

**RIDDING THE WORLD
OF LANDMINES**

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OF LANDMINES**
The Governance of Mine Action

Kjell Björk



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Ridding the World of Landmines: The Governance of Mine Action

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ABSTRACT

This book looks at how international treaties can be used to establish successful national programmes. It is concerned specifically with national mine action programmes, focusing on the capacity of the national governments (also referred to as “the state”) to implement the ‘Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction’.

The Convention, which is also referred to as the Mine Ban Treaty (MBT) or “Treaty”, was finalised on September 18th 1997, in Oslo. Ten years after its creation, the Treaty has proven a successful tool to address the humanitarian disaster caused by landmines, yet most of the mine affected country signatories to the MBT have not been able to meet their clearance deadline. This book examines the underlying reasons for the discrepancy between the terms of the Treaty and the reality of its implementation, exploring its successes and shortcomings. In doing so the book sets out to answer the research question:

“Considering the disparate levels of success among countries committed to implementing the Mine Ban Treaty, what are the key functions of governments and governance structures in ensuring the successful implementation of the Treaty?”

This book presents a *Civil Society, Governance and the Functionality framework* (CGF framework) that offers a model of actions and behaviour that affect state capacity to implement the MBT effectively. To explain the interrelation between the research areas within the framework, the book focuses on Jordan as an in-depth case study. This focus aids better understanding of the reasons why some countries succeed in implementing the MBT, while other seemingly comparable countries fail to do so. The book concludes that three main elements are at play and highlights the possibilities of civil society to affect national mine action policies. In highlighting the humanitarian foundation for landmine reform, the book emphasises the need for governing bodies to accept landmines as a redundant weapons sys-

tem for national security purposes and instead view them as an obstacle to long term development. The functionality and capacity of different types of mine action actors is identified, as is the need for strong regulatory capacity to coordinate and endorse mine action on a national level.

The CGF framework uses mine action as an example yet the principles it adopts are applicable to any national programme that develops in response to an international agreement or treaty. The core functions fulfilled by Civil Society in mine action relate to political and international engagement. Governance affects national programmes worldwide but looking at concrete programme areas such as mine action demonstrates that political will and power to drive forward a common vision have a larger impact on programme success than absolutely financial control. The interrelationship between civil society, governance structures and organisations, companies or institutions working to materialise a treaty implementation or national development programme will operate according to the principles of the CGF framework even if the exact institutions and implementing bodies might differ. Irrespective of whether the task is to implement the Convention on Child Soldiers or eradicating malnutrition in a country, similar groups of key actors will have to work in relationship with one another in order to have a chance of success.

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FOREWORD

Rae McGrath

Kjell Björk has written a timely and relevant book, offering challenging views on how the seemingly obvious symbiosis which exists between the Mine Ban Treaty and the actual physical destruction of landmines can better produce a solution for affected communities. Thus what may seem, at times, complex arguments are, nonetheless, very central to the genesis of the International Campaign to Ban Landmines (ICBL). The original aim of those of us who began the campaign was to remove the persistent threat to civilians and that required support from a widely recognized legal framework which prohibited their continued use (and, therefore, their continued manufacture, sale and transfer). In Afghanistan, Cambodia, Iraq and Angola in the late 1980s and early 1990s the logic seemed clearer if substantially less attainable; we were being funded to clear landmines and provide basic surgical and prosthetic support to their victims by governments which not only opposed any prohibition but were also enthusiastically developing the *next generation* of equally indiscriminate and persistent landmines – international humanitarian law was the only logical recourse. However, very early in the life of the campaign we recognized that, while mine eradication by NGOs was an important response element, the overall solution for mine-affected countries lay in ensuring an indigenous response capacity on a relevant scale which would ultimately require full engagement at government level. Coordination of clearance operations by the United Nations has always been an essential aspect of response where no government or government capacity exists, the UN had, at a very early stage, when facilitating indigenous NGOs to undertake clearance operations in Afghanistan, abrogated any direct implementing responsibility. By imposing on those governments that are party to the Mine Ban Treaty (MBT) an absolute obligation to eradicate all landmines within their territories an important precedent was estab-

lished by the MBT with wider and essential ramifications for the eradication of all explosive remnants of war – there was no longer a discussion, clearance must be undertaken. Perhaps the most groundbreaking aspect of the civil society campaign however was its success in *stigmatizing* landmines, thus the treaty only banned anti-personnel mines but that was an irrelevance in the public conscience, using *any* landmines became unacceptable and, regardless of the legal niceties, it became diplomatically far too high risk to differentiate, even for most of the countries who did not become party to the treaty. It could be argued strongly that civil society should capitalize on its success and campaign to extend the MBT to include anti-vehicle and anti-tank landmines, thus matching the *de facto* outcome of the original campaign.

The author's choice of Jordan as the primary focus may have some disadvantages in seeking useable lessons for those countries worst-affected by landmines, but on balance his own wide experience and references to more complex situations, especially Iraq, serve to draw conclusions which are always useful and with relevance in breadth. His confidence that civil society will be able to exert sufficient influence on government is borne out by contemporary events, although the extent to which the motivated groups and individuals who tend to direct and focus mass attention will have landmines among their priorities in an age of wider social revolution is questionable – it will certainly need the ICBL and the principled media to highlight the issues and set targets. For this reason it is important for readers to recognize that, while the author for well-defined reasons focuses on landmines, the humanitarian imperative for clearance applies equally to the full range of unexploded ordnance (UXO) which are an inevitable and unavoidable consequence of all modern warfare. In fact with landmines and more recently cluster munitions, prohibited by treaty as a consequence of civil society activism, it is increasingly mortars, rockets, shells, small arms ammunition and bombs – all unexploded – which constitute the remnants of modern conflict. All such items are potentially deadly and, regardless of their lethality, require experts to remove and subsequently destroy them before the area can be considered safe, thus like landmines they deny the right of safe access. The eradication of all unexploded ordnance has always been an integral element of the work carried out by clearance agencies, and logic would argue that combatants have a responsibility to contribute to the post-war eradication of ordnance which threatens the lives of civilians and denies

the use of land, especially since this is, in the majority of cases, a direct consequence of known limitations inherent in the design of the weaponry employed. Prior knowledge of user states relating to the design weaknesses of the specific weaponry was a critical factor in driving the prohibition on cluster munitions and, in the case of landmines, knowledge of the persistent nature of the weapon. In both cases that knowledge and accompanying inability to overcome the inevitable threat to civilians in peacetime provided a legal basis for prohibition but since this same propensity for failure, as shown to be legally relevant in the case against cluster munitions, relates to many weapons in current use then the arguments, at least, for a responsibility to pay the costs of clearance are strong. For example, the UN Security Council Resolution 1973 adopted in March 2011 which mandated a coalition of states, subsequently falling predominantly under NATO control, to protect Libyan civilians resulted in a substantial legacy of unexploded ordnance specific to military actions conducted under the auspices of the Resolution. How can it be allowed that a UN mandated intervention to protect Libyan civilians subsequently threatens those same civilians and denies them access to their homes following the end of the revolution as a consequence of unexploded ordnance? The cost of funding clearance of those munitions would be miniscule in the context of the overall intervention and it would seem difficult to challenge the logic of including the cost of clearance in the overall mission costs. Adopting that kind of thinking on a wider scale might also encourage far greater oversight of weapons manufacturers who appear to profit rather than suffer for the unreliability of their products.

Kjell's view that the perception of landmines as an obstacle to development as the position most productive from a funding perspective has considerable validity, but should carry a warning label; some situations which would be very hard to present in development terms have an overriding humanitarian imperative, and such circumstances should never be downgraded from first priority. And that is the point from which all humanitarian mine action must begin – prioritization - because a failure to properly prioritize will result inevitably in a disorganized programme with concomitant risk to life. Accurate prioritization requires prior impact assessment, and all too often this assessment is overlooked or poorly planned with the result that *prioritization* becomes little more than an exercise to divide areas for clearance between available clearance agencies. In this regard I would be less confident about sharing the author's cautiously positive view

of the Landmine Impact Survey (LIS) as being a tool useful for illustrating the broader impact of landmines, in other words a purely academic exercise and one that should not be using funds otherwise available for more directly useful activities. I would add that, in my view, a similar view should be taken of the International Management System for Mine Action or IMSMA, the UN-approved standard for information systems supporting humanitarian mine action programmes. The stated intent is to collect standardized mine-related data and manage it in a standardized central system whereas the reality is that the system has little to offer of relevance for a national mine action programme and could usefully be replaced with a far simpler and far more country- and task-specific system. It is not for the UN to impose such systems on national authorities. IMSMA is an unnecessary encumbrance on mine action staff and serves little obvious purpose beyond the perpetuation of its own existence.

Twenty-three years after the first wide-scale humanitarian mine clearance programmes in Afghanistan and fourteen years after the treaty was originally signed in Ottawa anyone involved in the issue will recognize a depressing reality; that far too many communities around the world still face the everyday post-conflict threat of being killed, maimed or denied access to their land and rights by landmines and unexploded ordnance – those people are members of civil society and we all have a human duty to continue challenging our governments on their behalf to address the issue with urgency and with funds. Progress requires debate and Kjell Bjork's arguments presented here will serve to widen and enhance that process.

RAE MCGRATH
Sirte & Langrigg
December 2011

CHAPTER 1

INTRODUCTION

1.1 Introduction to the Mine Ban Treaty

Negotiations on the text of the ‘Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction’ were finalised on September 18th 1997, in Oslo. The negotiations included 121 state parties and a parallel forum with over 130 (Non Governmental Organisations (NGO). The Convention, which is also referred to as the Mine Ban Treaty (MBT) or “Treaty” was signed in Ottawa by 122 countries on December 3rd the same year. By August 2009, it had been signed by 156 state parties. Only two of the original signatories have chosen not to ratify the Treaty.¹

Fourteen years after its creation, the Mine Ban Treaty has proven to be a successful forum to encourage minds and actions to address the humanitarian disaster caused by landmines, yet most of the mine affected country signatories to the Treaty will not be able to meet its clearance deadline. This book examines the underlying reasons for the discrepancy between the terms of the Treaty and the reality of its implementation, exploring the factors that led to the Treaty’s language and correspondingly, its successes and shortcomings. In doing so, the book will focus on Jordan as its in-depth case study to better understand the reasons why some countries succeed in implementing the MBT, while other seemingly comparable countries fail to do so.

Although mines have been a common weapon for more than a century it was not until the early 1980s that the scope of the landmine disaster emerged and the international community began to respond. One of the most prominent responses was the International Campaign to Ban Landmines (ICBL), which evoked a political

¹ Marshall Island and Poland have not chosen to ratify the treaty. See annex A to view the full treaty.

reaction bypassing traditional paths for international arms negotiations, and paved the way for the MBT. The ICBL was a creation of two NGOs and quickly grew to a substantial international civil society campaign. The campaign soon came to engage high level politicians, celebrity and royalty as popular support for the cause to ban landmines grew. By the late 1990s names like Princess Diana, Paul and Linda McCartney had brought landmines to the attention of people in front of the television and reading celebrity magazines, which meant the issue was reaching far beyond those already engaged in international development issues. More importantly, their attention to the landmine issue had already by the mid 1990s opened the doors to political power for grass root activists.

The Treaty sets high, indisputable demands. It requires the complete cessation of development and production of landmines, destruction of all stockpiled landmines, a ban on their transport and trade, and assistance to their victims and clearance of all known minefields. While a review of the annual Landmine Monitor reports shows the last twelve years have seen extraordinary progress towards eradicating landmines in terms of stockpile destruction, stopping production and trade, a majority of the mine affected countries who signed the Treaty in 1997 will not be able to meet the ten year deadline of article 5 – ‘Destruction of anti personnel mines in mined areas’. Article 5 requires that “Each State Party undertakes to destroy or ensure the destruction of all anti personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party”.

The hardest affected countries are those with long-term conflicts where not only landmines are a challenge but the general infrastructure for a successful post-war recovery process is lacking. Much effort has been made by the international community to assist countries in creating effective and efficient national mine action programmes. Yet a systematic study that identifies the common denominators of successful mine action programmes is not available.

There is substantial research available on how landmines impact affected communities. In concert with international institutions, many mine action organisations have developed methodologies for addressing landmine contamination. Research and the emerging methodologies are built in large part on best practices among implementing organisations and development of community responses within mine action. However few studies address the response of

states and their commitment to the MBT and subsequent successes and failures. Instead, evaluations of specific UN or NGO programmes engaged in mine action are plenty. While the involvement of the state is reflected upon as part of the project or programme evaluation, it is not the focus of the research and thus not explored in the depth required to assess the impact that variations in type of state involvement may have on implementation outcomes. Other research by organisations such as the Geneva International Centre for Humanitarian Demining (GICHD) and Cranfield University focuses on the management structures of the national mine action authorities and their place in the governmental structure. The present research study was prompted by the gap in the academic and practitioner approaches and understandings of the role of the MBT and governance issues role in guiding mine action strategies.

1.2 The challenge of implementation

The MBT places the responsibility for its fulfilment with the signing country but also provides for the international community to assist in its completion. The international response has been extensive and new international institutions capable of providing the assistance to develop and regulate national mine action programmes have arisen in response. A review of the factors influencing the progress of national mine action programmes strongly indicates that the right balance of assistance in terms of funding, technical expertise, coordinating capacity and regulation of the industry enables countries to meet the ten year deadline for implementing the MBT. Exceptions to this general rule are the most heavily contaminated countries across the world, which often also are the most war affected and have weak government structures. In these countries, mobilisation of required resources is not feasible within the time period set forth in the Treaty. Over time the international community has developed a comprehensive response that provides adequate assistance in technical, coordinating and regulatory quality. Moreover the MBT leaves some room for extensions in specific circumstances, so that resource strapped countries are not unduly penalised. Indeed, substantial progress can be seen in the countries where the right balance of resources is available and political will is present. As a practical matter, it is not so much the availability of resources or international assistance that threatens Treaty implementation but rather lack of political will to address landmine contamination within affected countries and weak

understanding of landmines as a developmental issue rather than one of security.

Implementing the MBT, and specifically the clearance of *all* known minefields (as required in the MBT) is indisputably a very costly form of international assistance. On the other hand, mine clearance in populated areas alone requires less funds and can yield a high positive return for the communities. The complete clearance of *all* known minefields within ten years from signing the Treaty means that signatory countries must spend funds on the clearance of many minefields that are unlikely to pose a threat to the population in that timeframe. At the same time, many of the affected countries have other urgent humanitarian issues such as water sanitation, malaria and HIV/AIDS to address with limited funds, which can put in question the developmental logic of a demand for the complete clearance of all known minefields.

Given the high potential for successful implementation of the MBT at the national level due to the resources allocated and the stop to the spread of landmines, its success as an international movement and the low number of countries that actually fulfil the Treaty's mandate, raises the question:

“Considering the disparate levels of success among countries committed to implementing the Mine Ban Treaty, what are the key functions of governments and governance structures in ensuring the successful implementation of the Treaty?”

1.3 Researching the MBT implementation

Research into MBT implementation demands contextualisation of the post-war reconstruction environment of mine action. It is also necessary to review Treaty negotiations and the development of the MBT from a political as well as long term developmental perspective. This book looks at the role of the MBT as a determining factor for the design of mine action strategies and identifies potential key factors which affect successful MBT implementation. The following exploratory overview explains the reasons behind the direction for the field research and also sets forth the theoretical framework tested through in-depth case study of Jordan's Mine Action Programme.

1.3.1 The literature review

Chapters 2–3 place mine action in the context of post-war reconstruction and long term development and will provide the founda-

tion upon which a theoretical framework in which key factors and functions of implementing the MBT can be identified and analysed. By reviewing the theory of developmental assistance and post-war reconstruction the literature review identifies key concepts relevant to the context of mine affected post conflict countries. By further conceptualising the long term developmental impact of landmines, it is possible to connect post conflict responses associated with landmine contamination and long term aims of creating stable, peaceful and sustainable futures for countries emerging from conflict or for those suffering from long term development challenges related to landmines.

The ICBL and the creation of the MBT are two key components creating the modality of how mine action is conducted across the world. By reviewing existing literature and documents related to the process of the campaign and MBT, the Treaty's language and its subsequent effects on mine action the book is able to explore the influence of Cold War political realities on negotiation methodology. The literature review will show that the ICBL and MBT provided an unprecedented forum for civil society to lead the creation of an international treaty relating to arms and security.

The MBT's demands for complete clearance of all known minefields within a country's border create a dilemma for countries with many other reconstruction and development priorities requiring resources. The literature supports a theoretical framework of governance, institutional and international functions. Based on the findings of the literature review, the book will continue developing a comparative overview of governance and development indicators which can provide direction as to which functions guide and influence a country's capacity to successfully implement the MBT.

1.3.2 Developing the theoretical framework

Mine action is not an activity conducted in isolation but a component of sustainable development. For this reason the second part of the book applies a range of governance and development indicators to identify relevant research areas and to develop a theoretical framework for the research. In order to monitor how a system is working it is necessary to identify the essential components and define indicators that provide reliable information. (Bossel, 1999: 6–14) The environment in which mine action operates is composed of a multitude of interacting systems. A deeper look at any complex system reveals that there are many components affecting its operation,

even though many of these factors are not immediately obvious. Indicators condense masses of relevant information to manageable subsets of information, allowing us to assess the functionality of what we are monitoring. In order to understand an operating system, we need to have access to all influencing factors presented in a simplified way enabling us to overview it. At the same time, we cannot simplify masses of information by aggregating indexes of indicators to such an extent that we miss the crucial individual factor. An ad hoc selection of seemingly relevant indicators risks missing crucial information. The indicators used must provide a broad overview of the different areas reviewed in order to give us the possibility to detect unexpected denominators influencing the progress of MBT implementation, rather than just measuring what we expect to be relevant.

The Worldwide Governance Indicators² developed by the World Bank offer guidance for creating our exploratory overview of potential factors influencing mine action strategies. The World Governance Indicators are recognised as the most carefully constructed and most widely used governance indicators. (Arndt and Oman, 2006: 49–51) They are also called KKZ indicators after their creators: Kaufmann, A. Kraay, A. and Zoido-Lobaton, P. To identify and interpret the available data that can have a bearing on the task, the KKZ methodology is adapted for the comparative study. The methodology is created to produce indicators measuring the level of good governance. While not completely transferable to identification of common denominators among different progress levels of implementing the MBT, as shown below, the ‘rules and principles’ used in the KKZ offers invaluable guidance to making a relevant and balanced overview.

Rather than starting from an explicit theory of how a governance system should work, the KKZ methodology identifies a range of areas relating to governance. (Arndt and Oman, 2006: 51) Using multiple data sources, KKZ applies hundreds of indicators produced for various purposes to create the ‘Composite Indicator’ for the relevant area. (ibid) Unlike the KKZ this research does not look at effectiveness of governance; instead it uses the KKZ as a platform methodology upon which to identify common denominators among the in-

² The WGI is also called KKZ indicators after the creators; Kaufmann, A. Kraay, A. and Zoido-Lobaton, P.

dicators and identify areas which may impact how mine action is conducted and then research those areas further.

World Bank and the UN Development Program (UNDP) sources such as the World Development Report and the World Governance Indicators and the Human Development Report facilitates review of the different factors influencing mine action strategies that are identified in chapter three from different perspectives. The Democracy Index (Economist) and an International Committee of the Red Crescent (ICRC) overview of International Humanitarian Law will also provide essential information. Similar methodologies have been used by scholars such as Rosling (2006) connecting health and development. Petkova, Shappner and Tsipouri developed models for using statistics in capacity building within governance in South East Europe. (WBC-INCO, 2008) This is however the first time such indicators have been applied to mine action in order to analyse correlations with the actual realisation of the MBT.

Human Development Report. First published in 1990, this Report provided a perspective on development that went beyond financial aspects. (Lubin. 1992. p 163) It has been described as a pluralistic conception of development that includes a systematic examination of issues such as health care, education and indicators of how society lives rather than financial measurements. (Sen, 2000: 17–18) Inclusion of Human Development Indicators produced by the Report enables inclusion of factors difficult to measure in terms of monetary development status in a country.

ICRC International Treaties Overview. The ICRC presents an annual overview of the state parties' adherence to 'Following International Humanitarian Law and Other Related Treaties'. This overview includes all major international arms, security and human law treaties since the 1949 Geneva Conventions. For the purpose of this book, the overview provides information as to which countries have signed up to arms and security related treaties in recent history (since 1980).

World Democracy Index. How democracy can be measured is disputed. As Munck and Verkulien (2002: 27–28) point out, the different models available for creating a democracy index fall short in conceptualising what actually is effecting democracy, how to create a measure for the indicators or how to aggregate the findings. These challenges are reduced by looking at individual indicators rather than the full rank-

ing of democracy³. It is not necessary here to measure how good a democracy is, but rather see what activities the greatest number of countries successfully implementing the MBT have in common. One of the more comprehensive indexes available is the Economist Intelligence Unit's index of democracy. This is based on five categories: electoral process and pluralism, civil liberties, the functioning of government, political participation and political culture⁴. (Kekic, 2007: 2) For this book, the democracy index provides essential information about the possibility for the public to participate in political activity and make their voice heard.

The World Development Report, produced annually⁵ since 1978, (Lindauer, 2001: 138) includes progress of the Millennium Development Goals, human capital development, environmental sustainability, macroeconomic performance, private sector development and the investment climate, and the global links that influence the external environment for development. (WDR, 2006: 289) The report uses over 800 indicators to provide over 1,000 data tables for most of the world's countries on the included subjects. The socio-economic and environmental data are drawn from World Bank member countries' statistical data, research institutes, and international organisations such as the UN, International Monetary Fund (IMF) and the Organisation for Economic Cooperation and Development (OECD) (ibid).

Early versions of the World Development Reports are reliable sources of statistical data and provide well-informed analysis on development from a liberal market economic view rather than a comprehensive source for measuring development. (JPR, 1981: 218) From the launch of its website version in 2000/2001 version, these Reports became increasingly accessible and came to encompass is-

³ Aggregating the index to produce a level of democracy presents the same risks as identified in the KKZ model, namely that by just looking at the overall score we risk missing the individual factors that actually affect mine action.

⁴ The system used by the Economist is an un-weighted scoring system creating a 1–10 scale for the six categories, based on 60 indicators. The indicators have a 1–0,5–0 point scoring system to ask questions. For example, 'Are the elections for the national legislature and head of government free?' 1 = Essentially unrestricted. 0,5 = Some restrictions on the electoral process. 0 = Single party system or major impediments exist. (Kekic, 2007: 8–9)

⁵ WDR is produced annually with the exception of 2000/2001 when one report covered two years.

sues such as effects of ‘voicelessness and powerlessness’. (Lindauer, 2001: 137–138) The scope and range of the report continues to evolve. For the purpose of this book it is the most comprehensive data source for reviewing issues linked to funding and financial capacity of different countries in the form of economic activity, trade, aid, finance and poverty.

Worldwide Governance Indicators (for which the KKZ methodology was first developed) is a World Bank Institute resource providing statistical data and analysis relating to the governance of countries and issues related to the issues in this book of ‘political will’ as well as the possibility for ‘public engagement’. Interest in good governance and governance indicators has had an extraordinary growth in the past 15 years. (Arndt and Oman, 2006: 13) The World Governance Indicators provides an overview of six indicator groups relating to governance across 213 countries. The groups of indicators are Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. For this book, the World Governance Indicators will provide a relevant instrument in measuring the correlation between ‘political will’ and potential for ‘public engagement’ provided that correct indicators are related individually to the right subject⁶.

The different sources of indicators provide rich information that is used in this book to review the respective countries in view of the areas influencing the development of national mine action strategies in chapter six. The comparative overview in chapter six will include indicators relating to the following subjects:

Physical impact: Impact in this context is not defined with respect to individual communities but rather is amalgamated to provide an overview of the impact on a national level. By using Landmine Monitor reports and Landmine Impact Surveys, a general estimate of

⁶ Like any other governance indicators, the WGI comes with a caution. Using the WGI simply to rank countries by identifying a median governance value will lose the effect of the indicators. (Arndt and Oman, 2006: 49–51) For example, China can be at the top ranking on Government Effectiveness but at the bottom in Voice and Accountability. (ibid) India on the other hand can rank in the middle on both issues. (ibid) Presenting an average will rank both countries on an equal level hence hiding information of importance.