

Rule of Law & Good Governance

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Methodology of the sessions



Constructivism

- *“Constructivism is a philosophy about learning that proposes learners need to build their own understanding of new ideas.”*

Source: http://iisme.5ecommunity.org/index.php?area_id=569



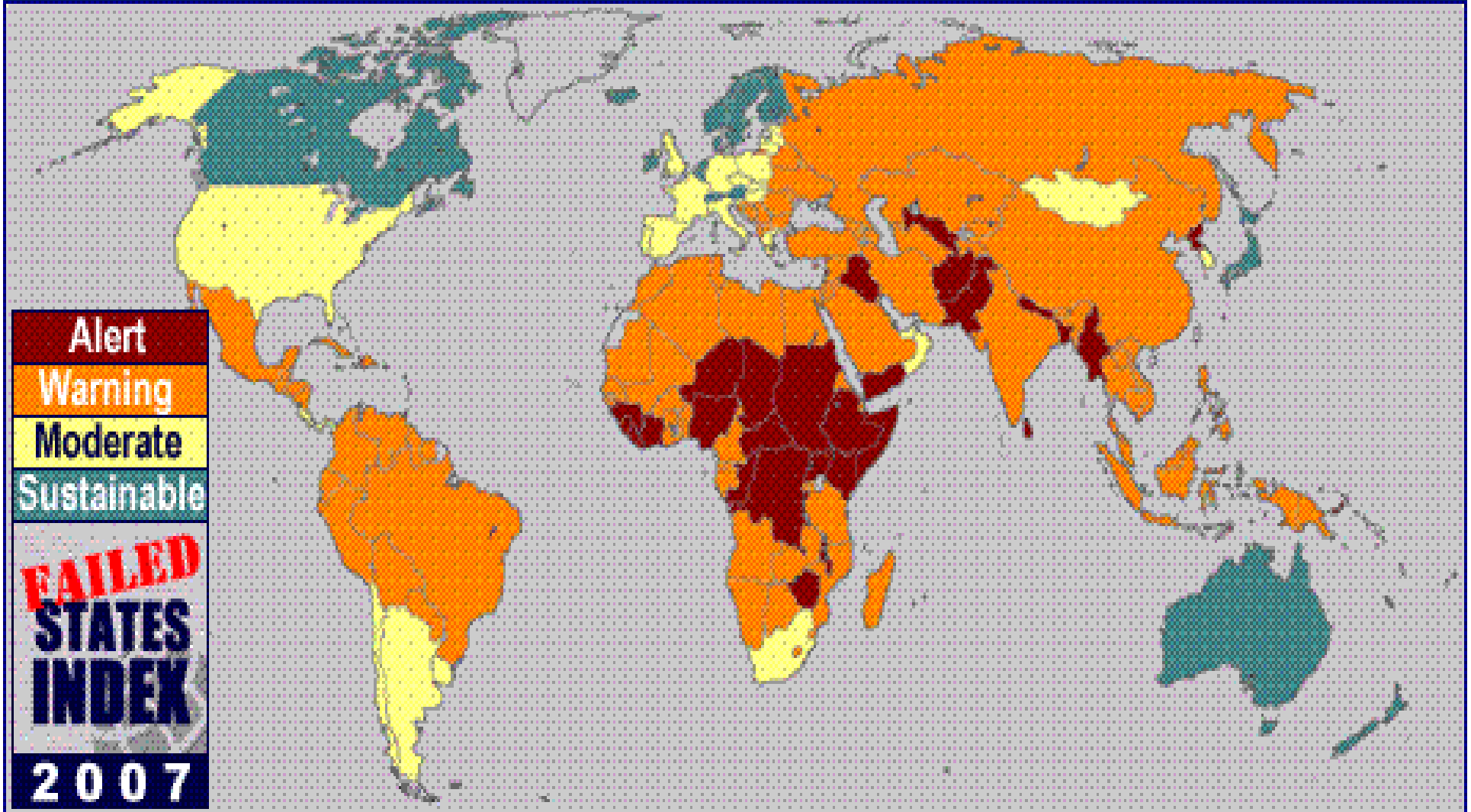
The 5e's

- Engage
- Explore
- Explain
- Extend
- Evaluate




- The 5e model was originally proposed by the BSCS (Biological Science Curriculum Study)

Lets Engage.....



The Twelve Indicators:

Social Indicators

- I-1. Mounting Demographic Pressures,
 - I-2. Massive Movement of Refugees or Internally Displaced Persons creating Complex Humanitarian Emergencies,
 - I-3. Legacy of Vengeance-Seeking Group Grievance or Group Paranoia,
 - I-4. Chronic and Sustained Human Flight
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Economic Indicators


- I-5. Uneven Economic Development along Group Lines,
- I-6. Sharp and/or Severe Economic Decline

Political Indicators

- I-7. Criminalization and/or Delegitimization of the State,
- I-8. Progressive Deterioration of Public Services,
- I-9. Suspension or Arbitrary Application of the Rule of Law and
Widespread Violation of Human Rights,
- I-10. Security Apparatus Operates as a "State Within a State",
- I-11. Rise of Factionalized Elites,
- I-12. Intervention of Other States or External Political Actors

<u>Rank</u>	<u>Country</u>	<u>I-1</u>	<u>I-2</u>	<u>I-3</u>	<u>I-4</u>	<u>I-5</u>	<u>I-6</u>	<u>I-7</u>	<u>I-8</u>	<u>I-9</u>	<u>I-10</u>	<u>I-11</u>	<u>I-12</u>	<u>Total</u>
1	Sudan	9.2	9.8	10	9	9.1	7.7	10	9.5	10	9.9	9.7	9.8	113.7
2	Iraq	9	9	10	9.5	8.5	8	9.4	8.5	9.7	10	9.8	10	111.4
3	Somalia	9.2	9	8.5	8	7.5	9.2	10	10	9.7	10	10	10	111.1
4	Zimbabwe	9.7	8.7	8.8	9.1	9.5	10	9.5	9.6	9.7	9.5	9	7	110.1
33	Colombia	6.8	9.5	7.4	8.4	8.4	3.8	8.2	6	7.4	8.3	8.5	7	89.7
33	Burkina Faso	8.6	5.6	6.4	6.6	8.9	8.2	7.6	8.9	6.6	7.6	7.7	7	89.7
35	Cameroun	7	6.8	7	7.9	8.7	6.1	8.5	7.5	7.2	7.7	8	7	89.4
36	Egypt	7.7	6.5	7.8	6.2	7.8	7	9	6.7	8.5	6.1	8.3	7.6	89.2
36	Rwanda	9.1	7	8.7	7.6	7.1	7.5	8.5	6.9	7.4	4.6	8.2	6.6	89.2

154	Germany	3.9	4.8	4.9	3	5.5	3	2.3	1.7	2.9	2.5	1.8	2.1	38.4
155	Slovenia	4	1.7	3.4	3.5	5.4	3.2	3.2	3.5	3.5	3	1.1	2	37.5
156	Italy	3.6	3.5	3.5	3	4.5	3.8	3.7	2	1.8	2.5	3.2	2	37.1
157	United Kingdom	3.4	4	4.2	2	4.7	1.4	2.2	1.8	2.6	3	2.7	2.1	34.1
157	France	4.1	3.6	5.8	2	4.8	2.9	1.5	1.4	3.2	1	1.8	2	34.1
159	Chile	3.8	1.1	3.5	2.1	4	3.8	1.6	3.7	3.7	2	1.5	3	33.8
160	United States	3.5	5.5	3.2	1	5.8	1.8	2.8	1.4	4.6	1.3	1.7	1	33.6
161	Singapore	2.9	1.1	3	3	2.5	3.4	3.6	1.5	4	1	4	3	33
171	Iceland	1	0.9	1	3.2	2.5	3.5	1.3	1.3	2.1	1	0.8	2.5	21.1
172	New Zealand	1.1	1.2	2	2.1	4	3	1.1	1.4	1.5	1	1	1.1	20.5
173	Switzerland	3.3	1.7	2.1	2	2.6	1.5	1	1.4	1.7	1	1	0.9	20.2
174	Ireland	1.6	1.5	1	2.1	2.9	2.1	1.5	1.8	1.5	1	1	1.5	19.5
175	Sweden	3.2	2.8	1	2	2	1.3	1	1.2	1.4	0.9	1	1.5	19.3
176	Finland	2.5	1.6	1	2.1	1.9	2.2	0.9	1.2	1.5	0.9	0.7	2	18.5
177	Norway	2	1.6	1	1.1	2	2.1	1	1.3	1.5	1	1	1.5	17.1



Explore

Where are we?
Why?

<u>Rank</u>	<u>Country</u>	<u>I-1</u>	<u>I-2</u>	<u>I-3</u>	<u>I-4</u>	<u>I-5</u>	<u>I-6</u>	<u>I-7</u>	<u>I-8</u>	<u>I-9</u>	<u>I-10</u>	<u>I-11</u>	<u>I-12</u>	<u>total</u>
25.	Sri Lanka	7	8.6	9.5	6.9	8.2	6	8.9	6.5	7.5	8.7	9.2	6.1	93.1


Lets

Explain the Rational

- What is Rule of Law?
- What is good governance?



Dicey identified three principles which together establish the rule of law:

- (1) the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power;
 - (2) equality before the law or the equal subjection of all classes to the ordinary law of the land administered by the ordinary courts; and
 - (3) the law of the constitution is a consequence of the rights of individuals as defined and enforced by the courts."
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Preamble to the Universal Declaration of Human Rights also provides a good explanation for Rule of law:

- "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.
- Whereas disregard and contempt for human rights have resulted in barbarous acts, which have outraged the conscience of mankind, and the advent of a world, in which human beings shall enjoy freedom of speech and belief, and freedom from fear and want, has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.... "



Rule of law also includes...

- Clear separation of powers
- Legal certainty
- Principle of legitimate expectation
- Equality before the law
- Principle of legality



Why rule of law & Why we need a state?

- We need a state when life, property, liberty and equality are threatened.
- Therefore we need an entity that protects our life and property,
- But while seeking these goals and establishing the state it should do utmost to protect our liberty and equality.



To understand this principle it is important to understand the concepts of liberty and Equality.

Liberty denotes to three specific fundamental freedoms:

1. Political Freedom
2. Civic Freedom and,
3. Personal freedom (autonomy)- free will and sources of laws which procure freedom



Equality denotes to three fundamental qualities:

- 1. Political equality,
- 2. Equality before the law,
- 3. Rough equality of material possession



When the state is formed through a social contract according to liberal theory, major goal of the state is to maintain internal stability.

- This internal stability derives in various ways according to different liberal thinkers:
- According to *Locke-Internal stability comes through protection of individual stability,*
- *According to Hobbes- Internal stability comes through protection of sovereignty,*
- *According to Rousseau- Internal stability comes Through protection of freedom of human being*

In order to maintain this internal stability state assumes certain powers:



1. Legitimate monopoly of force by the state;

This power is given to the state on the basis that citizens should resolve their conflicts through arguments rather than violence. Therefore they should be completely disarmed.



2. Nevertheless this monopoly of force needs to be control under the rule of law. The rule of law provides rule of the game for the shaping up of opinion and political will.

3. Democratic participation as basis of the game



Rationale for good governance- principle of fairness

This principle was first sketched by H. L.A. Hart:

- When a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have the right to a similar submission from those who have benefited from their submission.



Therefore we expect Fairness from the entity that people have bequeathed their sovereignty rights which we called the state.

- Attributes of fairness:
- 1, Accountability
- 2. Transparency
- 3. Responsiveness
- 4. Equitable and inclusiveness
- 5. Effectiveness and efficiency
- 6. Rule of law
- 7 Participation
- 8. Consensus oriented
- These are called as good governance principles

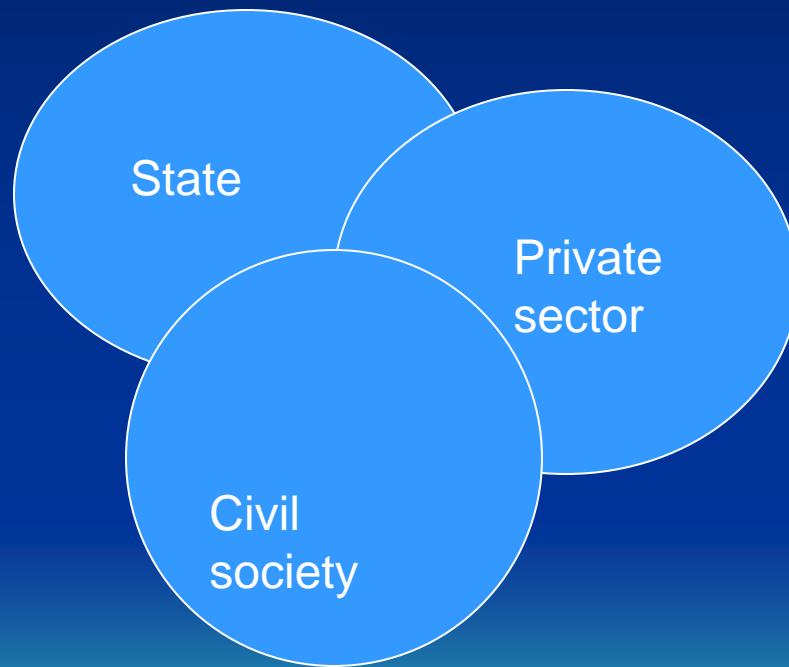


Outcome of good governance:

1. Allow to govern instead of ruled
2. Participation of all
3. sustainable development
4. Openness for every action
5. Equality and equity
6. efficient resource management
7. Problem solving ability
8. strengthen rule of law
9. priority for the service
10. Political legitimization
11. Right of information



Parties to the good governance



Failures of good governance:

- Failed state
- Ailing state



Now we can **E**xtend our knowledge into the reality

What is the food supply level of SL?

What is the economic production level of SL?

What is the social capital level of SL?

What is the social interaction level?

What is the population growth in total and growth of different communities?



Contd...

- ✓ Do we have humanitarian and security problems in our country and what is the level of those challenges?
- ✓ What is the impunity level of the country?
- ✓ What is the institutionalized level of exclusion?
- ✓ What is the level of hate speech in the country?
- ✓ What is the level of brain drain in the country?
- ✓ What is the level of migration?
- ✓ What is the level of growth in exiled communities?
- ✓ Group-based inequality, or perceived inequality, in education, jobs, and economic status?
- ✓ Group-based impoverishment as measured by poverty levels, infant mortality rates, education levels ?
- ✓ Rise of communal nationalism based on real or perceived group inequalities ?



Contd...

- ✓ Massive and endemic corruption or profiteering by ruling elites
- ✓ Resistance of ruling elites to transparency, accountability and political representation
- ✓ Widespread loss of popular confidence in state institutions and processes,
- ✓ Disappearance of basic state functions that serve the people, including failure to protect citizens from terrorism and violence and to provide essential services, such as health, education, sanitation, public transportation



Contd...

- ✓ Widespread abuse of legal, political and social rights, including those of individuals, groups or cultural institutions (e.g., harassment of the press, politicization of the judiciary, internal use of military for political ends, public repression of political opponents, religious or cultural persecution)
- ✓ Emergence of rival militias, guerilla forces or private armies in an armed struggle or protracted violent campaigns against state security forces



Contd...

- Fragmentation of ruling elites and state institutions along group lines,
- Use of nationalistic political rhetoric by ruling elites, often in terms of communal irredentism,

