Measuring the Good Governance State: A Legal Reconstruction of the World Bank’s “Country Policy and Institutional Assessment”

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IRPA Working Paper – GAL Series No. 6/2012

This publication is sponsored by eni
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Abstract

The paper presents a legal critique of and framework for the “Country Policy and Institutional Assessment” (CPIA), the indicator system used by the World Bank to evaluate the governance performance of its borrowers and to allocate aid to its poorest members. The CPIA is becoming increasingly legalized and raises important questions for legal research: Namely, what role does the CPIA play in the exercise of public authority by the World Bank as an international institution? Secondly, what is the existing legal framework for potentially powerful rating exercises like the CPIA, and should this framework be developed further along the lines of Global Administrative Law or “public” law thinking? And finally, what is the appropriate role of “technocratic” instruments such as indicators in the politics of global redistribution?

The main argument is that the CPIA is a promising tool to make development more effective, but that it also represents a powerful exercise of international public authority which requires an appropriate public law framework. This framework already exists in part within the administrative law of development cooperation, which enables us to transform certain concerns about the CPIA’s effectiveness and legitimacy into legal arguments. However, this framework remains deficient and must be further developed, for which the paper makes some concrete suggestions.

The paper proceeds in three major steps: It first develops an analytical and regulatory framework for instruments of “governance by information” used in development cooperation. It then applies this framework to the CPIA, analyzing its genealogy, contents and effects, as well as existing mechanisms of participation, reason-giving, transparency, and review. The third part evaluates the CPIA’s existing legal regime against the principles of development cooperation law, namely development-orientation and efficacy as well as collective and individual autonomy. The conclusion reflects on how this framework potentially captures the tensions between democratic politics and expert-driven, technocratic instruments like indicators.

Keywords: Indicators; governance by information; epistemic authority; Global Administrative Law; law of development cooperation; World Bank; good governance
1. Introduction

Every year, the World Bank evaluates the governance performance of its borrowing member states to establish a basis for evidence-based policy making and aid allocation. This rating exercise is called “Country Policy and Institutional Assessment” (CPIA) and concerns more than one hundred countries and half the world’s population. The CPIA criteria are designed to measure the extent to which state policies and institutions contribute to growth, poverty reduction and aid effectiveness. The CPIA is thus widely used as a general indicator of development effectiveness and good governance. Its numerical ratings determine in particular the allocation of funds from the World Bank’s concessional lending arm, the International Development Association (IDA), to the poorest developing countries – countries which often depend financially on foreign aid. The CPIA has been hailed as a successful attempt to make aid more effective, more evidence-based and less politicized. Others have criticized it as counter-productive, unfair and undemocratic conditionality grounded in unreliable “policy-based evidence making”.

This paper offers a legal reconstruction of the CPIA, arguing that the indicator raises at least three important legal questions: Firstly, what role does the CPIA play in the exercise of public authority by the World Bank as an international institution? Secondly, what is the existing legal framework for potentially powerful rating exercises like the CPIA, and should this framework be developed further along the lines of Global Administrative Law or “public” law thinking? And finally, what is the appropriate role of “technocratic” instruments such as indicators in the politics of global redistribution?

The existing legal literature has already inquired into similar questions with regard to some other indicators, rankings and policy assessments. Of the many indices produced by the World Bank, the “Ease of Doing Business Indicators”

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This paper was first presented at the 8th Viterbo Global Administrative Law Seminar “Indicators in Global Governance”, held in Rome (Italy), at the Aspen Institute Italia, on June 14-15, 2012 (http://www.irpa.eu/category/gal-section/gal-seminars/).

(DB)² and the “Worldwide Governance Indicators”³ (WGI) have received most attention. In contrast, the CPIA has not yet been subject to a systematic legal analysis, even though it has been incorporated into binding secondary law and is increasingly regulated in terms of requirements such as participation, transparency and review. The CPIA is also particularly relevant because it combines the effects of two different modes of governance, and thus captures two forms of international administrative activity: “Governance by information” through knowledge production and dissemination, and the creation of economic incentives through resource allocation.

The potential and the problématique of the CPIA are well illustrated by a practical example that involves a process of labor market deregulation in the Former Soviet Republic of Georgia, a longstanding IDA borrower.⁴ These events are mostly linked to the Bank’s DB Indicators, but they equally concern one of the CPIA assessment criteria, namely „Business Regulatory Environment“. This criterion comprises inter alia the quality of labor law, and the CPIA defines the respective top rating as follows: „Employment law provides a high degree of flexibility to hire and fire at low cost“.⁵ In practice, this employment criterion was measured until recently by reference to the “Employing Workers” index, a subset of the DB Indicators. This index rewards low levels of worker protection, notably short time limits for dismissals and low severance pays.

DB was launched in 2004, and the CPIA scores for Georgia were first published for 2005. In 2006, Georgia decided to reform its labor law and largely abolished worker protection against dismissals, did away with severance charges and restricted individual and collective labor rights. In the following years, Georgia’s DB rankings skyrocketed, CPIA scores rose, and levels of aid and foreign investment increased. Conversely, trade unions ranted, and the International Labor

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Organization opined that the Employing Workers index was in conflict with labor standards established by binding ILO Conventions. Together with international trade unions, the ILO ran a campaign against the Employing Workers index, and in 2009, the World Bank gave in and suspended its use in DB and in the CPIA.

To be fair, this story is not necessarily representative of the CPIA as a whole, or of World Bank policy in general. However, it illustrates that the construction of indicators is not a purely scientific, empirical and apolitical exercise, but implies normative assumptions and value judgments which decide social conflicts of interest in one direction or the other. The story also shows that indicators can exercise considerable influence over recipient countries: They do not only guide internal decision making of international institutions, but can be instruments of governance able to concretize, stabilize and enforce general normative standards, such as “good governance” or the “rule of law”. What is more, indicators not only bypass traditional forms and forums of international law, but may also conflict with them. Indeed, the Georgia example seems to suggest that, when it comes to determining state behavior, the financial and reputational incentives associated with indicators like DB and the CPIA may even override the binding force of international obligations as derived from ILO treaty law.

Hence, the main argument of this paper is that the CPIA is a promising tool to make development more effective, but that it also represents a powerful exercise of international public authority which requires an appropriate public law framework. This framework already exists in part within the administrative law of development cooperation, but must be further developed to meet increasing legitimacy and accountability concerns. This argument is unfolded in three steps: Part 2 of the paper reviews legal approaches to indicators in the literature and develops contours of a regulatory framework for indicators based on a reading of the administrative law of development cooperation as an international order of knowledge and information. Part 3 uses this framework for a legal reconstruction of the existing CPIA legal regime. Part 4 evaluates this regime against general principles of development cooperation law. Part 5 concludes with an outlook on the relationship between international administrative law on the one hand and politics and justice on the other.

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2. A legal framework for indicators in the law of development cooperation

2.1. Conceptualizing alternative forms of authority in global governance

In social sciences it is long understood that power can be exercised through non-legal forms of authority which create material incentives or affect the cognitive environment and identity of relevant actors. In practice, much of an international organization’s autonomy and authority seems to reside in bureaucratic control over specialized technical knowledge and expertise. Specifically the World Bank is recognized to have exercised power over development policies far greater than its law-making capacities and its budget because of the expertise and communicative resources it houses. One need not perceive development discourse as such as a hegemonic exercise to realize the Bank’s power to effect classifications, to fix meanings and to construct fields of action within which development practice operates. This form of power, which may be termed epistemic authority, has evolved incrementally over time; it is however not purely accidental but has become part of a conscious institutional effort to be a “knowledge bank” since the 1990s. Indicators are a prominent tool in this effort, and the way in which they measure “poverty” or “good governance” not only affects global perceptions of the reality and incidence of these phenomena, but may also have the (possibly unintended) effect of placing, through ostensibly “scientific” measures of development, fundamental policy questions beyond the reach of political decision and legal contestation.

For doctrinally oriented legal research, these interdisciplinary insights pose the challenge of how to legally grasp alternative forms of governance which a priori

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do not fit the existing categories of international law. On the one hand, indicators are, as such, not legal instruments or sources of law, but informal tools of information, knowledge and communication. On the other hand, it is well established in many domestic administrative orders that public authority must conform to requirements of legality even if it is not exercised in a particular, legally binding form. This latter idea inspires the approach to international indicators taken in this paper, an approach which further develops earlier attempts to define legally relevant forms of global “governance by information” as either “indicators” or “National Policy Assessments”. Namely, Davis, Kingsbury and Merry define “indicator” as “a named collection of rank-ordered data that purports to represent the past or projected performance of different units [and is capable of being used] to evaluate their performance by reference to one or more standards.”13 These attributes enable indicators to authoritatively define and represent complex social phenomena in a simplified and comparable form and thus to implicitly set norms and standards based on a particular theory or policy idea. In a similar but more doctrinal vein, v. Bogdandy and Goldmann use an analysis of the OECD’s PISA study to define a standard instrument for the exercise of international public authority baptized “National Policy Assessment” (NPA), which involves the evaluation of domestic policy performance by international institutions, carries particular communicative power because it produces empirical information claiming objectivity, and is coupled with a light enforcement mechanism relying on incentives created by iterative evaluations, public disclosure, comparative country rankings or specific recommendations.14 As indicators and NPAs potentially escape legitimacy and accountability arrangements applicable to more explicit legal or political norm-setting processes, it has become a matter of discussion whether they should be subjected to specific legal requirements15, regarding for instance the necessary mandate and adoption procedure16, or standards developed in the Global Administrative Law (GAL) literature such as participation, transparency, reason-giving and review.17

The present paper adopts the view that any unilateral act, regardless of its legal nature, amounts to an exercise of international public authority if this act has the potential to condition legal subjects in their individual or collective autonomy, that is, build up sufficient pressure for that subject to follow the act’s impetus.\(^\text{18}\) In assessing whether this threshold is met, the definitions of indicator and NPA, which the CPIA both fulfills, provide useful guidance. However, the approach taken here proposes to additionally take into account legally defined situations of structural asymmetries or dependencies in which a legally circumscribed category of subjects can be presumed to be particularly receptive to authoritative forms of governance by expert information. This presumption namely applies to knowledge instruments which create economic incentive effects in the context of development cooperation, because the legal structure and political economy of this policy field are typically characterized by particular asymmetries in political power, financial potency and communicative resources.\(^\text{19}\) The presumption is especially strong with regard to indicators that directly affect the allocation of aid to a subset of developing countries which have little resources of their own and suffer from limited access to private capital, i.e. a group of states legally circumscribed precisely by the criteria for IDA eligibility.\(^\text{20}\) Consequently, the analytical framework of indicators proposed here will assess whether the law of development cooperation endows the instrument with effects for the allocation of ODA, and what other effects in terms of governance by information result from it. The stronger the combined effects of information and economic incentives are, the more relevant becomes a public law framework regulating the production and use of indicators like the CPIA. The requirements proposed in the literature for NPAs and indicators will \textit{a priori} not be treated here as binding standards \textit{per se}, but rather as analytical and heuristic categories structuring an inquiry into how far these requirements are embodied within the existing rules and principles of development cooperation law.\(^\text{21}\)

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\(^{19}\) See only L. Whitfield, \textit{The Politics of Aid} (OUP, Oxford, 2008). Obviously, there are also atypical aid relationships in which that presumption would be rebutted, e.g. vis-à-vis recipients such as China or India.

\(^{20}\) These criteria include, \textit{inter alia}, low per-capita income (USD 1,750 in 2012) and lack of creditworthiness to borrow on private capital markets on reasonable terms, cf. IDA Article V Sec. 1 lit. c); D. Kapur/R. Webb/J. Lewis (eds.), \textit{The World Bank: Its first half century: Vol. 1 History} (Brookings, Washington, 1997), p. 1138 et seq. Currently 81 countries with a total population of 2.5 billion people are IDA eligible.

2.2. The administrative law of development cooperation as a framework for indicators

These existing rules and principles already capture indicators through a double lens. Firstly, in as much as indicators affect the allocation of ODA, they come into the purview of what has been conceptualized as the “administrative law of development cooperation”, i.e. the body of converging principles, organizational rules, procedures, instruments and standards which govern the allocation of ODA by various actors and levels of governance. With regard to the World Bank, the respective sources of law are found in the Articles of Agreement and the internal secondary law, namely decisions by the Boards of Directors and Governors as well as the extensive set of Operational Policies and Bank Procedures (OPs and BPs). These sources not only regulate the procedure in which ODA is transferred, but also contain general principles that serve to structure, interpret and evaluate the existing law also with regard to indicators.

A second aspect of this body of law goes beyond ODA transfer and concerns the increasingly prominent knowledge dimension of development cooperation. Namely the World Bank has “shifted from merely focusing on the transfer of capital [and instead] seeks to be a leader in development expertise and knowledge transfers”. This shift is also reflected in the applicable legal rules and principles. World Bank law has always contained rules and principles applicable to the knowledge dimension of its work, such as Articles of Agreement empowering the Bank to “publish reports”, and recent reforms have enacted many more, such as secondary law like the Access to Information Policy. On a more general level, one of the core principles of the 2005 Paris Declaration on Aid Effectiveness, “managing for results”, emphasizes the informational dimension of development administration when it requires signatories to deliver “aid in a way […] that uses

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26 IBRD Art. V Sec. 13/IDA Article VI Sec. 11.
information to improve decision-making.” Hence, it seems appropriate to reconstruct the administrative law of development cooperation also as a law of knowledge production and transfer. Recognizing this dimension not only implies a cross-cutting sensitivity for the knowledge effects of any legal rule, but also reveals a specialized body of law relevant in assessing the legality of indicators. This legal material can be structured along familiar categories of administrative law, namely form, organization, procedure and review of knowledge activities, and is arguably organized around the general principles of development cooperation law, which permits us to speak of an – at least partial – legal “order” of knowledge and information. The heuristic value of this conception can be illustrated best in its application to the concrete case of the CPIA.

3. A legal reconstruction of the CPIA

3.1. Genealogy and context

The CPIA tool was developed in the mid-1970s and underwent regular updates and changes since then. It was initially designed to be a purely internal analysis and allocation instrument and has only slowly evolved into an instrument of governance by information. Since the 1980s, it has played a role in producing knowledge about and distributing scarce IDA resources among eligible borrowers, whose financial needs regularly exceed the sums pledged by donors during the triennial replenishments. The CPIA in its present form dates back to 1998, when it was extended considerably to reflect the new agenda of “good governance.” The rationale of the reform was to make aid more selective and more efficient by channeling it to those countries where it is most productive – and according to the research of the time, aid productivity was highest in countries with the “best

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30 Unlike IBRD loans, IDA lending is heavily concessional and funded largely by tri-annual replenishments from the richer member states. Cf. IDA Article V Sec. 1 lit. c); D. Kapur/R. Webb/J. Lewis (eds.), The World Bank. Its first half century: Vol. 1 History (Brookings, Washington, 1997), p. 1138 et seq.

policies” and the best “good governance” record. As a potential side effect, rewarding the best performers at the level of budgeting was to induce a performance-based and indicator-driven competition for scarce resources, which would create incentives for domestically-owned reforms, rather than impose them through the often ineffective conditionality attached to individual loans. The new focus required the World Bank to acquire knowledge about, and assess, the institutional and policy environment in its borrowers in a more intense manner than ever before. This in turn intensified concerns about the methodology and transparency of the CPIA measurements. Donors and civil society organizations soon started demanding the disclosure of the so-far secretive ratings and methodology, whereas Bank management hesitated and recipients feared a loss of creditworthiness. After a review of the CPIA by an external panel of experts in 2004, Bank management eventually published the exact numerical value of the CPIA scores for IDA borrowers for the first time in 2006.

3.2. A first look: Content and consequences of the CPIA

The CPIA’s content and effects are contained in two main sources: Firstly the “CPIA Assessment Questionnaire”, which describes the substantive assessment criteria and their application, and secondly binding resolutions by the Bank’s Board of Governors, which determine the CPIA’s distributive effects in the inter-country allocation of IDA resources.

3.2.1. Content: The assessment criteria

The Questionnaire is not a formal legal instrument and does not as such have any external legal effects, but is “mandatory” for Bank staff in the sense that its prescriptions are enforced through hierarchical control. The document is produced and issued in a purely internal process by management, based on its general legal competence to “conduct the ordinary business” of the organization.

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34 The disclosure debate is retraced in IEG, The World Bank's Country Policy and Institutional Assessment: An Evaluation (Washington, 2010), p. 9, with further references.
36 IBRD Article V Sec. 5 b); IDA Article VI Sec. 5 c).
The assessment criteria contained in the CPIA Questionnaire are in principle not based on norms of international law or other politically negotiated standards, but on scientific evidence. All 16 criteria are designed to reflect specific empirical evidence justifying their relevance for growth, poverty reduction and aid effectiveness. Similarly, the application of the criteria in the rating of individual borrowers relies on objectified “expert judgment” rooted in country-specific data and empirical evidence. Staff members rate each criterion on a scale from 1 to 6, each of which is described by a textual definition in the Questionnaire. To further concretize the abstract criteria, the Questionnaire defines specific “Guideposts”, i.e. sources of information which provide empirical evidence about specific aspects – for example DB for the regulatory quality of the business environment and the WGI for the quality of public administration. Once established, the individual ratings for all criteria are aggregated to an overall score, which is then published in a list of all IDA borrowers on the Bank’s website. The 2010 criteria cover a total of 41 pages and are grouped in four clusters as follows:

A. Economic Management
   1. Macroeconomic Management
   2. Fiscal Policy
   3. Debt Policy

B. Structural Policies
   4. Trade
   5. Financial Sector
   6. Business Regulatory Environment

C. Policies for Social Inclusion/Equity
   7. Gender Equality
   8. Equity of Public Resource Use
   9. Building Human Resources

D. Public Sector Management and Institutions
   10. Social Protection and Labor
   11. Policies and Institutions for Environmental Sustainability
   12. Property Rights and Rule-based Governance
   13. Quality of Budgetary and Financial Management
   14. Efficiency of Revenue Mobilization
   15. Quality of Public Administration
   16. Transparency, Accountability, and Corruption in the Public Sector

Since the 1998 reform, the content of most criteria is based essentially on neo-institutionalist economic theories. This is particularly evident in the last, so-called “governance cluster”, which contains criteria familiar from the discourses on “law and development” and “rule of law”, such as property rights protection and formal justice mechanisms. Certain of the criteria cover aspects of public policy that tend to be the subject of intense conflicts of interest in domestic politics, such as the criteria favoring free trade and deregulation, as exemplified

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38 From the recent literature, see only M. Trebilcock/R. Daniels, Rule of law reform and development (Elgar, Northampton, 2008); D. Trubek/A. Santos (eds.), The new law and economic development (CUP, Cambridge, 2006).
by the “hire and fire” labor market criterion, which remained unchanged in the 2010 Questionnaire.

3.2.2. Consequences: Effects on allocation and policy-making

The CPIA Questionnaire itself does not stipulate any legal consequences. Nevertheless, the assessment has important effects on aid allocation and is used more widely as a tool of evidence-based policy-making. As regards allocation, ODA transfer is structured by World Bank administrative law on four different levels: Budgeting (yearly inter-country allocations), programming (multi-annual country-specific planning), project design and implementation, as well as ex-post evaluation.39 The CPIA’s main effect is that it legally determines the inter-country budgeting of IDA resources, i.e. it regulates the maximum volume of funding available to eligible recipients each year. This volume is determined by a mathematical performance-based allocation formula, in which the (governance-adjusted) CPIA score is the single-most important determinant of per-capita country allocations.40 The formula is incorporated into a legally binding resolution adopted by the Bank’s Board of Governors every three years on the occasion of IDA replenishments.41 The subsequent stages of ODA transfer are also legally regulated in the Bank’s OPs and BPs. These do not explicitly address the CPIA, but require programming and projects to be analytically grounded and supported by diagnostic evidence.42 In practice, this has the effect that the CPIA informs namely the multi-annual Country Assistance Strategies (CAS) and may also affect the choice of aid modality and project design.43 The CPIA therefore has an informal streamlining effect.

41 Resolution No. 227 Additions to Resources: Sixteenth Replenishment, adopted 26 April 2011. It is based on the Board’s non-delegable competence to authorize IDA resource replenishments and related conditions, IDA Article IV Sec. 2 c).
42 BP 2.11, para. 2; OP 4.12 para. 21, OP 8.60 para. 4; BP 10 Annex B, D; OP 13.60.
Besides aid allocation, the CPIA also plays an increasingly important role as a tool of “evidence-based policy making”. As such, it has a persuasive and communicative effect that goes beyond the material incentives it creates. The Bank itself perceives the CPIA as “a broad indicator of development effectiveness” and uses CPIA data for a range of internal analytical purposes and publications, as well as for policy dialogue and technical assistance directed at all borrowers, IDA and IBRD alike.\textsuperscript{44} According to Bank staff, the CPIA has proved “a very effective tool to spark debate”.\textsuperscript{45} This effect has been enhanced since the annual scores of IDA borrowers are published on the Bank’s website. They are particularly relevant for a subset of the public in private capital markets concerned with the institutional determinants of a country’s creditworthiness. This is indicated by the fact that both Bank management and member states regard the CPIA as sensitive information with respect to the credit ratings of borrowers, which is why IBRD ratings are kept secret until to date.\textsuperscript{46}

3.2.3. The upshot: An international bureaucracy exercising public authority?

The CPIA has affected both intra-institutional relations within the Bank and power relationships between the institution and its members. It has empowered the Bank management’s international bureaucracy, which has gained in autonomy and authority throughout the CPIA process by bringing its expertise to bear on allocation and policy making. As regards external effects, the CPIA has affected the allocation of almost USD 200 billion of IDA money since 1998, including a record sum of 50 billion from 2010-2013.\textsuperscript{47} In fact, the total amounts affected are even higher, given that public Bank funding is usually accompanied by even higher private investments. The communicative effect depends on a number of effective conditions and the political economy in each borrowing country. Yet it can be safely said that effects are greater in IDA countries than in IBRD countries, and that the combined effect of a number of indicators such as the CPIA, DB and the WGI has in fact caused numerous legal reforms in the Third World.\textsuperscript{48}

\begin{itemize}
\item \textsuperscript{44} On further uses, see IEG, The World Bank’s Country Policy and Institutional Assessment: An Evaluation (Washington, 2010), p. 3.
\item \textsuperscript{45} Interview World Bank Staff, 2.3.2012, on file with author.
\item \textsuperscript{46} IEG, The World Bank’s Country Policy and Institutional Assessment: An Evaluation (Washington, 2010), p. xx. See also above part 3.1.
\item \textsuperscript{47} See http://go.worldbank.org/7ARHOU1WK0 (last visited 28 September 2012).
\end{itemize}
dependencies embodied in the IDA system, it can thus be presumed that the CPIA meets the threshold for an exercise of international public authority in respect of IDA borrowers.

3.3. A second look: Procedure, participation and accountability in the CPIA

Qualifying the CPIA as an exercise of international public authority draws particular attention to the procedural and institutional rules that govern its production, application and consequences. The following subsection thus takes a closer look at the existing rules concerning procedure and participation, reason-giving and transparency, as well as contestation and review.

3.3.1. Organization, procedure and participation

Formalized organizations and procedures are a hallmark of domestic administrative law, and public participation in administrative procedures is a common feature in many domestic administrative legal orders. Procedural participation has also been regarded as an emerging GAL principle and has found some application to World Bank policy making.\(^\text{49}\) For the purposes of the following analysis, participation is used as a question in order to inquire whether there are rules that give those subjected to an exercise of public authority the opportunity to have their views considered before the decision is taken. This question arises on three occasions: The production of the CPIA Questionnaire, individual country ratings, and the incorporation of the CPIA into the allocation formula. In all these instances, formal and informal rules exist which can be read as regulating the production, dissemination and use of information and knowledge within the World Bank as an international institution.

The first source of knowledge-production-relevant rules is the Questionnaire, which is issued by Bank management after an internal procedure that does not, in principle, involve other organs or state representatives. Intra-organizational competence and procedure for the CPIA are not specifically legally regulated or publicized. They are rather determined by the interpretation of the Articles of Agreement as regards the competence of management, and, as regards procedure, by a formalized administrative routine coordinated and enforced by the Bank’s Operations Policy and Country Services department. The procedure involves a review by thematically specialized experts within the Bank’s “Network”

departments, followed by comments from the Regional departments. The final version of the Questionnaire is adopted by the Bank’s Council of Chief Economists and then “presented” to the Executive Directors. There are no notice and comment procedures, and there are no formal participation rights for borrowing states or the general public in the process. The Executive Directors, who represent member states, sometimes discuss the criteria, but they do not vote on the Questionnaire. As pointed out by Bank staff, the production of the CPIA is “considered technical, and it is thus controlled by technical staff”.

A second occasion for participation is the individual country rating process, which is also not legally regulated but follows an administrative routine described in the Questionnaire and in an unpublished “CPIA Staff Guidance Note” in existence since August 2011. It consists of a benchmarking phase, in which selected countries are rated first to ensure comparability, and a second phase in which all remaining countries are rated in light of the established benchmarks. The Bank’s country teams first prepare an initial rating proposal, which is then vetted by the respective Regional Chief Economist and undergoes a bank-wide internal review. The government of the respective borrower has no say over the rating, but is consulted by country teams before the initial proposal is made, and the final score is “discussed” with the borrower. The general public does not have a formal role in the rating procedure.

A third occasion for participation arises during the replenishment negotiations when the performance-based allocation formula is incorporated into the resolution by the Board of Governors. In fact, the Governor’s replenishment resolution does not itself stipulate the formula, but endorses a so-called “replenishment report” adopted earlier by the Executive Directors, which comprises the allocative norms. The adoption of the replenishment report is in turn preceded by pre-deliberations among donors held outside the formal structure of the Bank in a formation referred to as “IDA Deputies”, which essentially determines the replenishment conditions and the formula. These deliberations were restricted to donor representatives until 2000, and only since then have selected IDA borrowers been invited to take part in the negotiations, most recently nine of

50 Interview World Bank staff, 2.3.2011, on file with author.
51 Ibid.
them. Within the Bank’s Boards of Governors and Directors, borrowers are represented subject to weighted voting rules. Hence, borrowers’ voice in determining the CPIA’s distributive consequences has thus increased but remains weaker than that of donors.

In sum, applicable organizational and procedural rules and practices mean that the production of knowledge about borrower governance is largely controlled by a more or less autonomous, international expert bureaucracy, while the distributive effects of the knowledge so produced are determined predominantly by those member states not subjected to the rating exercise.

3.3.2. Reason-giving and transparency

In domestic administrative law, requirements for reason-giving and transparency are an important foundation for the exercise of participation and review rights and enable a measure of outside scrutiny of administrative decisions. Both have been identified as potential GAL principles. With regard to the CPIA, two dimensions are relevant here: The use of the CPIA has contributed to reasoned and more transparent decisions on aid allocation. However, looking at the CPIA as an exercise of international public authority also raises the question whether the production and application of the CPIA itself are subject to reason-giving and transparency requirements.

Reason-giving refers to the practice of administrative bodies to furnish a written justification for the decisions or rules they issue. In case of the CPIA, this may concern both the Questionnaire as well as individual ratings. The Questionnaire itself is not subject to any explicit legal rules which require the written justification of its criteria, even though there is an informal practice of internal explanation of criteria. As regards individual country ratings, country teams are required since 2001 to provide written justification and supporting data for their rating proposals, and the final scores are accompanied by these so-called “write-ups”, which are then shared with the respective borrower. Transparency refers to the practice of giving the general public access to the documents and information housed by an administrative decision-making body.

56 IDA Article VI Sec. 3.
58 This justification takes the form of the 2011 “Guidance Note” for members of staff, and of written materials accompanying the presentation of the CPIA to the Executive Directors. Interview World Bank staff, 2.3.2011, on file with author.
59 This requirement results from the Questionnaire and the 2011 “Guidance Note”, which are enforced through hierarchical control.
this regard, the entire CPIA process was largely secretive until the early 2000s and has become more transparent only slowly through political processes. This outcome was formalized and legalized in 2010, when the Bank enacted its “Bank Policy on Access to Information”. The Policy requires the disclosure of all Bank documents as a matter of principle, unless one of the enumerated exceptions applies. Its rules are enforceable via an independent expert appeals panel. For the CPIA, this means that the Questionnaire and individual IDA ratings must now be published as a matter of law. Other aspects of CPIA-related information are however explicitly covered by the list of exceptions. This applies namely to the write-ups and the scores for IBRD borrowers, which are considered “deliberative information” that needs protection to enable “a free and candid exchange of ideas” within the Bank.60

3.3.3. Contestation and review

Having an administrative decision reviewed by an independent body is one of the fundamental features of national administrative and constitutional law, and this is also reflected to some extent in international law.61 The CPIA has not only been contested politically as indicated in the introductory story on Georgia, but there are also mechanisms which enable a more formal administrative review. While the 2004 panel of experts only exercised an ad-hoc control, there are two Bank units that potentially constitute a regular review mechanism: The Inspection Panel and the Independent Evaluation Group.

Since 1993, the World Bank Inspection Panel conducts a quasi-judicial review of Bank activities and hears requests from project-affected individuals.62 The Panel’s review powers are limited to harmful Bank conduct contravening “operational policies and procedures with respect to the design, appraisal and/or implementation of a project financed by the Bank”.”63 The term “project” has so far been interpreted to mean a concrete lending activity, be it project lending or development policy lending. In a recent case, the Inspection Panel has extended review to preparatory analytical work, such as feasibility studies and environmental and social assessments.64 But the CPIA as such lacks this close

60 Policy on Access to Information, para 18 c).
connection to a concrete project. If anything, it could thus come under review only incidentally when used to justify the design of a particular project. In addition, the Panel’s standard of review is limited to the internal OPs and BPs. It does not encompass wider international law, which excludes review of the CPIA criteria against, for instance, ILO Conventions, even though they may possibly be used as interpretive tools, as has happened before with human rights provisions.

Another possible avenue for review is the Bank’s Independent Evaluation Group (IEG). IEG is mandated to provide objective assessments of the results of the Bank’s work, acts ex-officio and reports directly to the Executive Directors. The standard of review is not a legal one, but one of “relevance, efficacy, and efficiency”. The mandate is not limited to individual projects, but also encompasses knowledge products such as DB and the CPIA. In fact, the IEG has reviewed the CPIA twice: First in 2001 in the course of an evaluation of the Bank’s performance-based allocation system, and then more recently and thoroughly in 2010. In the 2010 review, the IEG assessed the relevance of CPIA criteria against the academic literature and found, on the one hand, that most criteria were relevant for growth, poverty reduction and loan performance, but criticized the contents in some other respects. It also positively assessed the “reliability” of the CPIA ratings, by checking whether scores correlated with other, similar indicators and whether the procedural safeguards ensured sufficient objectivity of the knowledge-generation process. Finally, it recommended the disclosure of IBRD scores to enhance transparency. Management is obliged to respond to IEG reports, and both reviews in 2001 and 2010 have led to revisions in the criteria. Yet management may also reject individual recommendations, and has done so with regard to disclosure of IBRD scores.

4. A legal evaluation of the CPIA against the principles of development cooperation law

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69 Ibid., p. 15 et seq.
70 Ibid., p. 41 et seq.
71 Cf. Ibid., p. xx.
In light of the controversies surrounding the CPIA as an exercise of international public authority, the following section evaluates the instrument against the legal and structural principles of development cooperation law. These principles play three important roles: They provide an evaluative standard against which to measure the CPIA regime, they guide the interpretation of applicable rules, and they help structure the criticisms along the lines of two overarching concerns, effectiveness and autonomy.

4.1. **Effectiveness concerns**

A first line of criticism argues that the CPIA is based on criteria irrelevant for development and that its measurement methodology is invalid and unreliable. These criticisms can be understood as challenging the output legitimacy of the CPIA and thus resonate with two principles of development cooperation law that represent a more functionalist paradigm of development governance: the principle of development-orientation and the principle of efficacy.

4.1.1. The principle of development-orientation

The principle of “development-orientation” concerns the substantive aim of development cooperation. It obliges states and international organizations to cooperate to achieve the aim of development, defined by a strong focus on poverty reduction. The content of the principle namely requires donors as well as recipients to orient aid towards the autonomous aim of poverty reduction instead of pursuing heteronomous goals. This is by no means self-understood, as foreign aid is often taken to serve other goals, such as foreign policy or export promotion. In case of the World Bank, the legal sources for the principle can be found in the mandate provisions in the Articles of Agreement as well as internal

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75 Ibid.
secondary law, namely the fundamental Operational Policy 1.00 on “Poverty Reduction”.  

With regard to indicators, the principle neither outlaws nor requires their use as such. A systematic assessment of the institutional determinants of development based on empirical evidence, as the CPIA is designed to be, is certainly aligned with the idea to orient aid towards poverty reduction and not towards other goals. Yet the principle does certainly also not furnish a precise legal standard to evaluate whether the CPIA criteria actually identify the real determinants of sustainable growth and poverty reduction. This is essentially an empirical question which is decidedly controversial in the economic literature. On closer inspection however, the development principle becomes a standard for the CPIA in two ways, one substantive and one procedural. In substantive terms, the principle of development represents an outer limit to the wide discretion enjoyed by the Bank as to what considerations to include and to ignore in an indicator which represents an exercise of international public authority. This limit is surpassed if the indicator’s content and effects contradict the stated development purposes and goals of the organization. This means namely that the CPIA must not contradict the fundamental OP 1.00 which defines poverty as a “lack of opportunities (including capabilities), lack of voice and representation, and vulnerability to shocks”.  

If subsumed under this definition, it seems that the CPIA criteria are in principle sufficiently related to the meaning of those terms in order to remain within the wide discretion accorded to Bank management. There is only one aspect where a clear gap in the criteria might approach a contradiction to the poverty definition: The Questionnaire completely lacks consideration of marginalized socio-economic groups other than gender. It thus disregards the Bank’s own empirical evidence to the effect that social exclusion based on other discriminatory factors such as ethnicity, caste or religion may have equally severe implications for opportunities, voice and vulnerability. This is also reflected in non-discrimination provisions in numerous fundamental and human rights instruments. This deficiency must be remedied in the next CPIA review, and there are good reasons to argue that there even is a legal obligation to do so. Beyond such exceptional cases however, the principle provides a merely formal assessment standard as to whether the organizational and procedural rules

76 IDA/IBRD Art. I IBRD; OP 1.00 Poverty Reduction, para. 1. See also OP 10.00 para. 3.  
77 OP 1.00, para. 1.  
80 See only Articles 2.1, 26, 27 ICCPR; Art. 2.2 ICESCR.
applicable to the CPIA contribute to orientating Bank aid towards the autonomous aim of poverty reduction. In this regard, the CPIA, as an exercise controlled by autonomous management and not by the donors themselves, has the advantage of minimizing the risk of special interest politics and ad-hoc exercises of donor influence. It has therefore the potential to exclude heteronomous donor considerations not related to development purposes from knowledge production and decision making. This may help orient aid better towards developmental aims and thus contribute to the principle of development.

On the other hand, there is sufficient evidence from the sociology of bureaucracy to suggest that large hierarchical organizations like the World Bank may suffer from their own pathologies detrimental to the objectivity of knowledge production and thus the development orientation of their work. One need not go so far as to consider any form of knowledge production by bureaucracies as problematic as such, to recognize characteristics of large hierarchical bureaucracies that may inhibit the in-house production of original and objective knowledge and that may potentially lead to sophisticated mechanisms of “paradigm maintenance”, as exemplified in case studies specifically of the World Bank. Hence, what the principle of development-orientation (taken together, as we shall see, with the principle of efficacy) requires is an organizational and procedural framework that minimizes the pathologies potentially associated with the production of scientific knowledge in large bureaucracies. Whether the existing framework is sufficient in this regard will be assessed after an analysis of the principle of efficacy.

4.1.2. The principle of efficacy

The principle of efficacy can be understood as a procedural complement to the substance-oriented development principle. It requires both donors and recipients to organize their cooperation in a manner that is cost-effective, results-oriented, coordinated and coherent. Its sources are found firstly in the rules requiring public resources to be spent in a purposeful and accountable manner, which are

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also contained in World Bank law.\textsuperscript{85} Secondly, the Bank has committed itself to the 2005 Paris Declaration on Aid Effectiveness, which explicitly calls for the use of measurable indicators and requires aid to be delivered “in a way that focuses on the desired results and uses information to improve decision-making”.\textsuperscript{86} This commitment is reflected in the Bank’s internally binding OPs and BPs: They prescribe regular country-specific poverty assessments and require that projects “be anchored in country policy/sector analysis” and “reflect lessons learned from the Bank’s experience”.\textsuperscript{87}

At first sight, the principle squarely supports the use of scientific indicators in general, and the CPIA in particular. The general impetus of the CPIA to channel aid to those countries in which it is most efficient, and thus contributes most to poverty reduction, is clearly in line with efficacy. Allocation through expert-drafted indicators may also outperform a political modus of decision-making in terms of aid effectiveness, as evidence in the literature suggests that politically driven aid is less effective.\textsuperscript{88} Finally, unlike a politically negotiated form of allocation, an indicator-led process has the advantage that it generates knowledge, falsifiable as it may be, and thus enables learning from new insights and experience.

As with the principle of development, there is however no guarantee that scientific measures designed by international bureaucrats are always valid and reliable and really make aid more effective.\textsuperscript{89} Wrong CPIA measures would lead to wrong decisions, which would in turn lead to inefficient allocation. Again, legal sources do not furnish a clear normative standard to decide the often controversial question in how far certain indicators are in substance valid and reliable. However, the principle of efficacy, like the development principle, furnishes a minimum standard for the organizational and procedural rules applicable to the production and application of the CPIA, lest bureaucratic pathologies compromise

\textsuperscript{85} See e.g. IBRD Art. III Sec. 4 (v), Art. III Sec. 4 (vii), IDA Art. V Sec. 1 (b).
\textsuperscript{86} Paris Declaration on Aid Effectiveness, para 43.
\textsuperscript{87} OP 1.00, para. 3; OP 10.00 para. 3 a).
\textsuperscript{89} The 2010 IEG evaluation found only mixed evidence that the criteria selected by Bank management were relevant for aid effectiveness more broadly defined, \textit{ibid.}, p. 29 et seq. See generally D. Fielding/S. Knowles, ‘Dangerous Interactions: Problems in Interpreting Tests of Conditional Aid Effectiveness’, 34 The World Economy (2011), pp. 972–983; M. McGillivray/S. Feeny/N. Hermes/R. Lensink, ‘Controversies over the impact of development aid: it works; it doesn’t; it can, but that depends …’, 18 Journal of International Development (2006), pp. 1031–1050.
the validity and reliability of the measurement. While numerous safeguards can be thought of to protect knowledge production against the pathologies of large organizations, external scrutiny is a particularly effective one. Such scrutiny is facilitated in turn by arrangements of participation, reason-giving, transparency and review. This raises the question of whether the existing rules are sufficient in light of the principles of development-orientation and efficacy.

As regards participation by the affected borrowers in the making of individual ratings, consultations conducted by country teams, if taken seriously, offer an opportunity to share relevant data and thus to avoid gaps and errors. Similarly, the internal review process within the Bank, which involves review of country team rating proposals by Network and Central departments, seems to protect the reliability of the individual ratings against conflicts of interest and (upward) bias of country teams (whose work program depends on good ratings).

With regard to transparency and reason-giving, the situation is more ambivalent. On the one hand, the CPIA has successively become more transparent and the Access to Information Policy has considerably improved overall transparency. On the other hand, the very same Policy lists the write-ups and underlying data as “deliberative information” protected from disclosure. This protects internal candidness and deliberation, but restricts the possibility for outside scrutiny of the ratings and fails to improve the value of knowledge produced by the CPIA through external ex-post input. It also privileges governments, which see the write-ups, over their citizens and the general public. Whether this trade-off is acceptable in light of the principles of development-orientation and efficacy is hard to tell in the absence of independent evaluations of rating reliability – we simply can’t tell because we don’t know the basis of the reasoning. Assuming however that the free-deliberation-argument decreases in weight once the CPIA process has concluded, the two principles may well have the effect of requiring the retrospective disclosure of past IDA write-ups, if necessary in edited form. This would not contradict the terms of the Access of Information Policy, but rather be an interpretation of that very policy which is required by the principles of development-orientation and efficacy: Both principles may be taken to oblige Bank management to make use of its explicitly stipulated – and otherwise discretionary – prerogative under the Policy to exceptionally disclose information protected under the list of exceptions from disclosure.

Such a reduction of discretion is familiar from domestic administrative law and would be limited to situations in which the rationale of the exception rule is inapplicable, as seems to be the case with past IDA write-ups.

91 Policy on Access to Information, para. 18.
The situation is equally ambivalent with regard to independent review of the CPIA, which is essentially limited to IEG evaluations. On the one hand, such a “soft” review seems suited to address issues of scientific validity and reliability and may thus represent an accountability mechanism commensurate to the specific properties of evidence- and expertise-based indicators. On the other hand, IEG review does not concern individual ratings and is conditional upon irregular initiatives by the IEG, whose full independence and standards of review also remain doubtful in some respects. To remedy these deficits, the 2004 review panel already proposed the establishment of a standing panel of experts tasked to control individual ratings and to periodically review the CPIA’s general structure. While not legally required at this stage of development of the law, such a mechanism would certainly contribute to the quality of the knowledge produced, and thus to the realization of the principles of development-orientation and efficacy.

4.2. Autonomy concerns

A second line of criticism reproaches the CPIA to be a disguised form of neo-liberal conditionality that imposes harmful policies on recipients who have no say in their formulation. According to critics, the CPIA re-introduces the officially discarded, one-size-fits-all conditionality of the Washington Consensus through the backdoor and prevents local governments from being responsive to domestic preferences and democratic processes. These criticisms, which are directed more at the input- and throughput-legitimacy of the CPIA, can be captured through the principles of collective and individual autonomy.

4.2.1. The principle of collective autonomy

The principle of collective autonomy is a sector-specific reformulation of the principles of sovereignty and non-intervention. In the case of the World Bank, it is concretized by the prohibition of political activity laid down in the Articles of Agreement, by specific provisions on country ownership in the OPs and BPs,

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92 In this sense also B. Kingsbury/K. Davis/S. Merry, ‘Indicators as a Technology of Global Governance’, 46 Law and Society Review (2012), p. 94.  
95 Articles 2 I, VIII UN Charter.  
96 IBRD Article IV Sec. 10/IDA Article V Sec. 6.
and by commitments to recipient ownership contained namely in the 2005 Paris Declaration. With regard to recipients, the principle requires respect for self-determined decisions about fundamental questions of their domestic order, and it is the basis for a legal claim to participation in the negotiation, planning and design of aid programs. To donors, the principle guarantees their financial autonomy to grant aid and protects their interest in remaining responsible towards their own taxpayers for the way their money is spent. These competing claims to collective autonomy must be balanced in fair organizational rules and procedures that ensure equality of arms between donors and recipients. With regard to the CPIA, the principle of collective autonomy raises questions concerning mandate and competence, procedure, and effects.

A first fundamental question is whether the World Bank is at all empowered to engage in activities that take the specific form of governance by information which subjects member states to an exercise of international public authority. While some other organizations may have to rely on implied powers in this regard, the World Bank’s Articles of Agreement contain an explicit mandate to “publish reports”. Nominally, an “indicator” or an “assessment” in the form of a ranking is not the same as a “report”. Hence, a naked list of rank-ordered countries without further explanation may well not be covered by the ordinary meaning of the term “report”, which usually designates an account or statement describing in detail an event or a situation, usually as the result of an observation or inquiry. In contrast, if the numerical information is accompanied by sufficient textual explanation, the mandate to “publish reports” seems broad enough to encompass the publication of indicators such as the CPIA. If correct, this interpretation of the provision may thus be taken to as an additional argument for the abovementioned requirement of more elaborate public reason-giving.

Secondly, limits to the substance of the assessment may result from the Bank’s non-political mandate. The interpretation of this mandate is within the powers of the (donor-dominated) Board of Governors, and is currently governed by a legal expertise issued in 1990 by former General Counsel Ibrahim Shihata that permits a wide range of governance activities if they are reasonably related to economic growth. By this standard, the CPIA criteria, which are explicitly designed to capture institutional determinants of growth and poverty reduction, seem to

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98 IBRD Article V Sec. 13/IDA Article VI Sec. 11.
remain within the borders delimited by Shihata, even though a further extension may be problematic. Collective autonomy also furnishes a standard regarding procedural requirements and participation. On the one hand, there seems to be little reason to risk the objectivity of the knowledge-generation process by giving borrowing governments more say in the evaluation of their own individual performance. On the other hand, the almost total exclusion of recipients from the production of the abstract and generally applicable CPIA criteria raises the question of whether the present organizational and procedural framework is sufficient in light of the principle of collective autonomy. One way of enhancing collective autonomy might be to follow the proposition advanced in the literature to the effect that instruments qualifying as National Policy Assessments cannot be based on the general competence of the international bureaucracy, but require an explicit decision by an organ representing member states that establishes a precise mandate and outlines the content and political direction of the envisaged NPA. If applied to the CPIA, these conditions would not be fulfilled. However, the requirement of a separate mandate for informal instruments is neither mentioned in the Bank’s founding treaties nor is it a general element of international institutional law in its present state. It is also doubtful whether the requirement for an explicit mandate would actually benefit borrower autonomy. If the Directors or Governors were to vote on the CPIA’s content, this would chiefly make the expert bureaucracy and the CPIA more accountable to donors who dominate these organs due to weighted voting, but are themselves not subjected to the CPIA. A better solution on the level of CPIA drafting would thus probably be to hold more formalized public consultations with borrowers and other stakeholders, e.g. other international organizations with special expertise such as the ILO, prior to the adoption of the CPIA by Bank management. The principle of collective autonomy deploys its strongest and clearest protective effect when it comes to the consequences of the CPIA. These are fixed with regard to budgeting by the Governors’ resolution, but when it comes to programming and project design, collective autonomy does erect limits to CPIA

influence. On these latter levels, the Bank’s OPs and BPs accord an important role to borrower ownership, and namely the domestically-owned Poverty Reduction Strategy.\(^\text{103}\) While the national Poverty Reduction Strategy Papers (PRSP) are not strictly binding on the Bank when drafting namely the CAS, a practice of systematically giving preference to Bank-generated CPIA information over borrower-generated PRSPs would contravene the applicable rules on ownership and violate the principle of collective autonomy. Overemphasis on the CPIA in programming would also contradict the explicit self-commitment by the Bank in the Paris Declaration to refrain “from requesting the introduction of performance indicators that are not consistent with partners’ national development strategies” and to link funding “to a single framework of conditions and/or a manageable set of indicators derived from the national development strategy.”\(^\text{104}\)

4.2.2. The principle of individual autonomy and human rights

The fourth and last principle, individual autonomy, comprises the various dimensions of international human rights law that are relevant in development cooperation. It entails namely the obligation of donors and recipients to respect applicable human rights obligations in development operations. This may include an extraterritorial obligation of the donor not to cause a violation within the territory of the recipient, but also comprises the prohibition to aid or assist the commission of a violation by the recipient in the context of development operations.\(^\text{105}\) Would the Bank thus be liable for a breach of ILO conventions by Georgia if the overall effect of its financial and knowledge instruments had substantially contributed to that breach? Fully answering this question certainly requires a more thorough analysis of much debated issues, but nevertheless two brief arguments shall be made here to fuel further discussion: Firstly, a duty of the World Bank to abide by human rights can arguably be derived from the obligation to promote human rights in Articles 55 c), 57, 59 of the UN Charter, which is equally applicable to UN special organizations and equally implies, \textit{e maiore ad minus}, an obligation not to violate those rights.\(^\text{106}\) Secondly, the law of responsibility as expressed in Articles 14 and 15 of the ILC’s Draft Articles on the Responsibility of International Organizations may oblige the Bank to refrain from using its allocative and communicative power in a way that would amount to

\(^\text{103}\) BP 2.11 paras. 1, 3; OP 8.60, para. 6; OP 1.00 para. 2.
\(^\text{104}\) Paris Declaration, paras. 45, 16.
aiding, assisting or directing a recipient in violating mutually applicable human rights obligations.

5. Conclusion

Indicators like the CPIA are promising tools to make aid more effective, but they also place potentially powerful governance instruments in the hands of non-elected apolitical international bureaucracies, whose existing legal rules are at times ill-equipped to deal with such plentiful authority. This power resides in the epistemic authority and communicative potential of knowledge, which international and administrative law need to capture to remain relevant in the global information and knowledge society. Hence, what we need to do is to develop these legal rules, that is, develop the administrative law of development cooperation. To do so, this paper has proposed an analytical and legal framework that identifies the contours of an order of knowledge and information in the existing normative material, based on general principles and specific forms, organizational and procedural rules as well as review mechanisms.

This order also aims to capture the tensions between democratic politics beyond the state and expert-driven, technocratic instruments like indicators. In emphasizing development-orientation and efficacy, it works against capture by special political interests, insists that access to pluralist knowledge is a prerequisite for informed decision-making, and does not conceive of self-determination as a prerogative to ignore expertise and to refuse learning altogether. Yet in affirming collective and individual autonomy, this order equally aims at keeping substantive policy questions open to revision through legitimate political processes, and it uses legal formalism to carve out spaces in which self-determined politics and unencumbered debate among equals become possible.

Finally, while an administrative law approach is necessarily limited in many ways, it does not prevent us from asking wider moral and political questions concerning fairness, equality and distributive justice with regard to indicators. With regard to the CPIA, one may namely ask whether it is fair to expose only the poorest countries in the Third World to public governance assessments. Why not also evaluate the policies of the rich that may have equally important effects on development? One may also inquire whether it is just to send most help where it is


most efficient, and not where it is most needed. Should aid not also compensate for initial disadvantages such as history, geography and for world market failures, and thus equalize the opportunities of the worlds’ poor to lift themselves out of poverty – irrespective of where they live?\textsuperscript{109}