

## Light of Day: Governance in the Age of Video Recordings

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### Abstract

Developing countries continue to be wracked with problems of corruption, despite the widespread understanding of the damage it does. In this paper I briefly review some approaches to improving rule of law and combatting corruption, before proposing a simple heuristic framework for governance. The framework applies to all public officials, and has three elements: 1) knowledge of the rules they are supposed to follow; 2) behavioral monitoring; 3) effective sanctions. I then look more carefully at the second of these elements (monitoring), because this is where technological change – such as cell phone recording devices – has provided immense new opportunities to monitor officials. I then consider various legal and political developments surrounding the use of these technologies, mainly in the United States. I discuss the possible ethical and moral problems associated with recording the actions of officials, as well as the potential for officials to cheat.

**Keywords:** Rule of law, Corruption, Technology, Cell phones, Monitoring

*“There’s no requirements in the Texas State Constitution for bein a sheriff. Not a one. There is no such thing as a county law. You think about a job where you have pretty much the same authority as God and there is no requirements put upon you and you are charged with preservin nonexistent laws and you tell me if that’s peculiar or not. Because I say that it is. Does it work? Yes. Ninety percent of the time. It takes very little to govern good people. Very little. And bad people can’t be governed at all. Or if they could I never heard of it.”* Sheriff Ed Tom Bell, in *No Country for Old Men*, by Cormac McCarthy.

### Introduction

Governance is under the spotlight as never before. Practitioners, aid agencies, development bodies, and others design programs which seek to instil rule of law, improve accountability, reform justice systems, and make other improvements to regimes ‘drenched in corruption, patronage, favoritism, and abuse of power’ (Diamond 2007: 2-3; Zakaria 1997). The pages of academic and policy journals are filled with debates on how to understand, measure, and move toward good governance (Rothstein and Teorell 2008; Fukuyama 2013; Persson et al 2013; Bauhr and Grimes 2014; Rotberg 2014; Agnafors 2013). The consequences for humanity are enormous, especially in the developing world.

Democratization is increasingly producing a new type of regime—one in which rulers who monopolize power and treat the state as their own patrimony are succeeded by competing political groupings or parties that practice a similarly nonuniversal allocation of public resources based on patronage, nepotism, and the exchange of favors (Mungiu-Pippidi 2013: 101).

Governance is a public good – where governance works well, citizens enjoy impartial access to services and public resources; state authorities benefit from a reputation as clean, open and honest; social capital in the form of trust and confidence in public institutions is higher. Citizens expect that their demands and needs will be met impartially and fairly. Governance makes positive contributions to individual rights, economic performance, and political culture. Estimates of effect of corruption on GDP show a clear negative impact (Ugur and Dasgupta 2011). Good governance – defined here as ‘impartial rule compliant behavior by public officials’ – is undermined by corruption, nepotism, ignorance, laziness, intimidation, and other governance sins (cf. Fuller 1969: 81; Rothstein and Teorell 2008).

In political systems in which governance is healthy, public officials (and individuals) behave in rule-consistent ways. Exercise of power is non-arbitrary, consistent, and adheres to agreed rules. In systems in which rule of law is weak, kinship, friendship, favoritism, and other forms of personal connection and distinction matter. Honor codes are more important than the law. Non-meritocratic awarding of benefits such as public sector jobs or contracts is tolerated (Weingast 2010).

So how do we bring about change in regimes with poor governance? Unfortunately there is more than a little skepticism about the ability of institutional or policy reforms to make any difference. The agents may be corrupt, but that’s life, there’s little we can do about it. Indeed the roots may extend well back in time. One deterministic claim asserts that rule of law is linked to historical religious development in which codified religious texts, institutional autonomy, legal experts, and the closeness of religious rules and social norms explain the corresponding strength of rule of law in contemporary times (Fukuyama 2010).

Another cultural perspective is that rule of law comes about when a ‘society transforms from one based on personal relations and personal exchange to one based on impersonal relations and impersonal exchange’ (Weingast 2010). States must create institutions in which access is open and guarantee their independence (cf. Acemoglu and Robinson 2012). This is an enormous challenge for states with weak rule of law and a scofflaw civic culture because of the resistance of those with vested interests in the status quo.

An increasing number of analysts see governance as a collective action problem, rather than as a failure in the principal-agent relationship. According to the collective action perspective, the so-called ‘principled principals’ do not exist – no one has an incentive to blow the whistle, or create and impose lasting disincentives to corrupt behavior. Persson *et al* summarize the problem succinctly:

insofar as corruption is the expected behavior in a particular society, we should expect the key instruments to curb corruption in line with the principal–agent anticorruption framework—that is, monitoring devices and punishment regimes—to be largely ineffective since there will simply be no actors that have an incentive to enforce them. Important to note is that this holds true even if we assume perfect information and even if everyone condemns corruption and realizes that a less corrupt outcome would be more beneficial for the society at large (Persson *et al* 2013: 450-1; Marquette and Peiffer 2015: 6).

Most people in such societies, though wishing for less corruption, are ‘corruptible,’ or resigned to existing practices (Persson *et al* 2013: 456). Perceptions of the likely behavior of others is important to the calculations of how each person acts. If everyone else is corrupt, why not me too? Under this depressing scenario, who will bear the costs of creating a corruption-free society? No amount of information or improvements to monitoring capabilities will enable public officials to be held

accountable. Where impunity is deeply ingrained, officials may simply shrug off accusations or evidence of wrongdoing (Persson et al 2013; Marquette and Peiffer 2015; Mungiu-Pippidi 2013).

If governance is indeed subject to a collective action problem then it is difficult to see a way forward for highly corrupt societies. Persson et al consider that the way out of this dilemma is a 'big push involving all major political, economic, and social institutions' (Persson et al 2013). But what would induce these elites to undertake a 'big push', when they are the most likely to suffer from it? The dilemma for democracies was framed by Barbara Geddes thus – 'it is ironic that the reforms that would improve efficiency and fairness in the provision of government services should be impeded by the same representative institutions whose manifest purpose is to reflect constituents' interests' (cited in Rose-Ackerman 1999: 203-4).

### **Information, Accountability, and Governance**

Before we give up on the ability of principals to hold agents to account, let's look more carefully at their relationship. There are three things that agents need to know: 1) what is expected of them (i.e., clear rules), 2) that they are being monitored, and 3) that the sanctions are severe in the case of misbehavior (cf. Klitgaard 1991). In cases where agents flout the rules, one or more of these three elements is missing. They do not know what is expected of them, or are not monitored, or know there will be no sanctions.

And what are the potential 'bads' that we purport to monitor? Corruption is one of course, perhaps the most famous and most studied. But there are other 'deadly governance sins' too – such as ineptitude, laziness, and ignorance (compare Fuller 1969: 81). Now, it is clear that individuals face different incentives in different social situations. Aeromexico pilots don't jump the queue for takeoff, yet when they drive home after work they may well run traffic lights, like many of their fellow drivers. Players on the Argentine national soccer team generally obey the rules on the field, but at home, they may cheat on their taxes. In their professional lives they know what is expected of them, that they are being monitored, and that there will be sanctions for noncompliance. So from the perspective of the principal the trick is to get these constraining incentives right.

Of the three elements of rule of law (clear rules, monitoring, and sanctioning), the most rapid technological change has occurred in the area of monitoring. Indeed, the single most significant change to the principal-agent relationship is the potentially vast supply-side increase in information made available by cheap mobile phone recording technology. Video recording by citizens in their interactions with public officials (especially the police and other security officials) is becoming ubiquitous. And the recording is happening in both directions: many police forces are themselves videoing these interactions.

The cost of acquiring and storing information has plummeted. With the spread of cheap technologies such as Bambuser and Looxcie, and cell phone applications, the ability of citizens to record interactions with law enforcement is an increasingly feasible means of gathering information on behavior. Advice groups and self-styled watchdogs help inform citizens on how to record public interactions with law enforcement officials, and respond to their negative reactions.<sup>1</sup> Social networks help spread information collected by video surveillance.

By way of comparison, note what Susan Rose-Ackerman says about limits to information (before the advent of cheap video recording technology): 'The probability of detection [of corruption] is a function of whether any of the participants has an incentive to report to the police' (Rose-Ackerman 1999: 56). In

her scenario, information can only come from the insider, particularly those directly involved in the corrupt transaction. That is because the likelihood of gathering information in other ways seems so remote.

The phenomenon of video recording has a potential impact on the principal agent-relationship because it changes the incentive structure that agents face. Information plays a different role in the collective action conception of governance than it does under principal-agent assumptions. In a healthy principal-agent relationship, principals need accurate and timely information on agent behavior. Without information it is impossible to identify and sanction cheaters, and anti-corruption programs in practice have emphasized improved transparency as part of the solution in developing countries (Marquette and 2015: 5; Persson et al 2013: 453). However, the collective action perspective suggests that impunity or other obstacles will work against monitoring and sanctioning, because without the ability to sanction, then information is irrelevant.

Information deficiencies in governance are similar to information deficiencies in markets – they lead to suboptimal outcomes because they permit those with greater information (ie, the agents) to exploit their advantage to the detriment of the public interest (Akerlof 1970). Legal research has shown that regulation can reduce these dangers by providing legal standards for products, to ensure buyers of advertised quality (Glen (2011). But this assumes that the regulations are applied correctly. What if they are not? Insufficient information about the quality of a product being sold might be replaced by insufficient information about the probity of regulators charged with upholding quality standards. The result could be reduced confidence in the quality of public regulation as buyers (or citizens) are not sure whether rules are applied correctly.

The ultimate purpose of monitoring of course is to hold officials accountable (ie, impose sanctions on rule-breakers).<sup>ii</sup> Accountability involves answerability, or ‘formal processes in which actions are held up to standards of behavior or performance’ (Clark et al 2003: xii). The logic of action implies that greater levels of information incentivize rule-consistent behavior because it shines a light on behavior and enables it to be compared to the standard set out in the rule. Information can create social (shaming) or non-social (pecuniary or incarceration) pressures. It facilitates collective action (ie, action to address rule-breaking) by coordinating or ‘tuning’ cognitive understandings about behavior among those who are doing the monitoring.

But even under the most optimistic scenarios – assuming information to be critical to monitoring and sanctioning, and also assuming that it is readily available – the link between information and accountability is problematic. Indeed, if formal codes and institutions such as access to information (ATI) laws were themselves sufficient to guarantee rule of law, we would have seen a dramatic improvement in the past quarter century. In 1990 some 12 states had ATI legislation, while by 2015 the number had grown to 100, according to the Open Government Partnership.

Unfortunately ATI laws do not guarantee rule-consistent behavior if they simply rely on self-reporting. There are high-profile examples (such as the parliamentary expenses scandal in the UK) where it became clear that the information provided by public officials about their behavior was inaccurate or incomplete. The truth was revealed through media investigations rather than self-reporting. Formal transparency which does not lead to sanctions is hardly useful as a means to improve governance (see Kenney 2003; cf. Schedler 1999; Fox 2007). Even if officials are ‘answerable’ for their actions (that is, they are called upon to respond to accusations in some fashion), if they suffer no sanctions there is little reason to cheer (Fox 2007; Clark et al 2003).

Nor does research on the link between transparency and accountability lead to optimistic conclusions. Bauhr and Grimes report that in countries with high levels of corruption, new revelations of corruption often result in cynicism rather than indignation - 'transparency seems to undermine satisfaction and foster resignation' (Bauhr and Grimes 2014: 308). Other empirical findings show that corruption information results in reduced participation in the political process in Mexico (Chong et al 2015), and that transparency does not lead to accountability unless other factors are present, including education and a vigorous and independent media, among others (Lindstedt and Naurin 2010).

Citizens need to be able to act on information they receive for accountability to be real. Where agents themselves administer transparency mechanisms they are less effective. Research has shown that disclosure of assets to the public (as opposed to congressional auditors) by members of congress is strongly associated with control of corruption, at least in democratic countries (Djankov et al 2008). But information which officials themselves provide as they account for their activities may be useful (ie, complete and honest), or may instead be partial or false.

Other research on fourteen countries revealed that responses to requests for information under ATI laws varied widely, with many "mute denials" (ie, refusals either to provide the requested information or a reason for not doing so). Moreover, responses varied according to whether the requester was perceived to be from a marginalized or weak group (OSJI 2006). A number of other obstacles to obtaining information were found. So information guarantees which rely on officials to provide the information are not always sufficient to hold them to account.

In Mexico, Fox and colleagues demonstrate that agency responses to requests for information in Mexico vary across agencies, with more and more responses denying the existence of official information. Petitioners are more successful when they make reference to specific government documents and when they use the technical language of the agency they are petitioning (Fox et al 2011: 46-7). Guerrero and Bookman (2009) also see this denial-of-existence as a growing problem, and surmise that official documentation itself may be adversely affected by expectations of information requests. In other words, agency officials may be increasingly reluctant to commit policy to paper.

### **Sex, Lies and Videotape: The Role of Video Recording**

If officials themselves can't be trusted to provide accurate information, will a greater quantity of information (gathered by citizens) increase accountability? It's far too early to know for sure, and we cannot know how individual cases will affect accountability across an entire polity. However, video evidence is a potential source of evidence in contested cases where official wrongdoing is alleged. It is essentially an extension of access to information and transparency procedures, and it may best be employed as a tool of governance at street level, between public officials and citizens. Action can be taken (with evidence) in cases where problems are spotted.

When Michael Brown was shot dead in Ferguson, Missouri on August 9, 2014, his killer – Officer Darren Wilson of the Ferguson police force – was not wearing a camera. Nor did a passerby capture the incident on a cellphone. The shooting brought underlying racial tensions to a head (especially after a grand jury decided not to indict Wilson) and raised numerous questions of excessive force, especially since eyewitness accounts claimed that the victim had surrendered and assumed a nonthreatening position. But the question of whether there was any justification for the use of lethal force against this unarmed man remained speculative in the absence of incontrovertible evidence.

In a later incident in South Carolina, another unarmed man (Walter Scott) was shot and killed by police officer Michael Slager. On this occasion, a member of the public videoed the incident on his cellphone, which was later used as evidence to charge the police officer with murder. Would Slager have faced disciplinary action without the incriminating video? Would a police inquiry have uncovered the truth? And if so, would it have become public, with proper accountability following?

We don't know, but increasing numbers of police forces across the US are using body cameras to record interactions with the public. Thus, both the public at large and police forces have the capability of introducing extremely important new sources of information to questions of police conduct. The Rodney King video in 1991 helped to lead to the conviction of two officers for civil rights violations, but until the heightened feasibility of citizen recording of police-citizen interaction this was a rare occurrence. Cell phone 'sousveillance' is a form of 'direct transparency' (analogous to direct democracy).

The American Civil Liberties Union, long an opponent of surveillance cameras in public, has given the 'cop-cam' policy a cautious welcome, stating that it would increase police accountability. Video and audio recordings of police-citizen interactions provide at least some evidence about a given incident, which can later be reviewed by relevant oversight bodies or the public at large.

The reaction of the police in some of the cases has been to confiscate the cell phone, delete the recording, and arrest the person doing the recording. Recent legal opinions have sided with those members of the public who do the recordings. In a letter to the Baltimore Police Department regarding a 2010 case, the US Department of Justice supported the rights of citizens to record police officers going about their duty in public, arguing that it would 'engender public confidence in our police departments, promote public access to information necessary to hold our governmental officers accountable, and ensure public and officer safety.'<sup>iii</sup>

In the same month as the Department of Justice letter (May, 2012), the US Court of Appeals ruled that an Illinois law prohibiting recordings of police in public was in violation of the First Amendment. In doing so it agreed with the American Civil Liberties Union, which had claimed that its plan to video and audio record police openly was a First Amendment right.<sup>iv</sup> The Supreme Court declined to review the case later that year. Most other lower courts (but not all) have generally agreed that the public does have this right.<sup>1</sup>

Writing in *The Conversation*, University of Florida Professor Clay Calvert said that

Police officers are government officials and public employees. They work for the very people who want to record their actions. And when citizens record police in public places – locations where cops have no reasonable expectation of privacy, like streets and parks – those citizens are acting as watchdogs on possible government abuses of power. Feidin Santana's video of officer Slager shooting Walter Scott in the back is all the proof needed of the importance of the watchdog role. A simple intent to monitor and observe, not to challenge or criticize, is all that should matter in determining if First Amendment rights are at stake.<sup>2</sup>

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<sup>1</sup> Fields vs the City of Philadelphia is an exception. <https://assets.documentcloud.org/documents/2717327/Fields-v-Philadelphia-No-First-Amendment-Right.pdf>. Accessed 11 April 2016.

<sup>2</sup> <https://theconversation.com/does-the-first-amendment-protect-people-who-film-the-police-56001>. Accessed 11 April 2016.

Sousveillance is disorganized and individual but can be highly effective as a means of raising awareness. On the other side of the equation, some believe that police body-cams reinforce the perception of a surveillance culture gone amok. Lawyers, political scientists, sociologists and others have raised numerous concerns about the effects of surveillance and the 'new transparency' on individual rights (Richards 2013). But their concerns relate mainly to gathering information on members of the public rather than the parties to a specific dispute.

Will turning the surveillance cameras around 180 degrees to record the police at work improve accountability? If used properly, they could provide a consistent source of information which can then be used to improve accountability. Equally, they may simply be a shield behind which police departments can hide to deflect criticism.

Some of the evidence suggests that when body cameras are worn by police, abusive behavior by the police and citizens alike declines. In 2013, a study was conducted by the Rialto, California police force, in which half of the officers out on patrol each day were given a wearable video camera to record their interactions with the public. Some of the officers (especially older ones) resisted the idea that their behavior should be recorded, complaining about 'big brother'. However, in the end all took part and the study found that in the first year, officers used force 60% less frequently, and that officers not wearing cameras were twice as likely to apply force as those with cameras (those wearing cameras who did apply force recorded it in every instance).<sup>v</sup> The author of the study claimed that higher levels of self-awareness among those carrying cameras led to more rule-consistent behavior (Farrar 2013). There was an overall reduction of 88% in the number of complaints lodged against officers in the year of the study.

A 2014 report on body-cams for the US Department of Justice also pointed out numerous advantages, including reduced levels of abusive behavior and a reduction in complaints against the police.<sup>vi</sup> Cop-cams can 'resolve complaints and prevent spurious complaints, enhance transparency and officer accountability, identify and address structural problems within the department, and provide an important new type of evidence for criminal and internal administrative investigations' (Miller et al 2014: 2). The report points out that expectations are changing such that courts, arbitrators and civilian review boards expect footage to be available – the lack of video sometimes raises questions about an officer's credibility.

But studies on the implications of body-cams raise a variety of concerns too. While supportive of the policy, the ACLU stated that there should be numerous safeguards in place to protect the privacy and rights of both members of the public and the officials themselves. These include time limits on holding information, notice to citizens that they are being recorded, and recording only of specific incidents in which behavioral problems are most likely. 'The balance that needs to be struck is to ensure that officers can't manipulate the video record, while also ensuring that officers are not subjected to a relentless regime of surveillance without any opportunity for shelter from constant monitoring' (Stanley 2013).

The 2014 Justice Department report raises potential problems too, including the potential breach of trust and privacy when members of the public know there is a camera recording their interaction with the police. They may be reluctant to talk openly, especially in sensitive cases. There are concerns over how the recorded data would be used, and how long it would be stored for. Also, the issue of consistency and discretion, and when officers should begin recording, is the subject of debate. How consistently should they record? Are understandable discretionary decisions in grey areas likely to suffer? Will rank and file police officers be targeted by superiors using video evidence? Crucially, in terms of accountability, the report acknowledges the need to strike a balance. 'In launching body-worn

camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests' (Miller et al 2014: 18).

Unfortunately, the report mentions only law enforcement and lawyers when it comes to the issues of how to manage privacy and data integrity. It says nothing about how to draw citizens into the review process. Who has access to the data and who has the right to make judgements on compliance? These would be important features of a wider public oversight program. Some forces put footage directly on websites to provide information and build support for the policy. The public appears to be more supportive where there is transparency.

Drawing in civil society organizations such as civil liberties and human rights groups, transparency NGOs, and the media would build trust and credibility. It would widen the net of participants and increase the quantity of information available. It could also guard against spurious and fictitious claims by the public of inappropriate police behavior. Of course it could be argued that including citizens in oversight would be give rise to populist pressures to sanction officials without sufficient cause, but limiting input to civil society groups (rather than the public at large) could overcome this problem. Nor does the report address the issue of how the information is used to improve police accountability. What steps are taken exactly? Are there mechanisms in place to deal with malfeasance?

#### **Extending the use of video recording**

And what of public agencies more broadly, especially in places where corruption and other governance pathologies are widespread? Can the experience of police cameras lead to further video information gathering to improve governance more broadly? The Justice Department report has lessons for monitoring across various public agencies, though it is clear that the hurdles would be enormous, particularly in those regimes where the rule of law is weak.

Yet there is theoretically no reason why the same monitoring technologies could not be extended to other officials and street-level bureaucrats who have direct contact with citizens. The principal is the same: recording technology allows information to be captured, which can then be used to ensure accountability. From planning regulators awarding construction permits, to environmental agencies conducting impact assessments, to competition authorities evaluating mergers, to highway agencies awarding procurement contracts – opportunities are rife for corruption, partiality, mistakes, and other breaches of the rules. In places where governance is especially bad, information which is recorded on video could potentially be used to bring corruption to light. It could also reveal the weaknesses of patronage appointments in cases in which bureaucrats have insufficient capabilities to carry out their jobs. It could therefore help identify training needs, or lead to wider use of merit hiring and promotion procedures, and less politicized appointment processes.

But would it work? There are plenty of occasions in which video or audio tape has recorded official malfeasance, leading to investigations and prosecutions in which officials were unaffected because they could simply brush accusations aside with impunity. If everyone is on the take, and it seems that in many places that is an accurate description, who cares if someone records my corruption? One possible means to counter endemic corruption would be to keep recordings for future reference and to build a file on behavior. They could be part of a permanent public record. Would the preservation of a video record help to dissuade corrupt officials? Could building a permanent record be part of the solution to impunity in areas of high corruption? Questions would need to be answered about the relative benefits of curbing corruption versus the possible violation of privacy rights. Do public officials have a right to shield their behavior from scrutiny after a certain period of time has elapsed?

Even if there were no impunity, video-recording officials in key agencies would clearly not be effective if they could take action to avoid detection, for example by conducting corrupt transactions off-camera. Equally, the danger exists that information on behavior becomes so ubiquitous and widely available that in effect officials remain obscure and anonymous by virtue of there being too much information. How would we know what to do with it, who to look at, what to look for, and when? Ironically, those most in need of sanctioning might continue to behave without fear of sanction, not simply because of impunity but because they are lost in the crowd of people being recorded.

Moreover, interpreting video recordings leads to its own uncertainties, given that recordings rarely contain the full context of what transpires. What was the truth in the case of the Walter Scott shooting? Could the video be manipulated or staged, and even if not, does it raise the importance of the shooting too much, so that contextual factors are obscured (ie, that the suspect may have threatened someone's life off-camera). Such possibilities seem very unlikely in this case, but it is worth reiterating that simply recording on video the behavior of public officials does not answer every question about a given incident (Ready and Young 2014).

Ethical considerations arise too. From the standpoint of the officials, video recording may cause them to avoid discretionary judgement calls in sensitive cases in which it may be perfectly appropriate to be flexible about application of the rules. Overly rigid adherence to rules simply to avoid accusations of bias or partiality could work against members of the public. Information gathering by video would also affect the privacy of individual citizens in their interactions with public officials, and the public officials themselves. Officials may balk at constant monitoring, considering the invasion of privacy to be unwarranted, or disrespectful of their powers of judgement. As reports have stated with respect to police cameras, recordings could be used against junior employees by supervisors. A solution could be to create an office which is responsible for filtering recorded information and deciding whether to release it, though this also moves the question of accountability back one step, and would not necessarily lead to more transparent government.

For the public, the loss of privacy could be very acute. Participating in recorded interactions with agency officials would certainly lead to less or different types of interaction, with a potential reduction in the quality and availability of public services. On the other side, this risk needs to be weighed against the possibility that fewer bribes or favors would be necessary to obtain services to which the public is entitled.

Given these dangers, some distinctions should be made. Certain public officials deal with individual members of the public in highly sensitive situations, such as professors advising students at public universities, or school counsellors treating students in secondary schools. In these cases making public their interaction would probably worsen the experience for the person being treated and although the professor/counsellor might take advantage of the lack of transparency to engage in corruption, it does not seem worth the risk to the member of the public.

In other cases, public officials engage in duties in public places (on the street, in a public office, etc) in which a generic service is provided to the public. This includes police on the beat, bureaucrats issuing drivers licenses and voter registration cards, advice for unemployed job seekers, school proctors administering exams, and similar services. Note that the relevant issue is the provision of the generic service, not the individual outcome. Hence the proctor's actions in the exam hall are the relevant issue, not the student's grade. Likewise the job adviser's actions in the job center, not the qualifications or

application data of the job seeker. In these cases, recording interactions may be less sensitive, as long as personal data are not revealed.

So with these distinctions, we can say that information gathering and storage by video makes more sense when the public service is 1) generic and not tailored to the specific needs of an individual recipient; and 2) the individual recipient is entitled to the service simply by being part of a qualifying group, without having to demonstrate a personal capability or attainment. In any of these cases, members of the public may wish not to have their image recorded or their identity revealed. Given the potentially disruptive effects of video recording it is also worth limiting its use on a trial basis to agencies with a high level of corruption.

It is also necessary that a functioning judicial system be in place for this to work properly, so that police officers and other officials who abuse their powers are not outside the reach of the law. There would need to be a developed information system to enable the results of any experiment to be diffused, whether through traditional media or new media outlets. It may also make sense to consider broader institutional changes to facilitate fair information availability, such as the creation of an independent information ombudsman with responsibility for filtering and disseminating video recorded information that is collected.

#### **PRISM for the People?**

The present system of information-gathering and monitoring in corrupt countries leaves much to be desired, and on balance the technological shift in the information supply-side heralds improved governance, with caveats. First, it overcomes the problem in which corrupt officials filter or selectively release information to conceal damning evidence. Second, it potentially enables information to be analyzed rigorously and independently by neutral, nonpartisan experts, rather than held within partial and biased institutions whose interest is to protect corrupt officials. Thus, video recordings could contribute to a legitimate and comprehensive portrayal of public activity.

Is this a step too far? Heavy-handed monitoring is what supported police states such as East Germany, and it goes without saying that democratic institutions are essential preconditions so that the monitors themselves are held accountable. But the simple reality is that Stasi-style monitoring is not the problem for the billions of people who suffer from poor governance, and who would undoubtedly welcome greater monitoring of their public officials as a means to check partial, corrupt, and inept application of the law. Of course there are important questions about who is entitled to monitor whom, for what purposes and under what conditions. Since the state is so much better equipped to monitor its citizens than the other way around, and since egregious violations of the law are committed constantly by officials in many countries, the need is clearly to increase the justification for citizen monitoring of officials.

And why would officials accept this type of monitoring if it was likely to expose their many shortcomings? They may not, of course, but the advantage for public authorities is that monitoring may serve two important accountability functions with pro-governance implications: first, most obviously, monitoring could serve as a control on the behavior of their officials; second, it would be a cost effective means of providing assurances to the public that officials are behaving properly. These may be more appealing to agency leaders than to rank and file officers and bureaucrats, but a sweetener for the rank and file would be to alter the incentive structure by linking monitoring to individual professionalization. Combined with training, changes to recruitment practices, career progression, salaries and other

incentives, individuals could find themselves part of more respected and trusted public agencies even as their own career was enhanced.

Public life cries out for new innovations in such areas, especially where governance is weakest. The question is whether the authorities can be convinced that it is in everyone's interest. Should we move beyond the police? If recording of law enforcement officials is deemed appropriate to increase accountability, why not recordings of all public servants at work? The same logic of accountability surely applies, and let's face it, this is not simply a story of police accountability. Why should they be the only public servants in the spotlight?

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<sup>i</sup> See for example NGO Witness, <http://witness.org>. Also Photography is not a Crime. <http://photographyisnotacrime.com>. Both sites accessed 24 September 2014.

<sup>ii</sup> See Schedler (1999) for a discussion of the relationship between accountability on the one hand, and answerability and enforcement on the other.

<sup>iii</sup> The 2010 case involved a private citizen who recorded the Baltimore police arresting his friend. His cell phone was seized, searched, and the recording was deleted. See

[www.wired.com/images\\_blogs/threatlevel/2012/05/united\\_states\\_letter\\_re\\_photography\\_5\\_14\\_2012\\_0.pdf](http://www.wired.com/images_blogs/threatlevel/2012/05/united_states_letter_re_photography_5_14_2012_0.pdf). Accessed 17 June 2014.

<sup>iv</sup> Cited at <http://docs.justia.com/cases/federal/appellate-courts/ca7/11-1286/11-1286-2012-05-08.pdf>. Access 17 June 2014.

<sup>v</sup> [www.nytimes.com/2013/04/07/business/wearable-video-cameras-for-police-officers.html?pagewanted=all&r=0](http://www.nytimes.com/2013/04/07/business/wearable-video-cameras-for-police-officers.html?pagewanted=all&r=0) Accessed 3 July 2013.

<sup>vi</sup> According to Charles Katz, director of the Arizona State University Center for Violence Prevention and Community Safety, communities where police wear cameras show a 40-60% decline in complaints about police behavior. <http://ccj.asu.edu/news-events/news/charles-katz-and-michael-white-on-msnbc>. Accessed 29 September 2014.