In this latter conception, authority does not devolve from a single power centre but rather from diverse sources varying according to the particular public institution in question. Different public institutions may also feature different structures of accountability to distinct constituencies. One implication of this conception is that public institutions may be in competition with one another. They may also possess diverse and independent bases of financial mobilisation. Of course, some institutions must also, in this conception, be vested specifically with the task of adjudicating and enforcing disputes and deadlocks between these diverse public institutions as well as of mitigating concentrations of power and resources.

This pluralized model of the state already exists in muted form in the often variegated and disorganised operation of existing states, but the competitive possibilities inherent in this disorganisation have rarely been explicitly exploited. If this model were fully realised, it could, for example, lead to system of diverse partially publicly owned enterprises, constituted on a statutorily independent basis, and charged with social as well as profit-making objectives. Such enterprises would compete for success with one another, on the basis of market disciplines as well as an index of effective attainment of their social goals. The potential of internal competition among government agencies for enhancing efficiency and accountability is only beginning to be explored.²⁴

This revised view of the state, as a plural network of public and semi-public institutions, accountable to diverse and possible overlapping constituencies, and tied together by a shared commitment to certain (constitutional) principles of adjudication, holds considerable potential for rethinking the role of the state, and conceptualising its reform. It suggests that internal competition for enhanced efficiency, as well as a "human scale" of interaction between public officials and those they serve—made difficult by prevalent vertical and centralised models of state organisation—may be attainable given the exercise of institutional imagination.

The pages above have outlined a conceptual framework for evaluating the appropriate role of the state and for better conceiving of how public institutions may be reformed so that they can achieve their historic potential of serving as instruments for the expansion of individual human potential and of collective agency. Section Two of this paper will briefly survey selected empirical experience with state performance, and possibilities for its enhancement, in light of the framework outlined here.

II. Selected Empirical Issues

In the following sections, the major elements of the debate over the role of the state, and possible practical elements of state reform, are briefly outlined. Specific sectors of state activity and aspects of state structure are treated in turn. This is not an attempt to exhaustively survey, and certainly not to resolve, these debates, but rather, the objective is to highlight key issues.

1. Economic and Industrial Policy

Deane (1989), in her work on the history of economic thought, entitled *The State and the Economic System*, argued that the debate on the state's role has been the central theme in the development of economics as a distinct discipline. The mainstream of economic science has tussled continually, and shifted ground often, on the role of the state in economic life.²⁵

Authors such as Polanyi (1944), argued that the state played a central and indispensable role in the industrial development of the West, by either creating enabling social and legal conditions for the development and sustenance of markets, or through direct involvement in the spheres of production, distribution and exchange.²⁶ The initial successes of the twentieth-century experiences of the USSR, China, and other countries in promoting rapid industrialisation with heavy state involvement, provided fuel for the view that state planning could be a uniquely powerful instrument of industrial development. In capitalist North Atlantic electoral democracies, meanwhile, the Keynesian perspective, which assigned a powerful corrective role to the state in the market system, to insure efficient use of resources and the desired distribution of incomes, gained in influence and power through the middle third of the century. In the developing countries, the development economics pioneered by Hirschman (1958), Lewis (1954), Nurkse (1952), Rosenstein-Rodan (1943), and others, provided equally powerful justification for a significant state role in economic life, both to coordinate and regulate the private economy and to capture its "commanding heights" so as to ensure rapid and equitable growth.

The story of the demise of this "state-centred" consensus does not need to be told at length. As is now widely known, the perception of state efficacy in economic planning and management began to collapse in the early 1970s. In the North Atlantic electoral democracies, the collapse of the post-war fixed exchange rate system was accompanied by the unprecedented phenomenon of "stagflation" which seemed resistant to correction through conventional Keynesian techniques of economic management. By the late 1970s, signs of crisis in the developing countries had also become increasingly evident. The debt crisis of the early 1980s brought the failure to generate sustainable prosperity in the developing countries to the fore. Meanwhile, a "conservative revolution" had evolved in Britain and the United States which called for state withdrawal from economic life and a radical pruning of state functions and ambitions as the solution to the crisis.

With the debt crisis, this solution was also exported to developing countries as well as to other developed countries.²⁷ Finally, the failure of the socialist-bloc planned economies to keep pace

with their market-centred competitors became increasingly evident. The internal inefficiency and slow pace of technical innovation in these economies led to comprehensive and profound disillusionment. After political discontent with the authoritarian character of these regimes became more prominent, the centrally planned economy was seen as comprehensively discredited.

Different lessons have been learned from the experiences of East Asia. A number of East Asian industrial development analysts have found evidence that the pervasive state role in shaping a market economy was a key to growth and industrial success. Amsden (1989) and Woo (1991) for example, provided evidence of pervasive state interventions in credit markets, in the regulation of savings and investments, in the coordination of exports, and in particular sectors of industrial production. Johnson (1982) had earlier enumerated similar evidence in the historical experience of Japan. Finally, Wade (1990) suggested that other East Asian countries, including China's province of Taiwan, adhered to a lesser extent to a similar pattern. World Bank (1993) presented a critique of the view that this extensive industrial intervention had enhanced growth, without denying that it had occurred.²⁸

More recently, the experience of China has suggested further limitations to the view that only a narrowly stereotyped private market economy can generate economic prosperity. China has enjoyed extremely high growth despite an ongoing central role assigned to state owned enterprises. More significantly, Cui (1996), and others have found evidence from China that so-called "Township and Village Enterprises" manifesting complex amalgams of public and private ownership and authority²⁹ have been exceptionally successful amidst competitive conditions.

There is little doubt, despite these possibly contrary examples, that the view that the state should limit its role to a narrow and well-defined range of activities in the economic sphere enjoys unprecedented popularity and influence today. Moreover, international financial institutions and private investors increasingly insist that national governments agree with these shared assumptions on the appropriate limitations on state action.³⁰

What does this background of historical and contemporary experiences suggest today about the role of the state?

The direct economic functions of the state can encompass a range of activities from the supply of money (with its corresponding effects on interest and exchange rates, wages and prices), the provision of productive physical infrastructure, to the production of goods by state owned enterprises. The state also affects the final distribution of income and the pattern of goods produced and consumed through its tax and redistributive policies. There is considerable agreement across a wide spectrum of opinion that states must continue to exercise at least the most elementary of these functions, although there is controversy over the extent to which they should do so. The direct functions which cause the greatest controversy concern the state's involvement in the production of private goods and services. It has been widely and influentially argued that states lack a 'comparative advantage' in the production of such goods and services and that they should therefore turn over all

such production to the private sector. It has been further argued that the lack of "hard-budget constraints," and the presence of political or poorly-defined social goals in addition to profit imperatives are sure to corrupt the efficiency of publicly owned enterprises.³¹

This logic has been highly influential and is undoubtedly partially justified. However, it suffers from a number of limitations. First, this criticism fails to account for some of the **variation** that has been observed in the performance of state owned enterprises. Although it is true that in many countries state owned enterprises have, on the whole, performed poorly—by standard accounting measures—in comparison with corresponding privately owned firms³², it is also true that there are some exceptional examples of highly efficient state owned enterprises, even by standard measures. For example, the Pohang steel plant in South Korea has been widely cited as one of the most efficient steel plants in the world.³³ Comparative multi-enterprise studies in a variety of countries have also failed to establish the generally superior efficiency of private enterprise (Parker (1993), Pitelis and Clarke (1993), Vickers and Yarrow (1988)]. A key research priority on the reform of the state is to explain the social and institutional underpinnings of the observed variation in the performance of state owned enterprises.

Empirical evidence on the consequences for efficiency of the privatisation of state-owned enterprises is limited. Although there is certainly some evidence to suggest that privatisation of state-owned enterprises has, in many instances, led to improvements in operational efficiency and in customer satisfaction, there are also a considerable number of counterexamples. In actuality, the privatisation record, even in advanced industrial countries, has been more mixed than is often suggested. Thus, in an early study Bishop and Kay (1989) found no evidence of efficiency gains due to privatisation in the U.K. Subsequently, Parker (1993) found that although the shift from public to private ownership in the U.K. has often led to improved performance, it has also failed in a fair number of instances. This study finds that other aspects of organisational change, such as internal decentralisation, are the prime determinants of organisational performance.

A second important issue is that, given that state owned enterprises are typically charged with meeting social objectives as well as with earning profits, suitably modified measures of performance are also necessary to adequately judge the level of performance of such enterprises. For example, a state owned airline, which is required by its mandate to travel to uneconomical areas which would otherwise be unserved, should not be judged inefficient simply due to the losses resulting from this mandate. Rather these "losses" are simply the cost of fulfilling a desired and calculated social objective. Future research on the role and reform of the state should also identify appropriate performance measures.

A number of suggestive examples exist of how state owned enterprise performance might be enhanced without privatisation. The use of "performance contracts" between enterprise managers and external state authorities which specify explicit performance expectations may be one way in which the "principal-agent" problems inherent to such enterprises can be resolved. At least one study (World Bank 1996) has found mixed results for such contracts in practice, but also acknowledged

that they were only half-heartedly implemented in many cases. Performance contracts do not, of course, guarantee the "hardening" of the budget constraints faced by state owned enterprises, as these enterprises are aware that even if they do not comply with the contract, there the state still has an interest in preserving them. Legal innovations, such as the statutory financial independence of state-owned enterprises, monitoring and binding arbitration of performance by third parties, and the introduction of bankruptcy laws applicable to the state sector, may help to resolve this problem.

Finally, a range of innovations in the form of property rights may enable the preservation of the "public" character of previously state owned enterprises (i.e., without engaging in a "fire-sale" of publicly owned assets at highly discounted prices to isolated private investors³⁴) without sacrificing the efficiency advantages of privatisation. For example, Przeworski (1995b) and Roemer (1994) suggest that shares in such enterprises be distributed among citizens. These shares would bear dividends but could not be sold to others. This form of "modified voucher privatisation" would maintain the equitable distribution and public character of state owned enterprises while generating the efficiency advantages (in the form of shareholder monitoring) of privatisation. The scope for such innovations should be seriously explored as a major area of further research on the reform of the state.

Regulatory functions of the state in the economic sphere include supervision of the financial sector in order to ensure liquidity and solvency, policies to minimise environmental damage generated by private producers, the regulation of monopolies and restrictive trade, and the supervision of the collective bargaining process. There is considerable agreement on the value and need for an ongoing state role in these areas, even though there is considerable disagreement about the particulars of this role. One potential area of possible research concerns the relative efficiency of alternative regulatory mechanisms. Regulatory mechanisms which do not depend only on the monitoring and oversight capacity of the state, but which also rely upon the vigilance and disciplinary power of civil society, may be particularly valuable as a means of lessening the state's burden of responsibility while still achieving public goals. For example, Afsah (1996) provides the interesting example from Indonesia, of a system of "regulation through public information" in which the state disseminates information to the public on the relative performance of private firms in reducing pollution as a device to lessen firms' polluting behaviour by increasing their accountability to the public. Other innovative regulatory mechanisms of this kind are undoubtedly possible.

The coordinative functions of the state are potentially broad in scope. More conventional coordinative roles of the state include policies of macroeconomic coordination such as the supervision of centralised wage bargaining and "incomes policies", designed to support agreed levels of prices, wages and employment. These possible coordinative functions have been widely discussed in conventional economic literature. Recent analyses of examples of successful industrial performance have brought to light other important areas in which the state may play a vital coordinative role, which are of special relevance for development policy.

A key feature of the East Asian experience in facilitating export-oriented industrialisation, demonstrated most starkly by Korea, was the state's role in planning and coordinating private

investments in specially designated "priority" export sectors, as well as ensuring common access to foreign technologies and to marketing and distribution networks in foreign markets. Frequent meetings between key export manufacturers, financial sector and public officials played a vital role in this process.³⁵

At the regional and local level, more diverse examples of concerted public action to facilitate industrial success can be found. The now extensive literature on "industrial districts" and on "small-firm networks" points to the central role of regional and local governments in underpinning some of the most successful industrial regions in the world. In these regions, such as the so-called "Third Italy" (consisting of some fifty "industrial districts" in the Centre and North-east of Italy), Baden-Wurttemberg in Germany, Sakaki in Japan, Oyonnax and Cholet in France, and Mondragon in Spain, highly successful and specialised industrial enterprises exist in networks of "cooperative competition" (See Trigilia 1992, and Zeitlin 1992 in Pyke and Sengenberger 1992, Sabel 1982). These networks enable firms to reap advantages of scale and cooperation in the development of product and input markets and in the exploration of new technologies. Local public authorities have often played an essential role in this process through encouraging "co-operation among economic actors by supporting the provision of collective services such as marketing, research, technological consultancy, low-cost credit, and training, as well as the construction of collective mechanisms for wage setting, dispute resolution and quality control" [Zeitlin, 1992]. These examples clearly illustrate the central role which state "coordinative activities" can play in facilitating industrial success.

As a result, some efforts have been made in recent years to apply this model of regional public-private cooperation to developing countries. The central question which arises from these examples of successful public coordinative activity concerns why this activity sometimes succeeds and why it sometimes fails. Evans (1995) has suggested that a successful state role in industrial transformation is characterised by states possessing "embedded autonomy". Embedded autonomy requires state organisations which simultaneously enjoy a "corporate coherence" which enables them to be partially "autonomous" from the social order while also being "embedded in a set of social ties that binds the state to society and provides institutionalised channels for the continual negotiation and renegotiation of goals and policies".

Evans states that "Only when embeddedness and autonomy are joined together can a state be called developmental". To determine the accuracy of this description, and more importantly, for understanding approaches to the reform of the state, there needs to be further research on the forms of state structure which lead to embedded autonomy, such as specific conditions of civil service. It will be particularly important to understand, in subsequent research, whether these particular aspects of state structure are "transferable" in the sense that they may be put in place in a wide range of conditions and still lead to success. In the case of industrial districts, for example, it has been suggested that public-private cooperation has been possible primarily where there are pre-existing and longstanding networks of social life surrounding practices such as traditional crafts. As such, the successful models of public-private cooperative coordination witnessed in such districts may not

be easily "transferable". On the other hand, the social ties which can give rise to the "trust" which in turn sustains public-private cooperation can be of a very wide variety.³⁶

The organisational role of the state in the economic sphere deserves much more attention. It has become increasingly clear, after the collapse of the centrally planned economies, that market economies themselves are characterised by profound internal variation and there is no single stereotyped form of a market economy.³⁷ For example, banks play fundamentally different roles and have a distinct legal constitution in Germany, Japan and the United States³⁸. Similarly, the legal form of labour organisations varies considerably across countries, with considerable implications for their role and economic consequences.

By providing a certain legal framework for economic organisations, the state can greatly influence the ongoing life of the economy, even without directly intervening in it. For example, the conditions for worker representation by a trade union will greatly influence the extent of workers' bargaining power in the economy. The specific manner in which contracts are enforced, and property rights understood (for example through rules of bankruptcy or inheritance), can also have profound consequences. There are certainly many more possible legal-institutional forms for economic entities than are currently represented in the world. There is therefore considerable scope for creative design and experimentation with such forms—for both private and state institutions.

2. Social Services and Social Protection

It has become increasingly recognised that the rapid extension of access to a range of basic social services is of great value both as a means towards important ends such as economic growth (See for example Barro and Xala-i-Martin 1995, Levine and Rennelt 1990) and as a highly important end in itself (see for example Sen 1992).³⁹ Despite this broad based contemporary consensus on the goal of universal access to basic public goods, there is no comparable degree of agreement on the means by which this goal is to be attained, either in rich or poor countries.

Specifically, the exact role of the state in ensuring access to basic social services as well as to minimum standards of living and conditions of work is controversial. Nevertheless, most parties to the debate agree that the state must inescapably play some role in this area. Significant disagreements arise in relation to the specific form which this role should take.

Prior to the fiscal crises of the early 1980s, the image of universal direct provision of basic social services and social protection by the state was an appealing one, in both developing and developed countries. Although the reality of access to social services fell far short of this goal, the ultimate ends of social policy in developing countries were often visualised in these "statist" and "universalist" terms. With the global fiscal austerity of the last two decades, however, this climate of discourse has withered.

Instead, in the North, there has been increased acceptance for the model of "targeted" and "residualist" social benefits, which is directed toward a small proportion of individuals determined

to be "deserving" and "in need" rather than to the general population. As a result, policy advice and conditionalities administered to developing countries have also increasingly been in this mould. In developing countries, support has grown for models where the private and "non-governmental" sectors play a much larger role than does the state for the provision of social services and social protection. Critics have charged that the state has been ineffective at reaching all those it has been charged with reaching, inefficient at reaching even those whom it does reach, and inequitable in the profile of those whom it benefits most ([See for example World Bank 1995a).

Public provision of state-financed and provided social services in developing countries, according to the central dimension of the "neoliberal" critique, has been that the state has "got the incentives wrong, on at least three levels. First, according to this critique, officials charged with providing social services have often lacked incentives to use resources in their highest priority uses and in furtherance of the public purpose. The failure to establish adequate incentives within the social service bureaucratic apparatus has led to lack of attention to the efficiency of use of public resources and, much more damagingly, to the translation of public resources into private privilege in the form of access to social services, goods, cash, or leisure. This concern in the realm of social services is parallel to the larger contemporary anxiety over "rent-seeking" and "directly unproductive activities" highlighted in so-called "neoclassical political economy" (See for example Krueger 1974 and Bhagwati 1988).

A second level of inadequate incentives in traditional systems of public provision, according to the neoliberal critique, is that political leaders and state officials have not had incentives to design systems to provide services to those who need them most. Rather, the design of public provision itself (i.e., even prior to its actual execution - which is the subject of the first plank of the critique) has been highly prone to "capture" by particular powerful interests (state officials and political leaders themselves, and more generally privileged groups), whereas the ostensible beneficiaries are often left without effective access to these systems. Thus, it is frequently argued that the public provision of health services and education in developing countries has widely been "top heavy" with excessive public investment in services ostensibly consumed disproportionately by the non-poor (e.g., curative and advanced health services, tertiary education, and piped water systems).

Finally, a third level of inadequacy is the lack of incentives in existing systems of public provision is that users have lacked in incentives to use publicly financed and provided services "rationally". In this conception, poor public management of prices structures (with many nominally set at zero), has led to failure on the part of users to internalise the true costs of service provision. As a result, users have "overused" services or used them "frivolously" (for examples of arguments of this kind, as well as questioning of their logic and importance, see Reddy and Vandemoortele 1996).

Despite an element of truth in these criticisms, there is increasing agreement that there is a need for an ongoing state role in the social sectors, both as a financier and as a provider. Studies such as Dreze and Sen 1991, and Mehrotra and Jolly (forthcoming), have found that high

levels of human development have almost always involved a significant state role in facilitating access to basic social services.⁴⁰ Although states may suffer from many inadequacies, these inadequacies may not always be so severe as to entirely invalidate their mission. Indeed, whereas early critics of the state role in the provision of social services (see e.g., de Ferranti 1985) had been rather sweeping in their condemnations, more recent criticism has tended to be far more muted, and is more likely to accept the need for state finance, if not provision, of social services at the basic level (e.g., World Bank 1995a). Many of the favoured alternatives to state direct provision of social services are also replete with problems of their own. For example, Reddy and Vandemoortele (1996) show that user financing of social services is seldom a significant source of revenue, while it often significantly discourages use by the poorest, and can waste administrative resources and lead to allocative inefficiencies.

Nevertheless, if the incentives have been "wrong", then presumably the answer is to get them "right". How is this to be achieved? The following principles can assist in tapping human energies in a manner which furthers the provision of vital social services while avoiding the difficulties usually lumped under the heading of "incentive problems":

- "Get the incentives right", but avoid institutional fetishism:

Even if we confine ourselves to the narrow framework of the principal-agent representation, it is evident that "getting incentives right" is, in principle, a matter of the details of institutional structure and not of ownership or institutional type.⁴¹ In other words, appropriately designed public institutions should, in principle, be able to "get incentives right" just as well as a system which allocates the central role to private agents.⁴²

In general, greater and more creative implementation of internal measures of monitoring, performance and reward within public service delivery systems can enhance efficiency. It is important, however, that fetishism should be avoided in the objectives towards which incentives are directed, and in the nature of the incentives, and not only in the kind of institutions within which it is thought that incentives can best operate. A suggestive example of danger of this kind is to be found in the implementation of the Unicef-WHO "Bamako initiative" for the revitalisation of local health delivery in Africa and elsewhere. To encourage the collection of user fees, which has been a vital element of the Bamako initiative, local health posts have often been permitted to retain a proportion of resources collected in the form of increments to health workers' salaries, or discretionary resources for use in the health post. Although these retained earnings (and in particular the increments to salary) have been a powerful incentive to raise revenue, they may have been counterproductive in other important respects. In particular, it has provided the health workers with a disincentive to provide deserving exemptions from payment for the poor, since it produces no revenue.

A better designed incentive system would provide incentives to achieve the non-monetary as well as monetary objectives of the programme, in the form of appropriate resources incentives for

granting exemptions where deserved. Finally, incentives do not have to be in the form of augmenting the private income of officials. In the case of the Bamako initiative, the health post workers should be motivated to raise resources to improve the quality of local health delivery, and not only to serve their personal interest. In north-eastern Brazil, workers in a regional maternal and child health programme were highly motivated by competitive "status" rewards for meeting performance goals (Tendler 1995).

"Getting incentives right" is not only a matter for the internal design of organisations—public or private—but for the establishment of an appropriate regulatory and legal regime for individual organisations operate. Even in a system that provides for essential social services by drawing heavily upon the efforts of private or non-governmental providers, there is a need for public action to create the external environment of incentives so that these organisations will direct themselves towards socially desired objectives. For example, public financing can (in principle through a voucher system or targeted direct subsidies) complement private and non-governmental provision to ensure that all areas are served regardless of whether there is a service incentive. A system of individual legal recourse for malpractice and non-performance of contracted services, and regulation of the monopolistic powers which are bound to exist locally in any decentralised system of provision, are also necessary to develop in any system of provision, whether primarily public or private, although such systems are in an extremely weak state in most developing countries. The appropriate design of such legal and regulatory structures deserves far greater study and analysis.

Finally, the problem of poor incentives for policy makers to design a system of social provision so that it serves the interests of those who need the service most, can require entirely different methods of solution. Here, the key question concerns not how to establish control over the behaviour of those below in a system of hierarchy from above (through the appropriate structuring of incentives and disincentives), but how to establish accountability of those holding institutional power ("above") to those who should be served ("below"). As argued earlier, mechanisms which promote social and political participation and democratic accountability, assisted by the free flow of relevant information, rather than simply the setting of appropriate "prices" and the creation of monitoring systems, are likely to be indispensable in establishing such accountability.

- Recognise the range of human motivations:

Human beings possess a range of potential motivations and material reward is only one of them. Other motivations, such as the desire for civic engagement, the manifestation of collective identity, and the fulfilment of social responsibility, can be equally powerful. These motivations, whether or not they are limited in domains such industrial production, are plausibly quite significant in the arena of social provision. It is primarily for this reason that non-governmental and private voluntary organisations have always been invoked as significant providers of key social services. Even in state institutions, the strength of such motivations can determine the success or failure of institutions and programmes. Thus, Tendler and Freedheim (1995), and Tendler (1997) provide a range of examples from the state of Ceara in north-eastern Brazil of unusually successful and

efficient state-provided social services. A highly successful maternal and child health programme was founded on the premise that extension workers were motivated by a strong sense of mission and social purpose, despite relatively low pay and job security. A close relationship between the local people and the health care providers was developed based on trust, and this often extended well beyond the official scope of the programme. This helped create a sense of common purpose and mutual commitment to improvements in public health.

- Institutionalise participation:

Today there is a vital need for enlarging the scope of institutionalised "voice" in all state institutions, and this is especially acute in the provision of social services. Participation can play a vital role in enhancing the quality of social services because of their often local character, their dependence on responsible use by beneficiaries, and beneficiaries' special advantage in monitoring the efficiency of service delivery. As a result, enhancing participation at the local level will be a central element of any strategy to enhance the quality of state provided social services. This has been widely recognised (see for example World Bank 1995b)

However, the existing discourse on participation in the social sectors has suffered from certain deficiencies. First, there has been insufficient attention paid to the demands for facilitating equal and egalitarian participation. Reddy and Vandemoortele (1996) and Reddy (1997), for example, cite a wide range of examples of institutions that are supposedly participatory that generate highly inegalitarian outcomes because of the inequality of the participation process in already unequal societies. This can result from unequal consciousness of needs, unequal ability to articulate demands, and an unequal ability to transform demands into decisions. This has been a major feature of so-called "demand-driven" social funds, which have relied on proposals submitted primarily by community-level non-governmental organisations (see for example Reddy 1997). While no ready solutions exist to this conundrum, given the widespread deep inegalitarianism of existing conditions, institutional design must now be more responsive to these concerns than in the past.

Second, the recent participation discourse has suffered from inadequate attention to the demands which meaningful local participation imposes on the knowledge and capacities of local communities. Decentralisation and dispersal of responsibility cannot be successful if they are not accompanied by considerable ongoing investment in, and monitoring of, the planning and decision-making capacities of the bodies charged with these roles. Reddy and Vandemoortele (1996) list a number of instances of significant difficulties in the arena of social provision which have resulted from failure to address this issue. Third, the recent participation discourse in the social sectors has also suffered from a simplistic, and sometimes even dishonest, representation of what participation entails. For example, it has been not unusual to treat participation (see, for example World Bank 1995b) as essentially a matter of making financial or material contributions to service provision. Elsewhere, perfunctory consultation has been seen as sufficient to ensure participation.

A meaningful and effective conception of participation will involve the institutionalisation

of procedures for broad-based and consequential consultation with service beneficiaries and all relevant stakeholders, in an equitable and accessible manner. Meaningful participation entails taking local autonomy seriously and allowing for local variation in performance. Such a vision is not ultimately localistic however. Rather, it requires the indispensable support of public authority at higher levels. First, where services are provided locally by private and non-governmental agencies, public authorities must still establish the legal and regulatory framework to govern their operation and to guarantee the rights of participation of beneficiaries. Where states are directly involved in the provision of social services, they can ensure that local service provision is in accordance with desired principles.

Second, public effort may be required to maintain and disseminate a repertoire of available organisational models and technical tools for social provision, which can be called upon by local service providers. The role of national and international agencies in the development and dissemination of low-cost health, agricultural and water technologies are examples of the value of such a role. In a highly participatory environment, widespread information about the availability of alternatives may be the most effective means of facilitating the adoption of such technologies. Tendler and Freedheim (1995) and Tendler (1997) for example, found in their study of north-eastern Brazil that the central government generated an effective demand for specific local health interventions by letting people in local communities know that municipalities had funds for providing such services.

Third, there is an essential and primary public role to promote equity of access to services, whether through shaping the type, location, and cost to the poor for publicly provided services, or by regulating and establishing appropriate financial or other instruments through which the poor may gain access to services provided by other types of providers (for example through vouchers, directed subsidies to providers, or mandated provision of services). Whatever the exact mechanism, there is an essential role for the state in maintaining and furthering the ultimate goal of universality of access.

There is considerable room for experimentation with the exact form of mechanisms for the provision of key social services. The recent experiments with "demand-driven" social funds are one (not wholly successful) example of this kind and are directed towards lessening the load on existing state institutions, and hastening their reform. As it is increasingly recognised that a state role in social provision and protection is unavoidable and indispensable, proposals for reform of this kind will become more important. The provision of social goods in developing countries may, in the future, involve a far greater regulatory and organisational role for the state while lessening its direct role. Still, it is unimaginable that the state's central role in this realm can be supplanted.

3. Judicial Reform

Judicial reform is on the political agenda in many developing countries as a result of the new concern for the institutional prerequisites for the efficient operation of markets, as well as the burgeoning development discourse on "governance". International financial institutions, in

particular, have advocated, and sometimes financed, the restructuring of those state institutions responsible for the administration of justice. A variety of reform proposals have been suggested and sometimes attempted. However, a "one size fits all" approach to reform is unlikely to be appropriate. The legal problems of different countries are distinct—the product, in part, of the interaction between their conditions of socio-economic development, the past performance of their judiciary, and their juridical culture (within both the judiciary and legal establishment itself, and the general population) (Santos et al, 1996: 47).

One prevailing view of judicial reform is economic. In this perspective, decentralised market mechanisms for allocating resources function best with a minimum of state involvement. The main purpose of judicial reform is to enforce the rules of market transactions, and adapt the developing countries' legal frameworks to their exigencies. Neoliberal economic reform and judicial reform are thus mutually reinforcing. The law must adequately define and protect property rights, set rules for exercising such rights, construct rules for the entry into and exit from productive activities, and promote competition by regulating market structure and behaviour and intervening in cases of market failure (World Bank 1996: 88). Within this perspective, existing judicial norms in developing countries have been criticised for being too statist and insufficiently market-friendly. In striking a balance between an effective set of constraints on state power that allows markets to flourish, on the one hand, and a strong state able to enforce its will on the market, many developing countries have ostensibly erred on the side of the latter, by "trying to dictate economic relations and outcomes" (World Bank 1996: 90).

Such a perspective runs the danger of being one-sided. First, in considering the state's relation to the market, the appropriate trade-off is not simply between an interventionist or a limited state. We must ask whose interests the state is protecting when it defines and enforces the rules of the market—for whom it is strong, and for whom weak. Market societies are made up of consumers and not just producers, workers and not just owners of capital, small businesses and not just large ones, borrowers and not just lenders. Defining and enforcing the respective rights that may be linked with these different interests will remain a primary responsibility of the state.⁴³ The question, therefore, is not about whether to intervene in markets but how to intervene and how to legally structure market transactions in such a way that goals of equity as well as efficiency are achieved.

In addition, rights can widely vary in the particular form that they take. There is no single pre-determined and privileged form of the market but rather, the form of a particular market economy will depend on how rights are defined and enforced. To declare that a primary role of the judiciary is to enforce the legal relations which underpin a market economy is therefore to say very little.

The second objection to an economic view of judicial reform is more fundamental, and that is that the rule of law does not exist solely to protect the rights of property and contract and ensure the most efficient operation of a capitalist economy. Among other things, the legal order should ideally curb arbitrary state abuse of citizens, punish criminality, protect individuals from

discrimination, and adjudicate a host of conflicts, not all of which will be economic in nature.

Like state reform in general, judicial reform may encompass several different types of change. These include 1) macro institutional reform, involving the inter-institutional relationships between different branches and agencies of the state; 2) micro institutional reform, concerning the modification of the internal procedures of bureaucracies; and 3) state-societal reform, involving the restructuring of the links between public entities and civil society. Three of the most important broad approaches to the reform of the judiciary involve all three kinds of state reform. These are reforming the internal workings and oversight of the conventional courts (1 and 2), alternative dispute resolution (3), and expanding access to the judiciary (2 and 3).

One response to the question of what the state should do in the judicial field is that the state should increase the conventional capacity to administer justice by increasing the number of judges, the resources for the judiciary, and improving the administration of courts. In this way, the effectiveness of the judiciary, measured quantitatively in terms of the average time to disposition for court cases (Buscaglia, 1997), or qualitatively in terms of the perceived fairness and predictability of court decisions (World Bank, 1997: 44), will be increased⁴⁴. However, such an approach, on its own, is unlikely to lead to significant results, and may quickly encounter fiscal constraints (Neira, 1996). Studies show, for example, that there is no clear relationship between the number of judges and the effectiveness of courts. For example, Chile's judiciary, with four judges per 100,000 people, appears to be more effective, than Colombia's, with 17 (Neira, 1996: 8-9). Furthermore, an increase in the conventional supply of justice often results in a corresponding increase in expressed demand, coming mainly from the most affluent parts of the population (Correa, 1996: 17), resulting in a return to the original problems that motivated reform in the first place.

The managerial approach to judicial reform has stressed the importance of clearly separating administrative and judicial functions within courts, freeing up judges to decide on cases and leaving case management in the hands of administrative professionals (Dakolias, 1996: vii). Such improvements may be facilitated by the creation of institutions to oversee courts. In Latin America, for example, eleven countries have created court councils ("consejos de la magistratura") in recent years to engage in the administration of the judicial branch (Correa, 1996: 1; Neira, 1996: 8). Reform along these lines is likely to enhance the efficiency of courts, but it does not address the more deep-seated issue of the legitimacy of judicial institutions and their procedures.

Addressing the latter issue probably requires reforms engineered to promote both judicial independence and knowledge of social realities. Just as effective industrial policy is said to require state agencies that have "embedded autonomy" (Evans, 1995), capable judiciaries must simultaneously have deep knowledge of the context of the disputes they are adjudicating, as well as broad discretion and autonomy in the making decisions. Knowledge can come from involvement with groups in civil society as well as new forms of continuing education for judges.

Independence has at least four dimensions—decisional, personal, collective, and internal.

Decisional independence means that judges can make decisions subject to no other authority than the law. This can be achieved even without formal structural independence, as long as legislatures and executives respect judicial authority. For example, in Canada, France, Germany and Britain judiciaries have substantive decisional independence without structural independence, because judicial and administrative jurisdictions are, in important respects, functionally distinct, even if they are considered to be part of a single executive authority. Informal norms and legal safeguards protect this independence. Courts may also enjoy personal independence for judges (recruitment based more on professional achievements and knowledge instead of political connections, and adequately secured tenure); collective independence (independent management of the courts); and internal independence (functionaries within the courts should be able, whenever it is appropriate, to perform their duties without undue interference or pressure from superiors and colleagues) (Dakolias, 1996: 8-9).

A key question is how best to promote these various forms of judicial independence. Furthermore, how can proper safeguards simultaneously ensure that independence does not become a means for the exercise of uncontrolled veto power over decision-making in the other, more democratically-constituted branches of government? Careful consideration of these questions will be necessary in any successful judicial reform.

An important complement to the reform of existing judicial structures is supplementing the supply of standardised, conventional justice in the courts with court-supervised mechanisms of alternative dispute resolution (ADR), discussed in more detail in Appendix E. ADR includes mediation, arbitration, and adjudication, which are distinguished from one another by the degree of voluntarism each involves. Mediation is the most highly voluntary as it occurs when a third party attempts to enlarge the area of agreement between parties until differences are reduced to zero. Arbitration involves an agreement by the two sides to abide by the binding decision of a third party. Adjudication is the most coercive mechanism, and it occurs when a judge orders those involved in a dispute to submit to a third party's ruling (Santos et al, 1996: 52).

Economistic approaches to judicial reform emphasise the success of ADR mechanisms in channelling the settlement of business disputes away from the judiciary, making economic transactions more predictable and contracts more enforceable, as well as easing the burden on conventional courts (World Bank 1996: 93; Neira 1996: 18-19). However, ADR can also help to resolve conflicts involving parties that would otherwise be unable to afford the use of conventional courts (Neira 1996: 17; Galanter, 1989: 90). It may even involve state recognition of and integration with traditional, local forms of law and dispute resolution.⁴⁵

These latter examples raise serious questions about the implications of ADR for the legal order. Does ADR imply a loss of the state's claim to a monopoly in the provision of justice? If the state delegates its legal powers, does this undermine the universality of citizen's duties and rights that underpins a rule of law? If local notables are given authority by the state to resolve local disputes, as has been done in some countries (Galanter, 1989), should they be trained in the law, and will they

have the same security of tenure as judges? Furthermore, to what extent will their decisions be binding? Does moving from a "uni-cultural" to a "poly-cultural" legal order mean sacrificing too many old rights to gain new ones? Or is it merely preferable to an ostensibly universalistic, uni-cultural legal order that in practice, enforces law in a highly particularistic, arbitrary manner? Answering such questions are essential if ADR is to be a successful part of judicial reform in developing countries.

The third element of the judicial reform proposals suggests expanded access to conventional courts, through programmes such as legal aid and public education. Legal aid programmes require answers to another set of important questions. For example, who will pay for lawyers' services for the poor--the state or the private sector? Should law school graduates be required to work in legal aid programmes, as in Chile (Garro, 1996: 7, 10), or do such requirements merely furnish inexperienced and often unwilling lawyers to those who cannot afford market rates for legal services?

With regard to public education campaigns in the law (Dakolias 1996: 59; Sousa Juniór, 1993), can such programs be effective without complementary efforts to improve public education in general, redistribute income, and curb police violence against the poor? Public education may enhance the willingness of poor citizens to claim their rights, but may offer nothing by way of increasing their capacity to do so.

There are serious disagreements over the most appropriate forms of judicial reform for developing countries. A neoliberal approach that sees the judiciary solely in terms of its ability to efficiently facilitate market transactions is unreasonably narrow because it neglects questions of procedural legitimacy and the non-market functions of judiciaries. While reforming the procedures and oversight of the conventional courts, establishing and sanctioning alternative dispute resolution mechanisms, and expanding access to the judiciary have all been proposed as necessary elements of judicial reform, each set of proposals raises questions about how best to enact them and upon what principles success should be gauged. Action-oriented research should be geared to exploring the implications of these proposals from a variety of perspectives and in numerous contexts.

4. Civil Service Reform

The civil service lies at the heart of many discussions of state reform. In order to focus our discussion, this section will concentrate on three crucial aspects of civil service reform—the recruitment, remuneration, and accountability of civil servants.

The problems in this area are well known: non-meritocratic recruitment on the basis of political patronage and clientelism; difficulties in recruiting and retaining talented personnel, particularly in the upper ranks; and low and declining pay, accompanied by spiralling corruption, absenteeism, and low morale. However, it is not clear that overstaffing is necessarily a universal problem (as is assumed, for example, by World Bank, 1994: 2) in view of the continuing need for

the public sector in many countries to provide core public services (Adedeji, Green, and Janha, 1995). Przeworski (1996: 4), citing studies by Barro (1990) and Findlay (1990) argues that one way to evaluate the optimal size of the public sector is to estimate when the marginal product of the public and private sector, with regard to the capital stock and employment, are equal. He asserts that by this criterion, the state in many countries is too small. Comparative data suggest a similar conclusion. Average overall civilian government employment in developing countries is less than 4 percent—considerably lower as a percentage of the population than it is in industrial countries, where the equivalent figure is over 8 percent (Schiavo-Campo, 1996: 10). This fact, which reflects the smaller range of public services typically delivered in developing countries as well as fiscal constraints, makes it difficult to evaluate the charge of overstaffing. The appropriate size of the public sector must inevitably be judged on a country by country basis.

Civil service reform must entail a review of the public sector's performance in various functional areas, not merely to adjust staffing to existing activities, but to adjust it to redefined priorities (World Bank, 1994: 2). Where such a review leads to a decision to reduce the size of the public sector, an over-emphasis on decreasing the number of employees to the exclusion of all else is likely to demoralise civil servants and provoke resistance (Schiavo-Campo, 1996: 12). Nevertheless, such contractions may be necessary in some cases.

Setting appropriate wage rates requires careful evaluation of local labour markets and comparisons between comparative private sector jobs and those in the public sector. Adequate incentives for good public sector performance should be sought. Unfortunately, it is common for developing countries' public sector wages to be uncompetitive. One study estimates that up to half of public service employees in Mozambique, Tanzania, Rwanda, and Mali earn less than the absolute poverty line (Adedeji, Green, and Janha, 1995: 16). Low salaries are likely to demotivate public employees, reinforcing under-performance.

On the other hand, small pay increases can reverse this dynamic. Kohli's study of the roots of the Korean bureaucracy under Japanese colonialism, for example, notes that the Japanese central authorities, when they discovered corruption among regional or local officials, sometimes experimented with paying higher salaries in order to induce the officials to perform better (Kohli, 1994: 1274). The point here is not that corruption should be rewarded, but that adequate levels of pay can help to reduce the incentive for corruption⁴⁶ and poor public sector performance. It is notable that in most developed countries, the salaries of senior civil servants are considerably lower than those of their private-sector counterparts, with no discernible impact on the level of corruption.

Despite this fact, in the face of fiscal crisis, a common strategy for developing countries has been to let the overall number of public sector employees remain constant, while letting real wages decline across the board. This, however, encourages the exit of the most able employees, reduced attendance at work, corruption, and other problems (Adedeji, Green, and Janha, 1995: 1). Another government tactic has been to reduce top salaries by a larger proportion than lower salaries. This wage "compression" is an easy way to make cuts but it is possibly counterproductive. One study

shows that the "compression ratio" among public sectors internationally ranges from 3:1 to 20:1, with 7:1 an average (Schiavo-Campo, 1996: 13). This is undoubtedly lower than in the private sector. Reducing these ratios further may trigger the departure of the most qualified civil servants, difficulties in recruiting new personnel, and the deskilling of remaining workers. Decompression of wage scales may help to create more competition for promotion (Haggard, 1995: 19), which can potentially lead to enhancement of civil service performance in the long term.

In general, a pay structure that is at least roughly competitive with equivalent positions in the private sector may be necessary. However, an emphasis on remuneration should not obscure the potential for the use of non-material rewards such as awards, public and professional recognition, the right to participate in decision-making, the acquisition of new skills, and a sense of belonging to a team to induce strong commitment and contribution to organisational goals.

Studies of bureaucracies in successful developmental states point to the importance of competitive entrance exams and the creation of esprit de corps. Summarising the literature on the Japanese bureaucracy, Haggard points to its meritocratic recruitment, high levels of status and remuneration especially at the senior levels, a strong degree of competition for advancement, and institutions that reward loyal and successful civil service careers such as the "amakudari" system in which bureaucrats gain lucrative private sector jobs when they retire (Haggard, 1995: 21).

One tempting strategy for reformers might be to create "islands of efficiency" within the public sector in which standards of recruitment, performance incentives, and pay scales are dramatically raised within selected state agencies, but left untouched within the rest of the public administration. These kinds of public sector islands, where efficiency may be more easily monitored and maintained (Evans, 1995), have been identified in Brazil and India. However, such a strategy is vulnerable to deterioration over the long term. These islands can become subject to political manipulation (Schneider, 1991), and create resentment in the rest of the bureaucracy. This "enclave" approach to reform can, however, have considerable value in instances in which national priorities require the rapid improvement of particular branches of government (for example, revenue administration). For this reason, an enclave approach has been used in Malawi to enhance tax and customs administration through management by "staff hired on contract terms with conditions of service linked to performance targets". Malawi was inspired to adopt its approach by the successful implementation of similar methods in Ghana, Uganda and Zambia (Adamolekun et al, 1997).

Several studies of civil servants have pointed to the need for performance measurement—accounting systems that monitor the quantity and quality of public employees' work (Dia, 1993: 30; Schiavo-Campo, 1996: 12; Haggard, 1995: 19). Clear, fair systems of performance measurement can be tied to performance incentives and can be nonmonetary as well as monetary. The former include more challenging tasks, public recognition, more influence within the organisation, and professional rewards. Performance pay may also be considered, but this can be fraught with dangers. Output in the public sector is difficult to quantify. Performance pay may indirectly increase political influence over civil servants, as well as run the risk of undermining the symbolic ethos of public service. And

in societies divided into conflictual identity groups, it may be very difficult to run such a system without perceptions of favouritism (Schiavo-Campo, 1996: 12).

Haggard suggests that the most appropriate approach to civil service with regard to recruitment, remuneration, and accountability will vary depending upon the type of public administration prevalent in the particular country. He distinguishes between two main models of state bureaucracy--the "organisational" and the "professional". In the former, the top echelons of the civil service are staffed by a highly independent cadre of elite civil servants specifically trained for life-long bureaucratic careers. Japan and France are cited as examples of this model. The more prevalent professional model is one in which individuals with specialised professional skills, such as lawyers and economists, enter the high levels of the civil service for specific periods of time and then leave. Each model poses slightly different challenges for reform (Haggard, 1995: 25-26). Relatively low levels of pay for top civil service positions in the professional model, for example, may be less problematic, and more tolerable to those who receive them, than they are in the organisational model because civil servants in the former model are expected to be able to earn higher incomes when they leave.

Any effective system of public accountability of civil servants will involve obtaining improved information on civil service performance. Specific mechanisms for accomplishing this include user surveys, name tags, citizens' charters, whistle blower laws, public opinion polls (Schiavo-Campo, 1996: 13), public hearings, and complaint bureaux. Appendix A examines in detail the example of citizens' charters. A number of successful examples of anti-corruption measures also exist, and deserve further study (for more on these see Appendix B).

Advocates of a "managerial revolution" in the way public sectors are run sometimes seem to suggest that states can be compared to private firms and managed exactly alike. In such a vision, states provide goods and services to "clients", and a narrow objective-maximising rationality is the ultimate criterion for evaluating the public sector. However, certain public objectives may reflect values and goals that a "management by objectives" approach faces inherent challenges in quantifying. This is not a reason to eschew such objectives, but rather to recognise their limitations. Equally important are the procedural requirements of transparency, consultation, and accountability which are valued in democratic states quite apart from the efficiency of the results they help to produce (although in practice we seek ways to reconcile both procedural and efficiency requirements). Furthermore, democratic procedures may introduce a measure of unpredictability into the policy-making process that makes a rigid pursuit of pre-determined objectives unsustainable.

In the quest to make states more efficient, care should be taken not to demonise the public sector. Blanket condemnation of the public service can be counterproductive, and public demonstrations of appreciation of civil servants when they do their job well can be important in improving results in the public sector. For example, in the study of successful government programmes in the north-eastern state of Ceará in Brazil, researchers point to the importance of meritocratic selection and training, strong publicity, and numerous public prizes for good

performance (Tendler and Freedheim, 1994 17730; Tendler, 1995).

Finally, civil society is not simply a substitute for the state. State-society relations are best thought of not as mutually antagonistic, but as mutually reinforcing. Strong states reinforce strong civil societies. As Evans points out, "the fate of civil society is inextricably bound to the robustness of the state apparatus. Deterioration of state institutions is likely to go hand in hand with the disorganisation of civil society" (Evans, 1995: 249).

5. Relations Between State and Civil Society

It is not meaningful to conceive of a process of state reform independently of the relations between state and civil society, and more fundamentally, of the nature of the civil society itself. Contemporary development discourse has too frequently falsely treated state institutions as being separable from the larger context of social life and politics in which they exist.⁴⁷

In particular, the tendency to view the reform of the state as a process confined to a separable sphere has become recently prevalent in development institutions in the form of the discourse of "governance". This discourse views the state as an institution which governs civil society rather than as an institution within civil society and which should properly be governed by it. As a result it views state reform as a technical problem subject to a prior "optimal" solution rather than as a challenge requiring the energies of civil society for the conceptualisation of the goals of the reform process, as well as for their implementation. As a result, the terminology of "governance" is very distant from a democratic conceptualisation of the future of the social order.

In practice, states are neither fully apart from, nor fully absorbed in, civil society. Rather, state and civil society are engaged in a vital and continuous interplay with each other.⁴⁸ As a result, the best partner of a well-functioning state is likely to be a "strong" civil society.

This proposition has been put forward in recent years by diverse thinkers. Putnam (1993) for example, argued that the very different levels of performance of local government in the different regions (and in particular in the North and in the South) of Italy is best explained by different levels of civic engagement, or participation in diverse community organisations and activities, which in turn give rise to higher levels of "trust" which underlie superior institutional performance. A different example is that of the state of Kerala, in India. It has been argued that the unusually effective state services in Kerala, which is responsible for that region's spectacular human development achievements despite low levels of income, was built on very high levels of community involvement and political mobilisation that has led to close scrutiny of, and high demands upon state officials and institutions. Evans (1995) identifies Kerala's health services, ration shops, and unusually effective land reforms, as all having been facilitated by the presence of this highly mobilised and demanding public. Dreze and Sen (1989, 1991) and Ramachandran (1996) concur in broad terms with this view, citing especially the effectiveness of Kerala's health services as an illustration. A number of studies have found that "the comparatively corruption-free logistically

successful provision of low-cost housing, school lunch programs, subsidised food and day care have been attributed to the active and informed participation of local groups" (Heller, 1996; see also Franke and Chassin, 1989). Similarly, as cited above, Tendler and Freedheim (1994) and Tendler (1997) identify public attention and pressure as key determinants to the effectiveness of public health and other state programmes in North-eastern Brazil. In this example, the state played a critical role (through public information campaigns) in creating the climate of attention, public expectation and appreciation in "civil society" which in turn led to high levels of state performance.

Conversely, Sanyal (1995) finds that a prime determinant of the success of NGOs which deliver social services is the extent of cooperation and the facilitative role which are played by state officials. Similarly, Fox (1996) finds that "state-society convergence" or the collaborative production between state and societal actors of norms of reciprocity and networks of civic engagement is a significant phenomenon in rural Mexico.⁴⁹ Fox argues that government rural development programmes "created opportunities for grassroots participation in the implementation of development projects targeted to Mexico's poorest regions, including many indigenous regions that had never before experienced freedom of association and assembly beyond the village level", thereby creating and enlarging a shared atmosphere of trust. These examples serve to illustrate the living and reciprocal relation between state and civil society which are a likely foundation of high state performance.

These examples suggest that high levels of state performance may rely upon or benefit from the presence of "dense" civil societies engaged in high levels of mobilisation and contestation, and in turn, that by their actions, states may influence the vitality of such "civil societies". Nevertheless, these are only examples. A major area of future research on the role and reform of the state should be to map the relation between, and practical approaches to, enriching the relation between state and civil society.⁵⁰

6. Conclusions - What Future for the State?

Disenchantment with the conventional form of states that are centralised, bureaucratic, inflexible and often unresponsive to citizens, has fuelled the global movement towards restricting the role of the state and correspondingly, expanding reliance upon private initiative. Both in developed and in developing countries, an attempted "rollback of Leviathan" has resulted.

This disenchantment on the part of citizens has much justification. There is little doubt that public institutions have often been ineffective, distant and unresponsive. However, the prevailing focus on the appropriate *role* of the state (usually in the form of calls for this role to be restricted) has led to insufficient attention having been paid to the means by which the *performance* of public institutions when undertaking this role may be enhanced.

The performance of public institutions can be enhanced through a variety of means. A pervasive theme amidst all of these approaches is enhancing accountability of subordinate officials

to superior officials, of officials at all levels to citizens, of officials to political leaders, and of political leaders to citizens. Enhancing accountability requires not only the commitment of individuals but the redesign of institutions. Among the possible means of institutionalising enhanced accountability are regular elections, guarantees of free access to information, expanded explicit measurement of public sector performance, citizens' charters, citizens' review boards, independent ombudsmen, internal competition among public institutions (facilitated where appropriate through the separation of financing, purchasing and provision), external competition of public institutions with private institutions and increased use of performance appraisals and contracts.

Increased and widened accountability is likely to be an indispensable prerequisite to enhanced state performance. However, a theme of the preceding pages is that accountability is also not the sole determinant of high levels of state performance. Equally important are a cultivated ethos of public service and significant levels of trust between all social actors. In other words, while the introduction of appropriate incentives and disincentives is an essential means by which better to motivate and discipline public officials, improved management of public institutions must rely upon the cultivation of ideals as well as interests. Case studies of high quality public institutions underline the practical importance of this seemingly abstract concern. In addition to measures designed to enhance accountability, innovations in the design of institutions which facilitate the flow and management of information, and the better allocation of specialised responsibilities can be helpful. Examples of the former are the creation of separate case management bodies within judiciaries, while examples of the latter are the creation of "executive agencies" within ministries, offered a degree of autonomy and charged with detail operational tasks. Exploitation of the possibilities created by new information technologies and management techniques (such as total quality management) for enhancing the monitoring of performance and responsiveness to citizens can also be very helpful. Information technology creates new opportunities for consolidated and improved financial management and control, which can in turn underpin decentralisation within government.⁵¹

Recent literature on the role and reform of the state (in particular the World Development Report 1997) have drawn attention to many of the possibilities for enhanced management of public institutions cited above.⁵² However, this literature has often been deficient in two respects. First, it has usually focussed exclusively on the final quality of services delivered by public institutions, without attention to the *processes* by which these institutions operate, and in particular, the extent to which they work in accordance with consultative and democratic norms.

Concerted attention to the quality of services is overdue, welcome and necessary. However, a comprehensive (and democratic) approach to the reform of the state will treat individuals as citizens with rights to shape the institutions that affect them and not only as clients with an interest in receiving high quality services. The performance of public institutions should therefore be evaluated with a view to the legitimacy of the procedures by which they are run and not only with regard to their efficacy in generating desirable consequences (although there is reason to believe that the fulfilment of these two goals will often run together).⁵³

Recent influential literature has also been deficient in taking a too narrow view in its choice of indicators of state performance. Thus, the World Developmental Report 1997 uses survey responses by large private firms and entrepreneurs as its prime indicator of the quality and reliability of public institutions. The selective nature of this sample and the narrow concerns upon which it focuses, lead to biases in the depiction of high state performance and its determinants. In contrast, analyses of state performance attuned to bringing about sustainable human development should devote attention to far more broad-based measures of citizen satisfaction. This study eschews the terminology of "governance" as it is associated with a managerialist and instrumentalist perspective which neglects the interest of citizens in institutions which further their intrinsically valued democratic and participatory rights.⁵⁴ Of course, more participatory institutions may have costs, including a greater tendency to gridlock and become immobile. However they can equally involve efficiency gains, especially if they restrict the reign of specialised interests.

Many successful developing countries have not been democratic. However this does not establish that economic gains require undemocratic institutions. State reform should seek to generate efficient outcomes while furthering to the greatest extent possible democratic legitimacy. The appropriate extent of compromise between these goals cannot be determination *a priori* but rather, is itself the appropriate subject of democratic politics and moral debate.

An important theme of this study, which echoes other recent research, is that there can be a significant complementarity between vibrant and well organised civil societies and highly performing states. Energetic, demanding, and diversely developed civil societies are likely to force public institutions to be accountable and develop fruitful relationships of information dissemination, cooperation and trust with them, which enable them to heighten their performance. A significant approach to fundamental state reform must therefore be the cultivation of the energy and vitality of civil societies and the development of institutionalised links between public institutions and decentralised civic organisations and representatives.

The appropriate range of activities which should properly be entrusted to the state depends inextricably upon how well it can undertake them. The message of this paper is that the means exist to make states more capable. A number of successful experiences in state reform are now available, but require considerable further study and analysis if their central lessons are to be distilled and generalised. State reform requires more "incentive-compatible" incentive structures at all levels, but also requires that attention be devoted to the impact of institutional forms upon motivation, political mobilisation, the tendency to innovate, and trust.

Finally, there remains the question of politics. States are political entities, and so the process of their reform is necessarily a political process. A central challenge of state reform is that those who are most likely to be affected adversely by it are those charged with its execution. This is one reason that developing a broad democratic consensus around the value of a reform process which can help it to overcome opposition from narrow interests may be an essential element of successful state reform. The elements of successful approaches to the reform of the state need to be experimented

with and better understood. Still there is little doubt that this is a fruitful frontier for development studies and practice.

APPENDICES--EXAMPLES

APPENDIX A: THE CITIZENS' CHARTER

In attempt to make the public agencies that deliver services more responsive to their users, the United Kingdom issued a government document entitled "The Citizen's Charter" that provides quality guarantees on service. The Citizen' Charter stresses standards, information and openness, choices and consultation, courtesy and helpfulness, redress and value for money. This is an example of an accountability mechanism that has been designed to improve governmental efficiency. By creating a feedback mechanism between citizens, oversight bodies, and service providers, a "fire alarm" system has been established, so that poor state performance is identified and improved. The concept of the Citizen's Charter has been adopted, under different names, in Namibia, New Zealand, Malaysia, Mauritius, and Singapore (Kaul 1996: 144).

For example, all service delivery agencies in Malaysia's public administration are required to prominently display a statement, called a "Client's Charter", listing the services offered and the time frame for their completion. The Client's Charter also elaborates the rights of a customer and the procedures in place for redressing her grievances. An example of the Charter can be found in the Textile Unit of the Ministry of International Trade and Industry: "Results on applications for export licenses will be released within two days from the date of receipt of applications that are found to be in order."

The extent to which Malaysian agencies meet their service targets is carefully measured. These measurements take various forms. Agencies record the time taken to complete transactions themselves, and these are compared to the Client's Charter. Customers are also given questionnaires that contain the pledges made by the agency, and the request to check whether the service targets were met, as in "Did you receive your license within two days?" Yes/No "Did you find the service to be courteous?" Yes/No. In another accountability mechanism, there is the recording of all complaints and demands for recovery, which can be used to address problem areas in the process. Furthermore, a variety of institutions provide feedback to the Malaysian civil service. Consultative panels made up of representatives of users and officials exist at the national, state, ministerial, and departmental levels, and meet at least twice a year to discuss existing levels of service and possible improvements. A Management Modernisation Unit of the Prime Minister's Department also holds discussions with prominent associations to discuss the quality of state services. Finally, comparisons are made between the state agencies and similar, private-sector organisations that are efficiently providing comparable services.

Malaysia's Client's Charter Service Recovery System is designed to meet the needs of citizens who have not encountered adequate service from state agencies. At the first stage, it requires that the agency receiving a complaint promptly redresses the problem, issues an apology, explains why the service standards were not met, and informs the customer about follow-up action. If this fails to satisfy the client, or is not done, she can go to a Public Complaints Bureau, which investigates complaints against public officials. The results of the bureau's investigation are turned over to a Permanent Committee on Public Complaints, which generally attempts to resolve the grievance of

the customer, and directs the Management Modernisation Unit to review the organisation if there is a systematic problem or need to discipline a particular public official (Chiu 1997).

The idea of a Citizen's Charter has been commonly identified with the application of a private sector managerial rationality to public administration. It is certainly intended to improve service delivery, and to use the standards set by the best private firms as a benchmark for public sector performance. However, unlike much of the private sector, the public sector is not designed to provide differential service on the basis of a differential ability to pay. It is based on the idea of common service and equal cost (Larson 1997: 136-137). This is why we prefer the designation Citizen's Charter to Client's Charter. Rather than create a multi-tiered system which recognises a right of wealthier citizens to purchase superior services, this mechanism should compel public agencies to offer the best possible service to all users. In the best scenario, the public and transparent nature of the agency's commitments, and the existence of independent agencies able to respond to the activation of a "fire alarm", will empower even the poorest members of the community to demand and receive fair treatment and prompt, high-quality service.

APPENDIX B: ANTI CORRUPTION MEASURES—HARDENING THE SOFT STATE

Klitgaard (1985) analyses corruption in terms of a triangular relationship between principals (managers of state agencies), their agents or employees, and clients of the state, or citizens. He categorises anti-corruption measures (which are always assumed to be initiated by principals) as changes in the following areas: 1) the selection of agents; 2) the structure of rewards and penalties facing agents and clients; 3) the structure of the principal-agent-client relationship; 4) the attitudes toward corruption, among agents and the general public; and 5) the collection and analysis of information about agents and clients (Klitgaard 1988: 73, 94-95, 195-201). While this framework provides a useful repertoire of potential remedies for corruption, it suffers from some of the limitations discussed in this paper, such as the assumption of relentlessly self-interest maximising behaviour on the part of all agents, and a downplaying of the importance of "bottom up" mechanisms that induce accountability of officials at all levels to citizens, and not only of low-level officials to citizens.

Of particular interest in Klitgaard's framework is the establishment of links for members of the public, the press, and state officials ("whistleblowers") to pass information about the performance of state agencies to independent institutions that can analyse and investigate allegations of corruption. Factors that aid the establishment of such flows include guarantees of anonymity, setting up hotlines, informing citizens of their rights, and encouraging citizens to complain about violations of those rights and rules (Klitgaard 1988: 86). Independent auditing mechanisms from within the state can also provide similar functions. An example is the use of the Internal Security Division and the Fiscal Control Division within the Philippine Bureau of Internal Revenue (BIR) during the anti-corruption campaign of Justice Efren Plana in 1975 (Klitgaard 1988: 96).

Not all anti-corruption mechanisms take existing patterns of strategic, self-interested behaviour as given. The fourth element in Klitgaard's tool-kit is educational—raising the "moral cost" of corruption by changing people's attitudes towards it. In the case of the Philippine BIR, the anti-corruption campaign included the establishment or revival of social activities such as a toastmaster's club, glee club, and athletic club intended to create an "esprit de corps" among officials; the holding of morning masses at the BIR; and the use of participatory management in the creation of a new performance evaluation system. The goal here was to change the corporate culture so individuals would feel increased loyalty to fellow employees and the mission of the agency, and thus be more resistant to the temptations of corruption, and more willing to draw attention to corrupt colleagues.

Another notable successful anti-corruption effort was conducted by the Independent Commission Against Corruption (ICAC) in Hong Kong. The Commission, founded in 1973, successfully rooted out pervasive corruption in the Hong Kong police and other branches of the administration. The ICAC was staffed by its own elite corps, which was paid slightly higher salaries than those prevailing in the civil service. ICAC officers were required to file regular declarations of their assets. They were given special powers of arrest, search, seizure and financial control. A community relations department was established within the ICAC to gain support and information from the public, while working to change public attitudes towards corruption. At the same time a novel "Corruption Prevention Department" was given the power to identify aspects of the structure, operating rules and procedures of Hong Kong organisations which were conducive to corruption and to "secure changes" in these. The ICAC's vigorous pursuit of corrupt officials at all levels (including the most senior), combined with strong support from the Governor of Hong Kong, led to extraordinary success.

Hong Kong's example, as well as those of Western industrial democracies (and in particular the United States) which suffered from high levels of official corruption in the 19th century, demonstrate that "soft" states can be hardened.

APPENDIX C: EXECUTIVE AGENCIES

An important recent innovation in state structure, pioneered in the UK, is the creation of "executive agencies" within ministries. In the UK these agencies are also known as "Next Steps" agencies after the 1988 report "Improving Management in Government—the Next Steps". The executive agencies remain, in a formal sense, the heart of the central civil service, but are created in order to enable organisational delegation, specialisation and operational independence within a ministry. The basic idea was, and is, delegation to a Chief Executive of responsibility to achieve stated, usually quantified, targets of performance, with delegation of powers to match, in such areas as organisation, recruitment, pay and grading [Mountfield, 1997]. The motivation has been to separate "policy-making" and "operational" aspects of state activities in order to enhance the efficiency of both. In 1997, at least 72 percent of the UK civil service worked in 124 executive agencies. The establishment of executive agencies was driven by a small group within the Cabinet

Office, which gave it high priority. It has been claimed that the executive agencies have delivered improved performance as measured by cost and service quality indicators (perhaps on the order of three percent per year).

However, concern has been raised that the dichotomy between policy-making and operational rules, on which the executive agency concept is based, is itself flawed. In practice these may be difficult or impossible to separate, leading to poorer policy coordination and ambiguously defined lines of authority and spheres of discretion. Further, concern has been voiced that the concept of an independent Chief Executive reduces the accountability of ministers to parliament in relation to the activities under the jurisdiction of the former. Despite these concerns, the executive agency concept is being considered widely for replication elsewhere.

APPENDIX D: CONTROLLING THE POLICE

Proponents of state reform inevitably confront well-organised groups within the state with a vested interest in maintaining the status quo. Perhaps the most powerful of these groups exist within that part of the state that wields a monopoly of legitimate force, the military and the police. Problems arising from a lack of accountability on the part of these institutions are common in developing countries.

The police in Brazil present an example. In recent years, evidence has suggested that the country's state military police forces, responsible for day-to-day patrolling in the country, frequently engage in the torture and killing of criminal suspects. They have also participated in notorious massacres of street children, prisoners, and landless demonstrators. While the level of violence in Brazil's society is high, and the police are empowered to use violence in self-defence while carrying out their duties, the general failure of the courts to punish egregious cases of police transgressions created a climate of impunity in the country.

In May, 1996, Brazil's Federal government announced a National Human Rights Plan designed, in part, to make the military police more accountable to the public they ostensibly serve. The Plan was an ambitious mixture of short, medium, and long-term proposals, involving institutional reforms and exhortatory injunctions. Among other things, it authorised the Federal government to undertake a survey of cities and states in order to identify those regions where human rights violations were particularly common, so that these regions could be denied Federal resources until improvements were made. The Plan also mandated the inclusion of human rights material in police academy courses, urged improved methods of selecting, training, and disciplining officers, and advocated the immediate suspension of members of the police who engage in violence against civilians. In the medium-term, it suggested the creation of community councils to oversee police performance, and the adoption by police of community policing tactics. Perhaps the most important institutional reform contained in the plan was the proposal to try all judicial cases involving allegations of police crimes against civilians in civilian courts, as opposed to special state military police courts. These various elements of the National Human Rights Plan were proposed in the

context of growing public criticism of police human rights violations, and the expansion of grass-roots education campaigns designed to raise the awareness of rights among vulnerable and marginalized sectors of the population.

The Brazilian president submitted the plan to the national congress, where both houses needed to pass its various components before becoming law. It was soon clear that political opposition to many of the proposed reforms, including from the military police lobby itself, existed in Congress. One of the first manifestations of this opposition occurred in September of 1996, when the bill to transfer jurisdiction of police crimes over civilians to civilian courts was passed by Congress in greatly revised form, limiting the transfer to cases of alleged murder only. Six months after the National Human Rights Plan had been announced by the president's office, none of its measures in the area of public security had passed in the Senate (Human Rights Watch 1997: 81).

Despite the apparent failure of most of the proposed police reforms at the national level, the state of Sao Paulo initiated some measures that appeared to achieve striking success in reducing police violence. Several of these were internal to the state military force. Training in human rights was initiated, and new forms of community policing were implemented. Perhaps the most important reform was a mandatory counselling program. In 1993, a Program to Retrain Police Involved in High Risk Situations (Programa de Reciclagem de Policiais Envolvidos em Situação de Alto Risco - PROAR) was created. Under PROAR, police officers involved in fatal shootings were removed from their beats, assigned administrative duties, and required to undergo three months of psychological counselling before being evaluated for fitness to return to street patrolling. The police saw this as punishment, because many of them had second jobs ("bicos") that they squeezed between irregular patrol shifts, but that were impossible to maintain with regular daytime administrative shifts (Human Rights Watch 1997a: 51-52).

A different type of reform went outside the police itself and invited civil society to monitor police performance. Around the same time as the military police created PROAR, the state government established the office of ombudsman for the police, and appointed a well-known human rights activist to the position. In his first six months, the ombudsman received 1,247 complaints, of which 246 concerned police violence. The ombudsman gave the latter his top priority, and asked authorities for more information in each case (Human Rights Watch 1997a: 52).

Evidence suggests that these measures did have an impact on the propensity of the military police to kill civilians. Whereas a reported 1,074 and 1,470 civilians were killed by military police in the greater metropolitan area of Sao Paulo in 1991 and 1992 respectively, this figure dropped to 243 in 1993, 333 in 1994, 331 in 1995, and 106 in 1996 (Chevigny 1995: 148; Human Rights Watch 1997a: 51). The last figure is still disturbingly high--the police in New York, a city comparable in size to Sao Paulo, killed 25 civilians in 1993 (Chevigny 1995: 67)--but it represents a significant decrease from the 1991-92 figures. The creation of internal and external mechanisms to make police officers accountable to superiors, the courts, and the public when they use deadly force appears to have influenced this sharp decline,

The case of police reform illustrates several important points about state reform. First, commitment to change on the part of top political leaders may not be sufficient for successful reform. While Brazil's president supported the National Human Rights Plan, Congress, with strong political ties to state governors anxious to defend their own prerogatives and control, was able to block most of its provisions. Second, the weight of public pressure may compensate for lack of support at the top. In Sao Paolo, both the state governor and the mayor had reputations for being tolerant of police violence; the reforms described above were initiated after an October 1992 prison massacre that evoked widespread public condemnation of police heavy-handedness (Chevigny, 1995: 160; Human Rights Watch 1997a: 50). Third, a mix of both internal and external accountability mechanisms are likely to be more effective than exclusive reliance on one or the other.

APPENDIX E: ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

The idea that the state has a monopoly on the provision of justice is a deeply entrenched one. In fact, however, the state's formal court system always coexists with societal mechanisms for resolving disputes (Santos et al. 1996). Official recognition of these mechanisms is usually avoided because judges, lawyers, and court employees see them as threatening their power. However, there has been a growing recognition that settling legal conflicts exclusively through judges is too costly and cumbersome for the state. Successful state reform can integrate alternative dispute resolution (ADR) mechanisms with the court system in ways that expand access to justice without eroding the uniformity of law upon which a fair legal system is based. Furthermore, when judges and court employees realise that ADR can help decrease the burden of cases they face without replacing them, they can become enthusiastic supporters of reform (Buscaglia 1997: 11-12).

Indigenous peoples, minority groups, women, peasants, and other groups are often poorly served by traditional courts that are concentrated in national and provincial capitals and that favour the best-educated and most wealthy segments of society. The Ecuadorian legal system, for example, does not provide translation services for indigenous people who do not understand or speak Spanish (Garro 1996: 5), a significant percentage of the population. ADR can expand access to justice for such excluded groups, and help to bridge the gap between the state's court system and local, grass-roots approaches to settling conflicts. Conventional courts are often characterised by adversary proceedings, individualistic bias, impersonal adjudication, and uniform, written, and professionally interpreted law. This results in conflicts which are often resolved in a zero-sum manner. Traditional conflict resolution, on the other hand, is more likely to be marked by locally grounded, diverse, and orally transmitted law in which adjudicants' personal knowledge of those in conflict is valued, and resolutions tend to search out possibilities for conciliation over the goal of declaring an unambiguous victor (Rudolph and Rudolph 1967: 253-254; Santos et al. 1996: 52; Nader 1990: 109-110).

An early example of ADR was the *nyaya panchayats* (village courts) established in India after that country's independence in 1947. The *nyaya panchayats* were half-way between full judicial institutions of the state and grass-roots institutions in the hands of villagers. The judges in this

system (nyaya panchas) were nominated by district officials and were not paid for their services. They were not allowed to hold positions in village government. They were supposed to administer the law but they were not trained in the law, nor were they assisted by lawyers, and since they were not full-time members of the judiciary, they lacked tenure. The performance of the nyaya panchayats was mixed (Galanter 1989: 88-90).

Subsequent experiments with ADR have met with somewhat more success. For example, one study showed that justices of the peace in Peru resolved more than 64 percent of the conflicts brought before them through mediation, and are highly trusted. They represent more than 70 percent of those who administer justice in the country. In Chile, Costa Rica, Ecuador, El Salvador, and Uruguay, constitutions require community-based conciliation an obligatory phase in civil cases before litigation can occur. These are reminders that the overburdened courts in developing countries can be complemented by legitimate and effective institutions, embedded in local communities, that do not erode the state's overarching responsibility for the provision of justice.

APPENDIX F: PARTICIPATORY BUDGETS

In 1989, the Workers' Party (Partido dos Trabalhadores, or PT) won the municipal elections in Porto Alegre, a city of 1.4 million people in southern Brazil, with 35 percent of the vote. Upon taking office, the new administration launched an experiment--the participatory budget - designed to increase popular participation in decision-making and to increase the transparency and accountability of the city's public administration.

The first step in establishing the new budget procedures took place when the newly elected officials met with leaders of community groups to decide how the city's neighbourhoods would be represented. The former administrative division of the city into four zones was scrapped in favour of a new system of 16 regions and 28 micro-regions. Next, about 400 people participated in meetings in every region to choose two representatives each for the Participatory Budget Council (Conselho do Orçamento Participativo, COP). The council, which included members of the new city government, drew up a plan of investments that was then presented, discussed, and eventually approved in meetings in the regions, involving representatives of about 250 community organisations.

Despite high expectations in many communities, this first attempt to produce a participatory budget encountered serious problems. Because 98 percent of the city's budget that year was taken up by salaries for city employees, the amount of money left over for spending on community-chosen projects was minimal. This led to disillusionment in many neighbourhoods and an 80 percent decline in participation in the budgetary meetings in the following year. In addition, some members of the city's elected council and public administration saw the Participatory Budget Council as a competitor, and were reluctant to cooperate with it. Another problem was the fact that in 1990, 70 percent of the city's investments were spent in only five regions. While the city government justified this on the grounds that these five regions were the most needy, and that spending should be

concentrated there, this outcome elicited considerable criticism from leaders in the other regions.

Despite these problems, reforms made in 1989 subsequently began to bear fruit. The most important was the introduction of a progressive city tax in 1989 which boosted revenues by 132 percent, increased the resources available for local investments, and restored credibility to the new budgetary mechanisms. Participation gradually rose: 3,694 people, representing 503 organisations, took part in regional meetings to discuss the budget in 1991, while the figure was 7,610 in 1992, 10,735 in 1994, and 14,267 in 1995 (Jacobi and Teixeira 1996: 11, 14).

During this time, the budget mechanism was refined into a three-step process. First, the city government drew up a proposed budget, which was then presented at meetings in each region, where local people voted for which of a menu of investments they preferred. In the second stage, the city reconciled the choices made in each region with total revenue, approving the budget in a meeting that included representatives of the sixteen regions. Finally, the selected public works were supervised by a Regional Budget Forum (Fórum Regional do Orçamento) which received input from neighbourhood groups about the realisation of the projects.

In 1994, investment projects selected locally through the participatory budget mechanism represented 23 percent of the total expenditure of the city government. Of this expenditure, 25 percent went to education, health, public transport, and other activities, while 75 percent went to housing, sewerage, road and sidewalk paving, and the implementation of security measures in high risk areas. Certain political problems were also resolved. Tensions between the Participatory Budget Council and the city council waned as the city councillors, anxious not to appear opposed to popular decisions, began to accept the participatory budget mechanisms. And the early policy of concentrated investments gave way to one in which investments were spread more broadly throughout the various regions.

The gradual success of the participatory budget in Porto Alegre illustrates several points about state reform. First, genuine popular participation requires that traditional institutions—in this case the city executive and legislature,—cede some power and commit themselves to an open-ended, decentralised, sometimes conflictual and time-consuming process. Second, participation is likely to decline if popular input is sought for decision-making in an area that is trivially narrow—as in 1989, when the budget was almost completely monopolised by civil service salaries. Third, the increase in transparency generated by participatory mechanisms is likely to erode networks based on vertical, clientelist, and corporatist relations, generate a powerful mechanism for more participation, and result in strong community defence of public works by organisations that see themselves as the co-creators, rather than mere beneficiaries, of development projects.

Porto Alegre's experiment, sustained by three successive Workers' Party administrations, has since been imitated by city governments in Belo Horizonte, Brasília, and other cities in Brazil. It has also been tried in other Latin American cities such as Asunción, Paraguay (Second Inter-American Conference of Mayors 1996: 13). Its success has also attracted global attention: Porto Alegre was

one of 40 cities selected to present its administrative practices to the Habitat II conference held in Istanbul, Turkey of June 3-14, 1996.

Notes

¹ The authors would like to thank Inge Kaul for her enthusiasm and support for this project, and also to thank Fabienne Peter, Sanjay Ruparelia, and Almud Weitz for their useful comments.

² An example of the first kind of interdependence is the debate over state interventions which are likely to further social goals in theory but which, if states perform them ineffectively, may reduce the fulfilment of these goals in practice. On the possibility of "government failure", see Krueger (1993), World Bank (1993). An example of the second kind of interdependence is the possibility that the withdrawal of the state from the performance of direct involvement in the production of pure private goods may free administrative and technical resources which will enhance the state's ability to deliver social goods such as health and education.

³ See for example Appendix F, on "participatory budgets".

⁴ See for example Przeworski (1996), and Stiglitz (1994).

⁵ For example, a responsible and benevolent autocracy is theoretically imaginable even if unlikely.

⁶ For the view that accountability to a widened public can generate instability or aggregative irrationality which will undermine the consequential efficacy of state action, see Callaghy (1993). Callaghy argues that it is unlikely that democratic regimes can be successful developers because their economic institutions will lack the requisite insulation from political pressures. For similar views see also Huntington and Dominguez (1975), Huntington and Nelson (1976), Olson (1982).

⁷ The concept of a citizens' charter (widely applied in the UK), which advises individual citizens of their rights when interacting with public officials, and which advises them of avenues of complaint for non-compliance with this charter, is an interesting example of a mechanism intended to facilitate accountability of the latter kind. See Appendix on Citizens' Charters.

⁸ This issue has been widely discussed in the literature on macroeconomic policy, in relation to "optimal" monetary institutions and rules.

⁹ One interpretation of the role of constitutions is as a mechanism for solving a problem of time inconsistency. In this interpretation, constitutions protect certain key laws (for example fundamental rights) from the temptation to overrule them due to the later (but anticipable) pressures of everyday politics (see for example, Elster 1994).

¹⁰ An example of "fire alarm" accountability is the office of ombudsman for the police created in Sao Paulo Brazil and discussed in Appendix D.

¹¹ Free flows of information need not only enhance the accountability to the public of state institutions. Afsah (1996) provides an important example, from Indonesia, of how state dissemination of information about the performance of private firms in reducing pollution can increase the accountability of the private sector to the public.

¹² Dreze and Sen's (1991) report on the role of a free press in preventing famines through ensuring early state attention and action is a powerful example of this kind.

¹³ The quality of information cannot, of course, by itself be guaranteed by any one party without running the risk of corrupting it. The most efficient guarantors of high quality information are likely to be legal assurances of access to information, competition in the provision of information to end-users, and judicial oversight to ensure both (for example, through placing restraints on official secrecy, and by enforcing antitrust laws in information and broadcasting industries).

¹⁴ Much recent discussion of the importance of "participation" in development seeks to enhance the "voice" of those affected by development efforts. See for example World Bank (1995b).

¹⁵ See Reddy and Vandemoortele (1996) for a range of examples of this kind. For an instance in which reforms produced the opposite effect—increasing the opportunity for exit for the better-off, thus decreasing the quality of public services, in this case in the health sector in Brazil after 1985, see Pereira (1996) and Weyland (1996).

¹⁶ See for example Stiglitz (1994), Roemer (1994), and Przeworski (1996), Pratt and Zeckhauser (1985), and Halachmi (1996).

¹⁷ For the idea of "rent-seeking", now ubiquitous in discussions of the state in developing countries, see Krueger (1974). The idea of "rent-seeking" does not apply to this trading-off as such, but to the effort expended in seeking to establish command over positions which confer rents.

¹⁸ The principal-agent approach is methodologically individualistic, in the sense that it takes social action as being ultimately reducible to the calculations of utility-maximising individuals. In many settings, a more accurate approach would see individuals as embedded in networks (both institutional and extra-institutional); thus, individual decisions may not always be discrete, separate events. For an elaboration of this criticism see Tilly (1984) and Emirbayer and Goodwin (1994).

¹⁹ Examples from north-eastern Brazil of the importance of such motivations in the actual operation of successful state institutions, and of the possibility that these institutions themselves may help to generate such motivations, are provided by Tendler (1997) and Tendler and Freedheim (1995).

²⁰ See for example Olson (1965).

²¹ See for example Fox (1996), Hirschman (1984), Putnam (1993), and Tarrow (1994).

²² For a contrary view, see the classic work of Samuel Huntington (*Political Order in Changing Societies*) which views high levels of political mobilisation as being antithetical to the success and stability of political institutions.

²³ For diverse conceptual perspectives on the state, see the relevant work of A. Giddens, K. Marx, R. Miliband, N. Poulantzas, T. Skocpol, M. Weber, M. Mann, J. Dunn, C. Offe, and C. Tilly.

²⁴ For powerful examples of this kind, see for example Osborne and Gaebler (1993) and Barzelay (1992). Following Enthoven (1984), the UK National Health Service has gone quite far in its implementation of such "internal markets".

²⁵ See discussion in Chang and Rowthorn (1995).

²⁶ See also Bairoch (1993) [especially for the role of trade restrictions in the European industrial revolution], Lazonick (1991), and Rosenberg and Birdsall (1986).

²⁷ Some economists, such as Bauer (1976), Lal (e.g., 1985), and Little (e.g., 1982) had long called for such a "revolution".

²⁸ See also the symposium presenting counter-responses to this view in *World Development* (June 1994), ed. A. Amsden.

²⁹ Martin Weitzman for example, has referred to Township and Village Enterprises in an unpublished article as "vaguely-defined cooperatives".

³⁰ For a succinct statement of the requirements of the so-called "Washington consensus" on the limits and characteristics of desirable economic activity by the state, see Williamson (1993). Williamson also points out that there is a wide range of issues for which there is no consensus—for example, the desirability of currency controls, the "tolerable" level of inflation, and the usefulness of incomes policies.

³¹ For the notion of hard vs. soft budget constraints, see Kornai (1986).

³² For evidence of this kind for India, for example, see I.J. Ahluwalia (1990), and Goswami (1997).

³³ See for example Evans (1995), and Amsden (1989).

³⁴ For evidence that such "fire-sales" have widely occurred see, for example Boycko, Schleifer and Vishny (1996). Castaneda (1993) writes, "When the Argentine national airline, Aerolineas Argentinas, was privatized in 1991, congressmen in Buenos Aires calculated that the three 747s

owned by the airline had been sold off for \$590, 000 each, less than a tenth of their value. An old 707, according to these same sources, went for one dollar and fifty four cents, less than a toy model of the same plane" (p.418).

³⁵ Amsden (1989) for example, points to the role of Korea's presidential "Blue House" in directly initiating such meetings.

³⁶ Zeitlin (1992) lists a wide variety of such bonds, ranging from common ethnic background ranging from family origin, ethnicity, religion and political affiliation through to common entrepreneurial background, professional identity and craft pride. However, he argues that specific common bonds do not appear to be either a necessary or a sufficient condition for "trust" relations to appear, and that industrial districts are sometimes characterised by a history of "overt conflict" which is, however, successfully managed in successful districts.

³⁷ For a forceful statement of this view, see Unger (1997).

³⁸ See for example O'Sullivan (1996).

³⁹ Parts of this section were drawn from "The Strategy of Social Protection: Key Design Issues", written by S. Reddy for the UNU-WIDER project on "The Provision of Merit and Public Goods in Developing Countries: A Search for New Approaches".

⁴⁰ This message has been influentially disseminated by the UNDP Human Development Reports.

⁴¹ This framework is criticised herein as being not sufficiently complete.

⁴² For example, subordinating service providers to statutorily independent (and in principle possibly competing) "social funds" mandated to serve certain social goals--rather than directly to the state--can in principle mitigate or eliminate even the problem of the "soft-budget constraint" (these could perhaps be partially financed through earmarked taxes or other "automatic" resource mobilisation instruments, as well as through stakeholder subscriptions). "Social investment funds" incorporating some of these features have been widely adopted in many developing countries in recent years, although not specifically with this objective in mind for more on these funds (see Graham 1994, Reddy 1997).

⁴³ This responsibility goes beyond corporate and contract law and includes labour and consumer law.

⁴⁴ Buscaglia (1997) sees judicial effectiveness in quantitative terms, adjusting the average time to disposition by real economic growth, the size of the court system, and population growth in order to rank various countries in terms of court "efficiency". However, the argument is plausibly made in World Bank (1997:44) that public trust in the judiciary probably depends more on the perceived

fairness and predictability of court decisions than their speed. It should be added that the cost of access to the judiciary is another crucial element in shaping its legitimacy. These important normative issues are not captured by Buscaglia's indicator of efficiency.

⁴⁵Conventional courts deriving from Western models are often characterised by "inaccessibility, adversary proceedings, and individualistic bias", impersonal adjudication, and "written, more uniform, and professionally interpreted law" (Rudolph and Rudolph, 1967: 253-254). This results in conflicts being often resolved in a zero-sum manner. Traditional conflict resolution, on the other hand, may be marked by "parochial, diverse, and orally transmitted...law" (Rudolph and Rudolph, 1967: 254) in which adjudicators' personal knowledge of those in conflict is valued, and resolutions tend, where possible, to seek to benefit all parties (Soares et al, 1996: 52). A strong emphasis on harmony is thus an element of many traditional legal systems. An observer of Zapotec conflict resolution mechanisms in Oaxaca, Mexico, for example, reports a Zapotec saying that "a bad agreement is better than a good fight" (Nader, 1990: 109), and observes that Zapotec courts strive for "maintaining an equilibrium, a state of balance or a status quo in which...the cultural values of mutual aid, balance, harmony, and equality" are upheld (Nader, 1990: 110). Other observers of customary forms of conflict resolution in India note similar tendencies (Rudolph and Rudolph, 1967). It would be misleading, however, to universalise the contrast between conventional and traditional forms of conflict resolution made here. Comaroff and Roberts (1981), for example, show that traditional conflict resolution mechanisms among the Tswana people of Botswana allow for considerable conflictual individualism and litigiousness.

⁴⁶ However, adequate pay is likely to be, at best, a sufficient and not a necessary condition for the avoidance of corruption.

⁴⁷ Mamdani (1992) writes appropriately in this regard, "The state itself is conceptualised as exclusively an institutional category, with its own coherence, logic and capacity; it is not at all seen as a condensation of social relations and a relatively autonomous arena of struggle which shapes the same relations. The state interest is actually seen as purely the interest of its managers; it is not put in the context of a wider galaxy of struggles within civil society. The problem of state decay is summed up by a single conflict between the institutional interest of the state (governance) and the individual interest of its managers (corruption). Within the parameters of this type of conceptualisation of the state, there is no room for the question of democracy: the only problem that can be raised is that of efficiency". See also Timothy Mitchell (1991).

⁴⁸ The distinction between state and civil society is an old one which has deep roots in Western political theory. For early modern political theorists such as John Locke and Thomas Hobbes, civil society and the state were overlapping if not synonymous concepts. Mamdani (1993) traces the idea of civil society as a force that is potentially antagonistic to the oppressive power of the state, to the eighteenth century views of Thomas Paine. This view, Mamdani suggests, "involves nothing less than a one-sided anti-state romanticism of civil society". In contrast, G.W.F. Hegel saw civil society

as a realm of fractious and contradictory interests, against which the state stood as a transcendent and universal entity. This view, in contrast to Paine's, might be said to involve an "anti-civil-society romanticism of the state".

⁴⁹ Such networks and norms are referred to by Fox as "social capital" but this terminology is avoided here, as it is both excessively instrumental and overly aggregative.

⁵⁰ Schachter (1997) shows that discussion of public administration in the United States in the first quarter of the twentieth century gave considerable weight to the need to create an "active public" in order to increase the efficiency and effectiveness of local government. However these considerations were largely neglected in subsequent study of public administration.

⁵¹ Examples of structural and institutional reforms in the area of financial management that are designed to enhance efficiency in government include "the provision of efficiency dividends to the departments (UK, Australia), the introduction of developmental charges for the use of capital (New Zealand), payments by department for internal government services (Australia) and a shift from cash to accrual accounting (New Zealand)" (Kaul, 1996).

⁵² See also, for example, the influential *Reinventing Government* [Osborne and Gaebler, 1992].

⁵³ The discussion of "Institutional Design" in World Bank (1997), argues that some types of electoral systems are obstacles to efficient governance, without reference to the extent to which they might help to realise democratic values, is one example (see pp. 147-148, which cites examples from Brazil and Uruguay).

⁵⁴ The term "governance" is derived from the Latin verb *gubernare* meaning "to steer".

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