THE INSTITUTE FOR ETHICS, GOVERNANCE AND LAW (IEGL)
(A joint initiative of the United Nations University, Griffith and QUT in association with ANU and CAI)

Patron: Hon Ms Quentin Bryce, AC   Governor-General of the Commonwealth of Australia

Submission to the

Independent Review of Aid Effectiveness

FEBRUARY 2011

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Australian Department of Foreign Affairs and Trade
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Introduction

IEGL welcomes the opportunity to make a submission to this important and timely review and appreciates the invitation to do so. While the review is wide-ranging, this submission will be based around twenty years of experience in governance reform, governance research and education. This work has been carried out through a number of institutions in which I had the honour to take leadership roles, namely:

- Centre for Philosophy and Public Issues (of which I was Acting then Deputy Director in 1990).

- Griffith Law School (of which I was Foundation Dean and Professor from 1991).

- The National Institute for Ethics and Public Affairs which I established as Dean and then led as Director which was the largest of the three centres and became the core of:

- The Key Centre for Ethics, Law, Justice and Governance (of which I became Foundation Director in 1999), the only centre in law or governance to receive ARC centre funding;

- Institute for Ethics, Governance and Law (a joint initiative of the United Nations University, Griffith, QUT and ANU) established in 2004;

- ARC Governance Research (of which I was the convenor), the only network in law or governance funded by the ARC commencing in 2004 and concluding in 2010;

- The International Institute for Public Ethics, IIPE, (of which I was the third President) which promoted public sector ethics through a number of conferences leading to the World Ethics Forum in Oxford in 2006.

We have worked with

- World Bank and World Bank Institute – particularly with Dr Dani Kaufman, Dr Sanjay Pradhan, Katherine Marshall, Helen Sutch, John Davidson, Steve Ndegwa as well as having numerous consultations with a range of staff:
    - Missions to Indonesia to advise on measures to combat corruption, cronyism and nepotism in 1998 (sole governance expert on the team) and to East Timor on financial governance;
    - World Ethics Forum (chairman of organizing committee) and a member of the the Global Integrity Alliance's interim board..

- Open Society Institute
    - Threats to Democracy (member of experts and writing team for Soros funded Council on Foreign Relations Task Force co-chaired by Madeleine Albright and Bronislaw Geremek) in 2001–2;
    - Dialogue on Governance Values between Western and Islamic scholars and practitioners (six workshops in three countries in 2003-4);
    - Integrity Systems assessment for Georgia (2006–8);
    - Also informal advice on developing political will.

- Transparency International
    - Major project to review and develop the Corruption Perception Index (CPI) and develop new measures (Bribery Perception Index and Global Corruption Barometer)
    - Development of National Integrity Systems Assessments (This is the more sophisticated methodology that is designed to deal with the limitations of the NIS country studies).

- A number of Queensland bodies including The Electoral and Administrative Reform Commission (EARC) and the Parliamentary Electoral and Administrative Committee (PEARC) during the post Fitzgerald Reforms, Public Service Commission under various names, CJC/CMC and, most recently, Premier's round table on integrity and accountability. In addition to PEARC I have assisted several Parliamentary committees, especially the Parliamentary Scrutiny of Legislation Committee (legal advisor from its inception in 1995 to 2002) – being appointed unanimously by the committee despite two changes of government.
- Nolan Commission on Standards in Public Life (I was the first person they consulted and they adopted our approach to ethics based governance reform which they referred to as "the Queensland model" and which Lord Nolan referred on to the OECD which changed our term ('ethics regime') to 'ethics infrastructure'.
- OECD – public sector ethics and measuring effectiveness of integrity measures.
- UNDP – Pacific Islands leadership code.
- UN Rule of Law Unit.
- The United Nations University approached the Key Centre to 'adopt' us as its Institute for Ethics, Governance and Law in 2003. We have been working with them ever since.

Our work has been recognized by

- The Australian Research Council:
    - o Major Grants – on public sector ethics, business ethics and governance, small business ethics and governance, measuring corruption, national integrity systems, ethical recruitment of nurses, constitutional theory, administrative law and public ethics, the ethics of intervention, sovereignty, the international rule of law, refugees, peacekeeping;
    - o Centre and Network funding (KCELJAG and ARC GovNet);
    - o Graeme Clark awards – the National Integrity Systems work was among twenty projects funded by the ARC over the last 20 years which were seen to have had the greatest impact. This was one of only five awarded in social sciences and humanities;
- Elements of the UN system – World Bank, UN, UNDP, UNU;
- Frankly, there has not been that much support from AusAID
    - o Three PSLPs
    - o AusAID has tended to fund others who have wanted to support our work and sought AusAID funding to do it – especially World Bank (WEF and ET), APEC (governance training.

Our contributions to governance reform relevant to aid have focussed on the following (See Appendix)

- An approach to public sector ethics, pioneered in Queensland that has achieved wide recognition.
- Emphasising ethics and leadership as the missing elements of governance reform.
- Developing methodologies for:
    - o Integrity Systems Assessments;
    - o Governance dialogues;
    - o Interdisciplinary governance research.
- Building good governance into peacekeeping missions.

This submission will focus on

- Aid for Governance and governance reform.
- Governance of governance aid – and possibly aid more generally.
- The Role of Research in what is a knowledge intensive industry.
- The Role of education in leadership and governance..
- Our recommended approach to governance reform based on experience in Queensland and subsequent work with Nolan Committee, OECD, World Bank, Soros.
- Our recommended approach to leadership development based on work with World Bank in WEF and GIA and national integrity systems.

- Measurement issues (measuring what counts rather than counting what can be measured).

Strengths/Performance of Australia's Current Aid Program

- We are asked to comment on the performance of Australia's current aid program and outline strengths which need to be retained to ensure its effectiveness and efficiency.
    - IEGL agrees that the policy should aim to "assist developing countries reduce poverty and achieve sustainable development, in line with Australia's national interests".
    - IEGL fully endorses some of the following:
        - Commitment to scaling up to 0.5 per cent of GNI by 2015;
        - Renewed focus on the Millennium Development Goals and poverty reduction;
        - Pragmatic approach to the application of aid effectiveness principles;
        - Efforts to promote whole-of-government coherence and aid effectiveness.
    - Some areas have improved dramatically – including the willingness of other departments to assist. Assisting other governments in the region is now seen as a key responsibility:
    - We have been kept informed of the establishment of the Office of Development Effectiveness (ODE) and its good work.
- We recognize the growing importance of non-state donors and NGOs:
    - IEGL and its predecessor and member centres have emphasised workshopping of ideas involving 'engaged academics and reflective practitioners' with the former seeking to road test their ideas in the complexities of the 'real world' and reflective practitioners who want to step back from the complexity that they experience. This has been very fruitful in generating important ideas.
    - We have worked with several such donors/NGOs – TI , Tiri, Austcare, Open Society Foundation, various NGOs and professional groups in Australia, Indonesia, PNG, Georgia and Philippines.
    - We have also received funding from Open Society Institute, Macarthur Foundation (with TI)
    - We also believe that it is important to engage business. It will secure direct benefits from improved governance – especially governance arrangements which work and with which they are broadly familiar.

    However, we need to recognize the different approach to philanthropy in Australia and the US and that NGO donors and foundations can be idiosyncratic and affected by related interests and ideologies. The vast bulk of Australian aid will continue to be provided by government. Australian governments are investing 30 percent of Australian Foundation assistance through tax deductibility. The decision to invest more public funds in such work needs to be carefully considered. This does not mean that there should not be a full sharing of ideas with NGOs, foundations and universities to improve the thinking of all and to promote collaboration on the best ideas that come out of the process. We would recommend using a version of the IEGL workshop methodology that brings "engaged academics" and "reflective practitioners" from bilateral and multilateral aid agencies, relevant government bodies, business, NGOs and foundations. This can be done in general within Australia and applied to particular issues in the donee countries.

- We are glad that there is general bi-partisan support for the expansion of the aid program and see the aid program developing in response to external changes, new thinking and the assessment of past programs. Some elements of the previous Government's White Paper, *Australian Aid: Promoting Growth and Stability* might be worthy of note and comment. We agree that:
    - "Australia has a strong aid program with an international reputation for flexibility, responsiveness and effectiveness." However, we need to ensure that responsiveness by developing techniques for securing broad input from those in donee countries. We would particularly recommend the application of the methodology developed at the WEF of asking effective leaders what they wished they had known and when they had wished they had known it, as a good start in designing leadership programs.
    - "Australia's aid program is informed by our values as a nation." While we endorse what we call 'values-based governance', we believe that it is critical that governance reforms are built on versions of good governance values within donee countries rather than seeking to export our versions of those good governance values (see discussion of dialogues below).

o We agree that "Countries are more likely to achieve sustained growth if their governments enforce property rights, manage conflict, establish macroeconomic stability, align economic incentives with social benefits, and maintain law and order." However, we also believe that they sustainable growth also benefits from education, economic opportunities and avoiding massive economic inequalities which give too small a stake in the economy for some and too great a stake for others (which is then defended by corruption or oppression or both).

o "While there are common fundamentals to development, there is no universal policy prescription to achieve it. Each country's situation is unique, as is its path to reform and growth." We agree and, for this reason, argue that the combination of NISA methodology and governance dialogues are particularly valuable.

o We liked the emphasis on investing in people and fostering functioning and effective states. The latter is particularly important. It emphasises the positive goals of good governance rather than the negative goal of combating corruption which is the result, not the means.

o We entirely agree that "The **effectiveness** of the aid program will be ensured by, inter alia, combating corruption.

o Under the section heading "Investing in people" scholarship schemes are particularly valuable but we suggest the development of specialized courses and associated activities for future leaders from the region (see below). .

- The ALP policy and recent speeches by the Prime Minister and Foreign Minister provide continuity and development. We would particularly endorse the desire for an aid program that:

o "Is fully knowledgeable of, and when appropriate, fully engaged with the UN, UN agencies and the International Financial Institutions including the World Bank" (we would include the UNU among those agencies – not just our own Institute but also UNU-WIDER in Helskinki)

o emphasizes "poverty reduction and the Millennium Development Goals"

o "has the full engagement, support and ownership of recipient countries and communities" (this is particularly important in governance and is built into the tools we have developed and the recommended network of governance research centres)

o states that "we do not see ourselves as having a monopoly on wisdom". This is very important as there are different ways of governing well and the bulk of the knowledge of governance problems and potential solutions will lie within the donee countries.

o makes education a flagship of the aid program

o draws on the best research and practical experience to make evidenced-based decisions

Recommendations for Enhancing the Program

We are asked to offer recommendations based on lessons learned from Australia's approach to aid effectiveness. We do so in the three areas suggested.

First, we outline areas for enhancement, in order to enable Australia's strong aid program to deliver a substantially enlarged aid investment. We agree entirely that Aid id should be offered in those areas where providers have strength. Strengths include governance, education and research. We will discuss these in turn.

GOVERNANCE: We acknowledge that there is growing scepticism about the ability of donor countries to assist in governance reform and that there have been some bad examples.

We would emphasize that Governance **is** critical to the achievement of MDGs, human development and better societies. Australia **does** have expertise and comparative advantage, Australia **can** assist, although measurement of progress is notoriously difficult.

Australia's strengths, expertise and comparative advantage include:

- Governance reform.

- Research by a number of bodies for which IEGL, GovNet and others have a proud record as indicated by respect of TI, WB and UNU'

- Certain areas in which Australia has made important contributions to governance:

o Administrative law reforms of the 1970s which formed a very important package referred to as the 'New Administrative Law' – along with later developments;

o Corruption investigation techniques from Costigan to Fitzgerald to Wood;

- o Integrity systems (the name that TI used to describe the kind of mutually reinforcing and supportive reforms which were introduced by the EARC process in Queensland). These included but went beyond the 'New Administrative Law' of the 1970s to include ethical standard setting, new and reformed agencies and a degree of conscious integration;

- o The EARC process itself in which an independent agency to consider weaknesses in what we would now call the 'integrity system', look at models interstate, international and/or new ideas based on research, analysis and high level thinking. This kind of 'governance reform commission' has not been followed elsewhere but could be our greatest contribution for how other jurisdictions could consider how they incorporate foreign models and new ideas into their integrity system;

- o Public sector ethics;

- o Right to Know;

- o Disaster management – as demonstrated recently in Queensland (cf Louisiana);

There have been some problems of attitude:

- We should not see this as a matter of others learning from our superior governance. Instead, we should see all polities involved in the process of trying to improve our governance systems and preventing them from degrading. We should look at the processes of reform in Queensland in the 1990s as a good model for a process of reform rather than see the reforms as a model of what others should do. We should see governance reform as something that is never finished (as some tended to think in Queensland for much of the last decade). Australia will be best able to assist other states if they continue to engage in governance reform and one of the advantages of an effective governance aid program that focuses on governance as an ongoing issue for all polities is that it will stimulate a healthier approach to governance in Australia.

- We should approach governance reform with humility and in recognition that securing integrity in governance is an important unfinished and unfinishable task in which we all need to be engaged. In delivering the keynote on the opening of TI Indonesia in 1998, I commenced by saying: 'Whenever I talk about governance reform I am bound to express a sense of humility. Indeed, I come here with two kinds of humility that you might not expect from an Australian lawyer. The first basis of my humility is that I do not come with some false western sense of superiority over governance institutions. You see, I come from Queensland! [I then outline Queensland before Fitzgerald and since]. The second basis of my humility is that, as a lawyer I know that law does not, of itself, provide the answer to corruption. It does not even provide the largest part of the answer. All it can do is provide a backstop to the answers that must be based on institutional reform and ethical regeneration.'

Limitation of disciplines and lack of interdisciplinary co-ordination

- Governance has been embraced by a range of disciplines, each of which has a strongly theorised but limited conception of institutions, which colours and structures their view of the nature of institutions, their problems and the best means for addressing them. To put it simply, lawyers look at institutions and see sets of formal norms (contracts and constitutions); ethicists see informal norms and values the institution claims to further; economists see incentives and disincentives; political scientists think it is all about power and power relations. This structures the way they see institutional problems. Lawyers see the institutional problems in terms of deficient or insufficient legal rules and the solution is to redraft legal regulations, institutional constitutions and have ever longer and more detailed contracts. Ethicists look to the failure to articulate, specify and embrace norms and values with the solution lying in properly doing so. Political scientists tend to see problems and solutions in terms of the institutional power structures. Economists see problems in terms of perverse incentives and the solution in terms of aligning incentives with desired behaviours. All these 'governance disciplines' provide important and powerful insights into the nature of institutions, institutional problems and institutional solutions. Any solution that ignores them is likely to fail. However, they are only partial insights and solutions based on only one approach are bound to fail.

- IEGL believes that the effective governance requires the combination of the insights of these 'governance disciplines and that the success of IEGL lies in its demonstrated high degree of interdisciplinarity, bringing together engaged academics and reflective practitioners in the 'normative sciences' (of law and ethics) and the social sciences (of economics, political science and criminology). I have argued that the eighteenth century thinkers who contributed so much to the development of western governance lived before the separation of these disciplines and would have not have considered attempting to resolve the 'governance' problems of their time by the application of just one of those disciplines (keynote at a Glasgow conference to celebrate the 250th anniversary of the publication of Adam Smith's 'Theory of Moral Sentiments' published as 'Adam's Smith Dinner' the lead chapter in in McNeil and O'Brien (eds), *The Future of Financial Regulation*, Hart, Oxford, 2010

- There is much good governance work done by lawyers and economists with important insights into institutional governance problems. However, we would argue that they are too often pursued in isolation from the insights of each other and the other disciplines of ethics and political science. Even when they do try to recognize the value of other disciplines they try to reframe those other insights in terms of their own disciplines, with too much lost in translation. There has also been a tendency to import what they believe works well in their own countries without properly understanding the integrity system from which it comes, the supports on which it is dependent, and without understanding the integrity system into which it is parachuted.

- It was to counter these tendencies that we worked with the World Bank and other partners in putting together the 'World Ethics Forum' which saw 'ethics and leadership as the missing elements in governance reform' and to emphasise that ethics had a co-ordinating role to bring together the insights of the various disciplines. (Ethics not only addressing core issues of institutional values and official behaviour to which legal rules and economic incentives need to be directed but also the principles underlying the relevant rules and the standards for judging the success or otherwise of institutional reform.)

Measurement

- IEGL recognises the importance of assessing the success of programs in order to decide whether to increase, decrease or change them – especially within a significantly enlarged aid budget. This approach involves seeking, wherever possible, measurement. However, we have to be careful about not merely counting what we can measure instead of measuring what counts when the latter appears too difficult.

- Measuring the effects of governance reform is very difficult:
  - To the extent that we are trying to measure levels of corruption, we face all the difficulties of measuring crime statistics for consensual crimes (Such crimes used to be called 'victimless' crimes but the point is not that there are not victims but that the victims are not involved in the actions by which the crime is committed). Following our major project with TI to improve their corruption measures, we can only conclude that all measures will be highly imperfect and the best approach is to recognize the limitations of any measure and seek a number of other measures. However, the object of governance reform is not merely to reduce government corruption (if that were our only goal it could be achieved more completely by abolishing government) but to ensure that governments serve their people by providing public goods and private goods that cannot be effectively or sufficiently delivered without state assistance. Measuring such changes is very difficult.
  - Achieving these changes often takes a long time – the changes in governance initiated in the eighteenth century are continuing today. The highly corrupt polities of the US, UK and NSW circa 1800 were improved significantly by the middle of that century but still had, and still do, have a long way to go and not infrequently go backwards. (There are jokes about whether NSW is better run than under the rum corps but they are just jokes).
  - Success is determined by a range of non-independent factors of which governance in its various forms is only one factor. We are not allowed to experiment with societies by having control groups so that contested multi-factoral analysis of infinitely variable societies is the best that can be done in attempts at quantitative measurement.
  - There is debate about the relevant public and private goods to be delivered and the means for doing so. While this debate is healthy and essential, it means there will almost certainly be changes in ends and means before 'success' is achieved. Something that could be achieved by getting rid of government).
  - This can lead to measurement of intermediate variables that are thought to produce better governance. However, it is hard to determine causality, and causality is likely to be largely derived from theory and sometimes from theory influenced by the mono-disciplinarity identified above.
  - We had long discussions with TI on this very point. We worked on improving the measurement of corruption. We believed that 'integrity systems' provided a large part of the answer. One of our goals in mapping and assessing integrity systems was to build the basis for identifying integrity systems variables to track against improved measurement of corruption. In the end, we felt that the best approach was to map and assess integrity systems and see where there appeared to be gaps and weaknesses (especially where the weakness arose from one institution failing to fulfil provide the support that they claimed or which other institutions thought they needed).

- o Some World Bank officials asked for case studies. Given the time scales, some useful case studies are actually of western countries. At the very least, they provide antidotes to some of the demands and expectations placed on developing countries. Our own histories suggest:
    - Reforms do not tend to be quick or complete;
    - Development generally follows scandal (the New Administrative Law of the 1970s is one notable exception);
    - Governance reform in western countries was not done because it was proven to work elsewhere. Even when other models were adopted it was as often a mistaken approach (e.g. Montesquieu and UK);
    - Reform processes were driven locally but would involve picking and choosing from elements of other outside models that seemed to fit and new ideas home grown. One of the most effective processes was the EARC process in Queensland which TI took as a model;
    - Governance reform is political process and requires leadership. Attempts at governance reform may fail because the idea is not a good idea, there is inadequate leadership or effective leadership by those opposed to reform. It is very hard to tease out the various causes;
    - The integrity system is not the only variable. In many countries, there are strong 'corruption systems' that have all the virtues one would want in an integrity system – strong institutions, long standing relationships, clear norms, valuable incentives to follow those norms and strong and regularly enforced sanctions. (I am indebted to Gherardo Colombo, a member of the clean hands team for this insight.)
  - o Given these difficulties, there is a tendency to seek to measure what can be counted. This is exacerbated where there is a great deal of contracting out. It suits the contractors who design, deliver and assess governance projects to have measures that are easy to count and easy to deliver. The hollowing out of expertise within AusAID caused by contracting out means that it is much more difficult for AusAID to do the relevant assessment and ask the right questions. This is not to say that there is not some excellent staff in AusAID. However, I think that it is generally true that you cannot sub-contract out governance in one's own organisation, let alone aid for governance.
  - o The complexity and inherent difficulty of measurement suggests an alternative – the use of research (see below). Our Research seeks to understand the problems of measurement and assessment and seeks to analyse governance and governance developments in a range of countries – including those we might wish to assist and those that do not seem to be in immediate need of assistance but are still trying, experimenting and learning to do better.
- For these reasons, Richard Curtain's 'cash on delivery' approach to aid (see Guest, Dec 11, 2010) may not be particularly appropriate in governance aid – thought it may work with some intermediate deliverables.

Embedded or 'stand alone' governance measures

- One question is whether integrity and governance measures should be general or built in to particular programs.

- However, this is not a dichotomy in developed nations and should not be for developing ones. Most effective integrity systems have system wide agencies and provisions (ombudsman, ICAC, auditor general) as well as particular measures within departments). In fact, each reinforces the other and the whole system would be weaker if both general and agency specific measures are not present. The best systems have mechanisms to enhance the degree to which they mutually support each other. Even in a system with strong central elements, it is important that new initiatives be considered for corruption and integrity risks. Furthermore, one of the best ways of making general provisions work is to drill down and see what general provisions mean in specific contexts

- Having said that there is a difference between emphases – often based on differential histories (especially responses to past scandals. For example, Queensland emphasizes more central measures and the Commonwealth has a strong emphasis on departmental measures. Similarly, we should recognize and respect such differences in donee countries.

RESEARCH

- The White paper identified the importance of research, something reiterated by Hon Bob McMullan in his introduction to the AusAID research strategy and reiterated by Hon Mr Rudd. The White Paper also indicated the limited use of research by AusAID, especially compared with DIFID (0.1% cf 2%). Since then, the research budget appears to have increased to about 0.5 percent.

- Even 2 percent is relatively limited. In knowledge intensive industries, 5–10 percent research budgets are more common. This is even more important when the organisation is engaging in a major growth spurt. While some of the traditional objects of aid may not have required a great deal of research, governance is certainly knowledge intensive. The number of uncertainties listed above in measurement indicates the need for a great deal of applied research in which it is not clear that we even have the right questions, let alone the right answers. Where research budgets are very small, there is likely to be less engagement by the agency – there is less research, less importance is given to it, fewer are exposed to it, and fewer are involved in thinking about what research should be carried out. In such circumstances AusAID officials will have less idea of the questions being posed by researchers and what they could gain from research. These problems are exacerbated when assessment is outsourced.

- AusAID is not one of those Australian organisations that are hostile to academics and research. Indeed, most of Directors and senior advisors in governance have given us a good hearing and have engaged in valuable exchanges. At times, this has been with broader AusAID groups. The DG of AusAID, Bruce Davis, was very interested in our ideas and invited us to spend a morning with his senior staff discussing some of the latest research and where it could assist. The half day stretched to about 4p.m. and there was great enthusiasm but there was no follow up. Another time, I was asked to bring a group of researchers to Canberra to provide input on draft aid strategy. However, those who are keen to talk to academics are a limited and self-selecting group. It is my impression that there is a tendency to expect firm answers and proof for matters that do not always admit of such things. While there is a real willingness to listen to the results of research, there seems limited willingness to support new research.

- While the AusAID research strategy emphasises the importance of communication, it largely puts the responsibility on the researchers to communicate rather than AusAID to engage. Effective engagement with, and development of, research requires both.

- A more substantial research program could assist AusAID in securing answers to the questions they ask and also assist in refining the questions into ones that can be addressed.

- The DFID approach of funding research centres makes sense. Where the subject matter to be researched is complex, multi-faceted and multi-disciplinary, the creation of multi-disciplinary centres makes sense.

- Our proposed model would be to fund centres in particular fields (governance, health delivery etc.) with headquarters in Australia but with funded partner institutions in some of the donee countries to ensure collaborative research that builds on the knowledge and concerns of donee countries. This is a model we proposed about ten years ago and which the United Nations University is proceeding to put in place.

- It should be noted that supporting research is a form of risk taking (encouraged by Baird in Guest, Dec 4 2010) – because you do not know the result of genuine research before you begin. The biggest risk is that ideas will be challenged – but that is the point of research.

EDUCATION, especially Higher Education

- One of our long term partners, Professor Azyumardi Azra refers to leaders and governance experts as the 'human capital of governance reform.

- Australia should work on developing ethics, governance and leadership courses in the region and in Australian universities with the two programs articulating with, and mutually supporting each other.

- While some of these would be stand alone programs (especially graduate short courses as part of leadership programs as suggested in the Appendix), they should also be built into 'integrity majors' within LLM, MBA and MPA courses.

- While Australia has a great deal of expertise in delivering higher education for export, we must be careful about complacency. The Bradley Report notes Australia's great success in attracting medium to good students to undergraduate courses in business and IT, it points out that we are not attracting the best students (including future leaders) to postgraduate courses and we are not attracting students to courses beyond business and IT in the way we did under the Colombo Plan.

- It could be argued that one of the reasons for our very large export education industry is that local funding has been drastically cut and universities have had to use their ingenuity to make up the gap. At the same time, the reputation of Australia's higher education is very much based on what it was rather than what it is. This is not to suggest that the AID program should be used to address limitations in the higher education program but that we should seek to develop special offerings that are of high quality, highly relevant, attract both high quality local students and high quality international students. In particular, governance students would be given relevant practical experience of the kind envisaged in discussions of special leadership programs IEGL had previously suggested.

- We also believe that the LLM, MBA and MPA courses be given a strong international dimension as future leaders in developing countries are as likely to want to work in international agencies, corporations and NGOs as in national governments.

STRUCTURE OF THE PROGRAM

It seems sensible to increase support for Africa in areas where we are strong. In general, we should utilize our expertise [governance, peacekeeping] in more countries. Australian can contribute where best we can and also enhance that knowledge by working on similar issues in a number of countries – avoiding generalizations created by limited experience. In discussions with JICA, they indicated a strong interest in Africa and in governance but did not have a great confidence in their own expertise in the areas. If this is still held at the appropriate level, this might be a useful area of collaboration.

We might consider leadership in the Middle East as well – whether or not recent events generate a democratisation wave.

One of the issues canvassed was the relative focus of the aid program on low and middle-income countries. We think that it is sensible to include both as we can see how countries move from one to the other. Indeed, there is something to be said for what we understand to be JICA's approach that we move from being donors to **partners** as former donee countries move to high income status. In governance, there is an added advantage as we see how developing countries change as they move through various levels of income. If we establish collaborative arrangements with local research centres, this long term engagement and comparison will be assisted as we continue engagement as partners rather than donees.

Another issue was the relative costs and benefits of the different forms of aid, including the role of non-government organisations and the appropriate balance between multilateral and bilateral aid funding arrangements. We have had experience NGOs (universities) and in both multi and bi – especially multi-lateral. Our general view is that Australia is strong in governance and that we have a distinct advantage over some larger countries. It struck me while in Indonesia that our middle power status is very useful. Because no one thinks we are in a position to bully South East Asian countries. The only way that we will have influence is through persuasion. This imposes an important discipline on the quality and integrity of the advice we give. It also means that there is less likely to be resistance to it based on pressure that we are unable to exert. This means that we are natural leaders of multi-lateral governance assistance.

This may not be the case in the South Pacific where our relative power is much greater. In this area, working closely with New Zealand is a very sensible approach.

PROGRAM DELIVERY: Outsourcing and changing personnel

Our comments on these two points are related.

I have met a lot of great people at AusAID over the years – including many holding the senior governance position or positions. Indeed, I think I have met too many good people in these roles. This high changeover is is exacerbated by the problems with outsourcing. There are some general governance issues about contracting. It can be efficient but it can be inefficient – why Coase pointed out that we sometimes choose organisations. It is particularly difficult in governance work where it is hard to measure success and where measuring outputs rather than outcomes is the easy way out. My general views about contracting out of services and infrastructure is that the more you have to regulate, the less useful is contracting (reflecting the difficulties of designing effective regulation which seems to be emphasised in all areas except for contracting out.) .

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APPENDIX: IEGL's Approach to Governance Research and Capacity Building

For the last 20 years, IEGL and its predecessors have been in the forefront of those who have argued that good governance is essential to long-term growth in developing countries. However, the bulk of governance reform (and responses to corruption in general) emphasises statutory reform and introduces new integrity institutions based on Western models. We have long contended that legal regulation and institutional reform are essential to governance reform but are bound to be inadequate if attempted in isolation. We have also argued that values can play a critical role in making governance reform more effective. They provide the basis for a third and vital arm in governance reform – ethical standard setting. Such ethical standards set the ideals and expectations for the conduct of public officials and corporate leaders. However, they can also provide a useful coordinating role in providing the rationale and standard for judging the effectiveness of the reforms.

In emphasizing the importance of ethics and values-based reform, we do not naively suppose that ethics can, by themselves and acting in isolation, have any significant effect on improving governance or reducing corruption. 'Bare' ethics, unsupported by legal and institutional reforms, are nothing more than a knave's charter. However, we would argue that ethical standard setting, legal regulation and institutional reform are all part of the answer but are likely to be ineffective if implemented on their own.

In pressing for the importance of values, we neither assume that those values are Western exports nor some over-generalised values that provide the lowest common denominator of all cultures. Religions and cultures do differ – but not in the sense that some support good governance and some are inimical to it. Most long-standing religious and cultural traditions contain strong elements that are congenial to good governance and which play a similar 'congruent role' to the familiar ideals of the rule of law, openness, liberty, rights, democracy etc. Of course, most long-standing traditions have elements and interpretations that seem the antithesis of such values (this is as true of the west in the 20th century, as it is of any other culture).

Accordingly, there is no need to 'import' the 'Western' versions of good governance values when governance reforms can be based on indigenous cultures and traditions. Governance reforms based on good governance values to be found in indigenous traditions are likely to be solidly and sustainably established.. They are less open to criticism by opponents of reform.. In this context, we endorse the notion that weak local capacity is not helped by the existence of inherited and inappropriate governance structures which are not based upon local values and needs.

We believe that governance reform should be informed by a dialogue between liberal interpreters of Western governance values and traditions, and liberal interpreters of other traditions. Each will learn from the other and enrich their understanding of governance values and governance issues. Most importantly, it will allow governance reformers to base governance reforms on values, stories and traditions that are well understood locally and which are nuanced and contextualised for the jurisdiction in question. Values-based reform can assist in the following ways.

- The setting of positive ideals for the public sector as a whole and for individual agencies outlining and clarifying what they are trying to achieve (e.g.: what it is to be a good [i.e.: ethical] public sector employee, whether it be a good customs official/fireman/teacher or whatever).
- The creation of ethical codes that reflect those ideals for the public sector as a whole, and more specific iterations of those codes for individual agencies.
- The identification and addressing of structural and institutional obstacles to the achievement of those goals – including the dilemmas and temptations facing agency officials.
- The pursuit of institutional reform within individual agencies so that internal structures, policies and incentives reinforce and support the realisation of the values and goals that justify the institution's continued existence.
- The creation of achievable goals for agencies in terms of performance and the effective monitoring of performance and goal achievement.
- Substantive values can provide the goals that leaders set their governments to achieve.
- Process values can provide goals for leaders in the way they conduct themselves and their governments.

We have argued that these approaches to our various activities and programs can make a valuable contribution in assisting developing countries to achieve their economic and social goals, through a comprehensive and locally targeted approach to reform. These approaches are applicable to all of the closely linked activities in this field, whether public sector reform, the pursuit good governance at large, the reduction of corruption or adherence to the rule of law, all of which are essential if capacity building for long term change is to be achieved. The achievement of these goals within the public domain can then open the way for an ethical climate in which civil society and the corporate sector can translate these expectations into their own spheres of influence.

It is also important to note that the current concerns about social unrest and terrorism and the need for effective security measures to deal with these phenomena should not be seen as justifying a pause in this process of governance reform. The greater the power given to state agencies, the greater the need to ensure that such powers are used for the purposes for which they were given, rather than used (and abused) for other purposes. Indeed, without effective governance measures, the greater powers may unintentionally increase popular resentment, disillusionment and even terrorism.

Dialogues on Governance Values
IEGL was funded by the Soros' Open Society Institute to lead six dialogues on governance values between Islamic and western scholars and practitioners – concentrating on Islam in Malaysia and Indonesia. The rationale for this project was that all cultures have traditions of good governance with 'congruent' if not identical governance values. (All cultures also possess traditions of bad governance – the West produced Nazism and Bolshevism in a single century!) Accordingly, we should not seek to assist other governments to introduce 'Western' versions of good governance values and institutions. Not only would this hand an easy weapon to the opponents of reform, but such values, laws and institutions are not likely to take as firm a root and risk systemic governance failure. Our approach reduces such risks by identifying and mobilising the indigenous cultural resources that support governance reforms. This methodology can be extended to dialogues could usefully be pursued with Buddhists in Japan and the Mekong area, Confucians in Taiwan, Singapore and the Chinese minorities in Asian countries, and, perhaps, Hindus in India and Bali. Careful consideration might be given to dialogues with some islander cultures.

National Integrity Systems Assessments (NISAs)
IEGL and its predecessor centres were involved in Queensland's post-Fitzgerald reforms. They have worked to understand and explain the process and then take the lessons learnt to international academic and policy audiences. We recognized that this multi-institutional approach to fighting corruption was a major departure from, and an advance on, the prevalent 'Hong Kong Model' which was based on strong laws and one extremely powerful ICAC. Recognizing the unique role played by its standard setting public sector ethics reforms that helped knit together the comprehensive set of legal and institutional reforms, we called it an 'ethics regime'. The OECD took up the idea and renamed it an 'ethics infrastructure'. However, when the CEO of Transparency International visited Queensland and called it a 'national integrity system', pronouncing it the answer to corruption, the TI term stuck. We became TI's major research partner. One project helped TI refine and expand its corruption measurement tools. The second major project sought to understand, map and assess "national integrity systems". The methodology, developed in conjunction with TI has now been applied to a number of Australian and foreign jurisdictions – most recently in Georgia and Indonesia.

The National Integrity system approach is based on the belief that the promotion of high standards of conduct and the reduction in corruption are not achieved by any single measure, whether code, law, institution, leadership approach, watchdog etc. It is only through the combined and mutually supportive and complementary measures and positive interactions of all of these elements, that these goals may be attained. Transparency International coined the term 'integrity system' to describe this phenomenon. An effective integrity system thus can provide an integrated effort to achieve strong oversight of public sector decision-making and spending, with the existence of effective regulatory agencies to ensure compliance with existing legal and regulatory requirements.

The NISA methodology may be adapted for local circumstances but generally follows these stages:
- Identify the range of institutions and mechanisms which make up a society's 'integrity system' – i.e. that enhance accountability in public and business governance, raise ethical standards and performance, ensure public and corporate powers are used for the purposes for which they are intended, and make corruption more difficult.
- Describe each of those institutions and mechanisms in their operational context and document the legislation, rules and codes that govern them and the communal values that support them.
- Compare the nature and role of integrity institutions to ostensibly similar institutions in different jurisdictions.
- Examine the way that the cultural, economic and political context may lead integrity institutions to operate differently from similarly named and structured institutions elsewhere.
- Identify the ways in which these elements interrelate and any gaps or overlaps between them, indicating the extent to which, and the ways in which, the institutions operate truly as a "system".
- Use the above data to map the integrity system.
- Assess the strengths and weaknesses of the current integrity system.
- Identify areas of potential risk from which corruption might develop.
- Make proposals for improvements and reform.

Governance Reform Commissions or (GRC) is the generic term we give for bodies like the Electoral and Administrative Reform Commission (EARC) that designed the post-Fitzgerald Reforms. A GRC should have a membership that puts it beyond party politics and supported by a permanent secretariat, which would assist the GRC to propose alternatives, canvas experts and popular feedback and draft reports for legislative consideration. The beauty of such bodies is that, once established with a clear agenda and a time line, they start to resemble the 'sorcerer's apprentice' delivering governance reform recommendations on a regular basis, making it very difficult for them to be politically ignored. Governance reform commissions are discussed in the Epilogue to Preston and Sampford: <u>Encouraging Ethics and Challenging Corruption: Public Sector Ethics in theory and practice</u> Federation Press, 2002

Ethics and Leadership - World Ethics Forum and the Global Integrity Alliance
IEGL and its predecessor and member centres have emphasized that building integrity and combating corruption requires legal regulation, ethical standard setting (for both government and corporate sectors), the reform of public agencies, the establishment of effective integrity systems and ensuring that economic incentives and non-monetary rewards (e.g. honours given by public, private and professional bodies) reinforce and reward integrity. Leadership is vital to achieve these goals – first in '<u>transformational</u>' leadership to reform or replace corrupt institutions and then in '<u>sustaining</u>' leadership that strengthens, develops and embeds the new and reformed institutions. Both forms of leadership are necessary within government, corporate and not-for-profit sectors. Such leaders are the 'human capital' of governance reform. However, it is critical to recognize that leadership involves important two way relationships – between leaders and followers and between leaders and other leaders. The first is universal, the second is a critical recognition of the fact that an individual leader with the most devoted and responsive followers is unlikely to succeed. It is now appreciated that national integrity systems require a number of organisations and institutions to raise integrity and reduce corruption. Accordingly, the establishment of such an integrity system requires coalitions of leaders – integrity alliances. Such alliances need to be cross-sectoral and bridge religious, ethnic and other divides within the society concerned.

Recognizing the importance of leadership brings out the positive dimensions of both ethics and integrity. Ethics is often mistakenly seen as avoiding a series of 'don'ts'. The more appropriate view, is that ethics is first and foremost positive. Personal ethics seeks to answer the question: 'how should I live my life.' It is about asking hard questions about your values, giving honest and public answers, and living by them. Institutional ethics asks a congruent set of questions about how those who work together in an organisation should 'live their lives together' whilst working within the organisation. It similarly asks hard questions about the values of the organisation, giving public and honest answers and living by them. An individual or organisation which does so has 'integrity'. This links to our understanding of corruption and integrity systems. If corruption is the abuse of entrusted power for personal or party political gain, integrity is the use of entrusted power to further the values it claims to advance.

Recognition of these developments in governance thinking and to the desire to highlight some underemphasized elements of good governance and governance reform caused the World Bank to propose to IIPE and IEGL, that the theme of the World Ethics Forum should be 'Ethics, Integrity and Leadership.' This Forum was held in Oxford in 2006 and organized by IEGL and ARC GovNet with over $600,000 of funding support orchestrated by the World Bank (provided by the Bank, USAID, DFID and AusAID). The conference sought to highlight ethics and leadership as the missing elements in governance reform, without which legal and institutional reforms would be ineffective. The Forum voted to establish a Global Integrity Alliance (GIA) to "promote ethical, accountable, and effective leadership". While the GIA only lasted a couple of years, it did generate a number of workshops and research papers as well as a set of ideas about how to nurture the development of networks of ethical leaders. These ideas were developed from a WEF workshop involving former and prospective leaders by the GIA Program Committee. These involved the establishment of regional leadership programs (called 'hubs') which would be contracted out to existing centres to utilize existing expertise and save costs.
The components of the program would be set by new and existing leaders informed by research and their own experiences. In Oxford, former leaders were asked: 'what do you wish you had known and when do you wish you had known it?' Their answers were compared with what a group of invited young leaders thought they most needed. These hubs would take part in leader requested research and provide short courses for current leaders. One of the hubs could take on broader roles listed in the last section.
However, the centrepiece of any GIA "hub" would be a program for developing junior and mid level leaders that would be largely experiential.
1. A one semester graduate course within a jurisdiction with a very strong integrity system so that participants can understand how it operates from experience rather than just theory.
2. Internship/secondment in both a line agency and an integrity institution (e.g. ombudsman, ICAC, auditor general) in a jurisdiction with a developed integrity system
3. Internship/secondment in line agencies and integrity institutions in a developing country with an emerging integrity system and the political will to make it work. This activity would generally be in a third country so

that, when leaders return to their own countries, they would appreciate that integrity systems and good governance do not depend on the replication of high cost solutions in highly developed countries. Leaders would have the grounding to work in coalition with other leaders to develop an integrity system suited to their country.

4. Mentoring provided by senior leaders and detailed policy advice available on request.
5. Leaders may return to the regional hub to engage in leadership teaching, research and lessons learnt. This may be by choice during their career, on retirement, on a change of government, or because a safe haven needs to be given to a reformer whose good work has made life too dangerous (e.g. John Githongo).

Australian could host a hub or hubs for East or South East Asia and the Pacific Islands.

Building good governance into peacekeeping missions
IEGL and its predecessors have worked with Col Mike Kelly (as he then was), Lt Gen John Sanderson and Maj Gen Mike Smith on a number of collaborative projects involving the ADF, AFP, the Asia Pacific Civil Military Centre of Excellence, the UNU and the UNU Rule of Law unit. All of these were based on the view that governance and the rule of law had to start the moment the first blue helmet arrived on the ground rather than after the first election.