

Editorial

The legitimacy of governance to public and private sectors

While governance practice has its legitimacy grounded in the corporate laws and various guidelines issued by stock exchanges and professional associations in the private sector, this edition of the Law and Governance Journal returns to questions raised by implementation of governance in the public sector.

Commitment to public sector governance has been driven by the mounting debts of governments, and lack of solutions. The issues are raised at this time because of the worldwide disenchantment of the populace with their governments and leadership, and the impact of major social and technological change. The 21st century has seen the rise of conflicts not only within so many different countries but also, as indicated by the conflicts in Syria and Iran, an increase of tensions between countries. With this political unrest, the impact of Brexit, and fears of another economic crisis, has come a pervading sense of uncertainty.

The digital revolution changing society is reinforcing the structural changes taking place. The emergence of high unemployment, especially among youth, is giving impetus to their perceptions of little prospect of future economic prosperity and subsequent increases in crime. There is evidence; too, of a rise in excessive use of law enforcement, that is, police appear to be adopting practices that indicate a lack of respect for citizens and their lives. The regular shootings of civilians occurring in the US is an example. The use of social media and its unfettered and unprecedented license to criticise and denigrate traditional institutions may be a contributing factor. WikiLeaks for example has been a leader in promoting disclosure of corruption through the internet. The corruption seen at all levels of society from governments to sporting bodies reinforces a related loss of confidence in our institutions.

That people are seeking changes to leadership and more stability is evident in the rise of specific interest groups and ‘popular’ members of Parliaments, such as Donald Trump.

This edition of Law and Governance is set in this context. It reflects our growing concern with the institutions of society and desire for government initiatives that can achieve a stable and sustainable future. The papers deal with different aspects of uncertainty and threats posed in today’s world.

The first paper by Dr. Michael Longo explores the role of government in the EU. He argues that poor governance in the European Union (EU), in terms of lack of leadership, uncertainty of purpose and inequity associated with lack of integration, raises questions about the legitimacy of the EU. He concluded that the future of the EU is dependent on addressing these issues.

The second paper is also concerned with conflicts, in this case a government’s response to terrorists and their impact on the economy. The paper describes the actions of a government constrained by terrorism. The Government of Nigeria had initiated numerous programs with the purpose of stimulating the agricultural sector. This paper by Adebisi, S. A., Azeez, O. O. and Oyedeki, R. investigated the impact of the Boko Haram terrorist group on agriculture and GDP in the Nigerian economy. The paper concluded by suggesting strategies to promote the sector that the Nigerian Government should include in its policies.

While the above papers are focused on public policy and governments’ response to governance issues, the final two papers in this edition return to the core issues in governance, the performance of directors and corporate social responsibility.

The first of these reports the results from a study of state owned enterprises (SOEs) in Indonesia by Agus Widodo. Indonesia follows the legal system in which corporate laws direct companies to form two boards of directors, a commissionaire in which members are responsible for the direction and objectives of a company and a board of directors which undertakes the executive management of the operations of a company. In his PhD thesis, Widodo investigated the consequences of the different conflicts of interest which can emerge when a director holds a position on the boards of both a parent SOE and its subsidiary. This paper reports the investigation of the potential conflicts of interest for the directors and whether, should a conflict emerge, would the directors serve the interests of the parent company or those of the subsidiary.

Corporate social responsibility is often equated with compliance with the spirit of the law, ethical standards and engaging in social actions that are beyond the direct interests of a corporation. Dr. Heenetigala investigated the CSR practices of 50 companies in Sri Lanka. The majority of their activities were directed to improving better education, health facilities and livelihood development of rural communities. She concluded that in developing countries these activities can have a major role in facilitating community development.

This edition of the Law and Governance Journal includes papers which address both the legal and the social implications emerging from governance practice. Whether in developed economies such as the EU or developing countries such as Indonesia and Sri Lanka, good governance makes an important contribution to both the government and private sectors. The above papers illustrate that while governments have a direct role in developing economic stability, corporations can also play a complementary role in promoting community development.

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