

The Power of Reflection: Advancing Governance and Dispute Resolution Systems through Devolved Reflection and Shared Knowledge Generation

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Abstract

The “power of reflection” has been described by Bahá’u’lláh as “the source of crafts, sciences and arts” and an “ideal mine” with the capacity to produce “pearls of wisdom and utterance as will promote the well-being and harmony of all the kindreds of the earth” (Bahá’u’lláh, *Tablets* 72). This power to reflect as individuals and communities has increasingly been tapped into within institutions of governance as well. This paper begins with an exploration of what may be described as an emerging approach to “devolved reflection” in which local communities engage in earnest deliberation to arrive at a greater understanding of existing cir-

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cumstances, celebrate accomplishments, analyze challenges, learn from experience, and plan next steps.

Résumé

La « faculté de réflexion » est décrite par Bahá’u’lláh comme « la source des métiers, des sciences et des arts » et comme une « mine idéale » d’où jailliront « de telles perles de sagesse et d’éloquence qu’elles pourront promouvoir le bien-être et l’harmonie parmi tous les peuples de la terre » (Bahá’u’lláh, *Les Tablettes de Bahá’u’lláh*, 75). Cette faculté de réflexion individuelle et collective a été aussi de plus en plus utilisée au sein des institutions de gouvernance. Le présent article commence par une exploration de ce que l’on pourrait décrire comme une nouvelle approche de « réflexion décentralisée » selon laquelle les communautés locales prennent part à des délibérations sérieuses pour arriver à une meilleure compréhension de leur réalité, célébrer les réalisations, analyser les défis, apprendre de l’expérience et planifier les prochaines étapes.

Resumen

La “facultad de la reflexión” ha sido descrita por Bahá’u’lláh como “el origen de los oficios, las ciencias y las artes” y una “mina ideal” con la capacidad de producir “perlas de sabiduría y prolación que fomenten el bienestar y la armonía de todas las razas de la tierra.” (Bahá’u’lláh, *Tablas* 72). Esta facultad de reflexionar como individuos y comunidades ha sido cada vez más aprovechado también dentro de las instituciones de gobernanza. Este ensayo comienza con una exploración de lo que podría ser descrito como un enfoque emergente a la “reflexión desarrollada” en la cual comunidades locales participan en deliberaciones serias para llegar a una

comprensión mayor de circunstancias existentes, celebrar logros, analizar desafíos, aprender de la experiencia, y planificar próximos pasos.

Drawing on insights from Bahá'í practices of community-based reflection gatherings beginning in the 1990s and now held in more than 5,000 localities worldwide, it examines how such devolved reflective approaches contribute to planning processes that take into account increased capacity. At the same time, in recent years, mechanisms for devolved reflection have increasingly been incorporated into emerging modes of organizational practice, soft law principles that inform the emergence of customary international law, analytic and normative frameworks for new governance policy, and applied reflective research methodologies. While such developments represent important advances in modalities of governance, this paper suggests that the significant benefits arising from devolved reflection can be most fully realized when it is carried out as a component of a larger framework of learning through reflective action. As part of a tapestry of study, consultation, action and reflection, “questions can emerge and methods and approaches be adjusted” (Universal House of Justice, letter dated 26 November 2012) by which “collective identity” is created and “collective will” strengthened (Universal House of Justice, letter dated 27 December 2005). According to the Universal House of Justice, the capacity to “act

in the light of reflection” cultivates “an instinctive posture of learning” (Ridván Message 2016) and allows for insights to “gradually accumulate about effective ways to work for the betterment of society” (letter dated 1 October 2017). The paper will draw on research highlighting the role of engaged reflection and shared knowledge generation in facilitating conditions conducive to progressive advancement within governance and dispute resolution systems—whether in the context of community engagement with consumer financial institutions, cross border-arbitration, or post-disaster governance initiatives. The work traces the role of capacity building, cohesion, and collective contribution in knowledge generation.

INTRODUCTION:

DEVOLVED REFLECTION AND ORGANIZATIONAL PROGRESS

The possibility of achieving progress in organizational contexts has been a subject of debate and continued striving. June Manning Thomas expertly observed that while humanity has produced advances in technology, it has not solved the fundamental problems of hunger, poverty, homelessness, war, ecological destruction, and political strife: “organizations at all levels struggle to adapt to the changing world in which they must survive and to carry out the purposes for which they were created” (1). Yet central to this struggle is the recognition that as humans we are “capable of thinking,

planning and envisioning alternative courses of action” (Laszlo 56). The “larger the entity or system involved, the more difficult the process . . . becomes,” yet progress is achievable. (Manning Thomas 3).

The Bahá’í writings link the idea of progress to collective participation: “the realization of justice is dependent upon universal participation and action among all members and agencies of society” (ISGP 10) and even state that mankind’s purpose is “to carry forward an ever-advancing civilization” (Bahá’u’lláh, *Gleanings* 109:2).² Echoing this perspective, recent scholarship has described an important shift in organizational structure toward equipping governance entities to “draw out more human potential” (Laloux 4) through reflective dialogue—a concept that will be elaborated on later in this paper—so as to enable them to address increasingly complex and critical social and environmental challenges (5). Among the defining features of such organizations is an orientation toward structures in which “purpose . . . [is] the guiding principle” (50). Such organizational systems operate on the basis of “peer relationships” and are assisted to advance through joint reflection by asking “the . . . questions that help teams to find their own solutions” (69) while “trust[ing] in the collective intelligence of the system” (85).

Frederic Laloux in his book,

² This purpose, I would argue, can be extended to the organizations and agencies created by humanity.

Reinventing Organizations: A Guide to Creating Organizations Inspired by the Next Stage of Human Consciousness, remarks on this “shift from [a] deficit to [a] strength-based paradigm” (46) through a process of devolved “collective . . . self-reflection” (154), and finds that “among the great number of innovative . . . practices . . . joint reflection” is credited with contributing to significant advances in organizational culture and functioning (154). This reflective process proceeds on the basis of identifying relevant topics within an organization that are “conducive to self reflection” (155). Often, in such settings, “collective insights emerge, as well as decisions and initiatives [to be] carried out” (155), assisting “the whole organization [to] grow [w] its way through one topic after another” (156). At the same time, reflective spaces permit organizations to regularly acknowledge and affirm practices that are working well in order that they may be strengthened (160).

At the planetary level, recent work in Global Experimentalist Governance has focused on articulating the dynamics of “institutionalized processes of participatory and multilevel collective problem solving, in which the problems (and means of addressing them) are framed in an open-ended way, and subjected to periodic revision by various forms of peer review in the light of locally generated knowledge” (de Burca, Keohane, Sabel 2). A key step in the deliberative process is “initial reflection and discussion among stakeholders with a broadly shared

perception of a common problem, resulting in second, the articulation of a framework understanding with open-ended goals" (2).

The significance of devolved reflective process in organizational and governance advancement can be linked to a rich body of scholarship highlighting the role of social capital in supporting cooperative, cohesive, and creative social behavior; enhancing productivity (Putnam 1); and "facilitating collective action for mutual benefit" (Woolcock 27), including improved social welfare, reduced corruption (Putnam 1), and even survival in times of crisis.³ Social capital, understood as a set of norms, values, attitudes, beliefs, and relationships (Valentinov 4), is largely formed through the creation of spaces with in a community that foster changes in thinking, attitudes, and behavior,

3 See David Brooks, in his *New York Times* article "The Neighborhood is the Unit of Change" (18 October 2018), citing a sociological study by Eric Klinenberg showing "how important neighborhood is in determining who survives in a crisis." The study compared deaths in two Chicago neighborhoods during a heat wave in 1995, finding that "more than six times as many people died in North Lawndale as in South Lawndale, even though the two places [were] demographically comparable." This was in large part due to South Lawndale having more "social connection," or what Klinenberg calls "social infrastructure," including "physical places like libraries where people can gather" and thereby "nurture relationships among people who check in on one another when crises hit."

and the formation of trust (Putnam 1) built through collective exchange, learning, and action (UNDP; see also World Bank Group, *Understanding*). It is strengthened by consultative processes through which stakeholders continually elaborate a common understanding of collective objectives (World Bank Group, *Understanding*), "articulate their interests [and] mediate their differences . . . in order to promote development for the collective whole" (UNDP).⁴ Inclusivity is an important component of social capital and has been enriched by recent scholarship showing that cluster rather than individualized group membership selection can significantly enhance group diversity in multiple contexts (Brooks and Purdie-Vaughns).

Drawing on insights from "devolved reflection" processes, this paper examines the experience of neighborhood reflection meetings in the Bahá'í community beginning in the 1990s, investigating how such reflective approaches contribute to planning processes that account for capacity developed at the local level. It then explores how the aspiration toward devolved reflective practices is increasingly echoed in three arenas: emerging legal principles and norms of international law, analytic and normative frameworks for new governance policy, and applied reflective research methodologies. It concludes by examining how the benefits of reflection may be effectively realized when carried out in the context of a systematic learning

4 See www.socialcapitalresearch.com.

process consisting of study, consultation, action, and reflection on action.

NEIGHBORHOOD REFLECTION FOR COMMUNITY ADVANCEMENT

The process of neighborhood-based reflection for community development has received growing attention in recent years. David Brooks, in a recent article for the *New York Times*, asks whether “it could be that the neighborhood, not the individual, is the essential unit of social change. If you’re trying to improve lives, maybe you have to think about changing many elements of a single neighborhood, in a systematic way.”

Embracing the view that the individual, community, and institutions all have a vital role in contributing to community development, since the mid-1990s, more than 5,000 spaces for community-based reflection hosted by Bahá’í communities have been opened in diverse neighborhoods worldwide (Universal House of Justice, Ridván 2016). In the Bahá’í Faith, the concept of a cluster comes from the notion of community as “a comprehensive unit of civilization composed of individuals, families and institutions that are originators and encouragers of systems, agencies and organizations working together with a common purpose for the welfare of people both within and beyond its own borders” (Universal House of Justice, Ridván 1996). Such communities are composed of “diverse, interacting participants that are achieving unity in an

unremitting quest for spiritual and social progress” (Universal House of Justice, Ridván 1996). Institutions that support such efforts serve as a “medium for the interchange of thought and the coordination of activities” (letter written on behalf of Shoghi Effendi, 11 May 1926). In his book, *Creating a New Mind*, Paul Lample describes such communities as being akin to a living organism, noting that “this understanding offers valuable insight into how [a] community can progress and how its constituent individuals and institutions can foster its development” (94). The characteristic of such organisms include growth, differentiation of activity, and coordination of functions (94-95).

Clusters hold reflection meetings approximately every three months, providing community members a space “to assemble from time to time in order to reach consensus on the current status of their situation, in light of experience and guidance from the institutions, and to determine their immediate steps forward” (Ruhi Institute 55). The stage of “reflection is to not only celebrate . . . accomplishments, but to analyze . . . challenges and learn from both to inform . . . plans for the next cycle” (Universal House of Justice, letter dated 27 December 2005). These gatherings are “increasingly seen as occasions where the community’s efforts, in their entirety, are the subject of earnest and uplifting deliberation” (Universal House of Justice, Ridván 2013). Moreover, “careful analysis of experience, through

participatory discussions rather than overly complex and elaborate presentations, serves to maintain unity of vision, sharpen clarity of thought and heighten enthusiasm . . . Plans are made that take into account increased capacity” (Universal House of Justice, letter dated 27 December 2005). As described by Dr. Farzam Arbab, “the sharing of experience is extremely valuable. Reflection on the dynamics of the efforts of others yields insights into the causes of crisis and victory in one’s own endeavors” (14).

Often, cluster reflection gatherings are complemented by meetings for increasingly smaller geographic areas that “generate a stronger feeling of responsibility among those attending” (Universal House of Justice, letter dated 29 December 2015). In particular, “the designation of multiple units within a cluster allows for the creation of new patterns of coordination to serve friends in smaller areas” (ITC 7). Indeed, “when each member of the community seeks to address the well-being of the others, the powers of the community are multiplied . . . in a way that attending to one’s own problems can never achieve” (Lample 112). The focus “is not on delivering charity, which so often debilitates the recipient, but on cultivating the capacity in individuals and their institutions to participate in their own development” (107). Such arrangements, striving to avoid the tendency of groups to close in on themselves, engage an “ever increasing number . . . in thinking about the challenges” facing

a community (Ruhi Institute 53), involving young and old (61), especially women and girls (ITC 8). This inclusivity is motivated by the principle of unity in diversity and the anticipation that “this is the day of union, the day of the ingathering” (‘Abdu’l-Bahá, *Selections* 260).

In these neighborhood reflection spaces, consultation involves a number of important interconnected elements, including building unity of thought and embracing diversity, truth seeking, and mutual support. Consultation plays a vital role in “harmonizing points of view, strengthening the bonds of trust and love among the members of a community, fostering systematic action, preserving focus, and attaining maturity of understanding” (Ruhi Institute 1). In this context, “mutual support, commitment to learning, and appreciation of diversity of action are the prevailing norms” (Universal House of Justice, letter dated 9 January 2001). The underlying culture “promotes a way of thinking, studying and acting, in which all consider themselves as treading a common path of service—supporting one another and advancing together, respectful of the knowledge that each one possesses at any given moment” (Universal House of Justice, Ridván 2010). In this learning mode, “unity of thought, based on a common understanding achieved in a posture of humility, generates collective energy [and] invites participation” (Ruhi Institute 40). The value of questions posed and experiences shared is realized to the extent that

they are expressed without “assuming an air of authority” and with attention to “the approaches that were adopted at various stages” (49). The objective is to “analyze but not reduce . . . This is no small task [since] society speaks more and more in slogans” (Universal House of Justice, letter dated 28 December 2010). In building unity of thought, “clearly . . . the views of a few cannot be imposed on the whole, nor is every idea equal and every individual free to pursue a separate agenda. Without unity of thought and action, no forward progress is possible” (Lample 100).

The concept of devolved reflection examined in the next section similarly assumes the value of localized reflection at the most proximate level of community, with the aim of gleaning insights from experience that can be applied to advancing systems of governance through drawing on diverse perspectives.

DEVOLVED REFLECTION AS AN
EMERGING SOFT LAW PRINCIPLE
INFORMING THE DEVELOPMENT OF
CUSTOMARY INTERNATIONAL LAW

Paralleling the growing use of devolved reflection—understood as collective reflection at the level closest to a given issue in organizational governance—such principles have increasingly contributed to the development of customary norms of international law, both in the realms of humanitarian assistance and of local resource use planning.

In the sphere of humanitarian assistance, states are increasingly being required to facilitate the establishment of mechanisms for participation and reflective planning. For instance, the Good Humanitarian Donorship consortium of states emphasizes the need to involve communities in “the design, implementation, monitoring and evaluation” of relief activities (Principle 7). In addition, Article 2(c) (ii) of the 2012 Food Assistance Convention stipulates that one of the governing principles in the provision of food assistance is the involvement of communities “in the assessment of their needs and in the design, implementation, monitoring and evaluation” of the relief activities.⁵

A range of qualitative guidelines and standards are emerging from treaties, resolutions of states, and self-regulatory instruments including the Sphere Charter, which outlines a set of minimum standards in the area of humanitarian assistance. These standards include access to appropriate and safe venues for meetings, balanced representation, understandable language, transparent and effective feedback mechanisms, use of local resources and skills, and engagement with progressive local religious, cultural, and traditional norms (Sphere Project 55). Because resource use

⁵ See also UNOCHA, “Civil-Military Guidelines and Reference for Complex Emergencies” (2008), and ECB, “Impact Measurement and Accountability in Emergencies: The Good Enough Guide” (2007), 34–35.

questions are “inherently infused with value judgments” (Rossi 173, 198) regarding where, how, and with whom such resources should be deployed, the reduction of such questions to a single metric, such as GDP, implies “significant loss to those values” (Foster 459). Guidelines such as the above are emerging to ensure uniform and objective qualitative standards of participation in various stages of relief.

DEVOLVED REFLECTION AS AN EMERGING FRAMEWORK FOR NEW GOVERNANCE POLICY AND EVALUATION

Elements of devolved reflection may be traced within the emerging field of new governance scholarship, which examines the dynamics of social coordination based on the logic of co-steering and networks.⁶ Among the normative values identified with new governance are ownership, responsibility, and follow-through by stakeholders, given that solutions are derived from community input (Sabel and Zeitlin; van der Heijden). Deliberation and reflection on the part of diverse participants may yield wiser results (Noveck 85), and collaboration, in many cases, may give rise to higher levels of transparency and accountability (van der Heijden 10).

New governance scholarship has provided a framework for both policy-making and evaluation of policy

6 For further discussion, see my earlier article, “Towards Peer Presence in Post-Disaster Governance: An Empirical Study.” Also see Lee.

outcomes. This framework entails the following: expanded participation of and partnership between governments and non-state actors in solving public problems (Lobel; Solomon); a learning-focused orientation (Solomon; Cohen 503); the use of public-private partnership in regulatory reform (Solomon; Cohen 503); the state as a convener, catalyst and coordinator (Dorf and Sabel 267; Solomon; Cohen 503); and the development of problem-solving capabilities (Cohen 503). In addition, recent scholarship has examined the challenges facing new governance, such as ensuring participants have the necessary skills for participation (Cohen) and developing procedural safeguards to ensure full participation (Salamon 1611), especially under conditions of social conflict (Alexander, “Stakeholder Participation” 118) and resource inequality (133). New governance regards opportunities for stakeholder participation and reflection as central to decision-making processes (Alexander). Stakeholders, including organizations (institutions, public agencies, private firms, and NGOs), interact, share responsibility, and together generate policy (Alexander) through town hall forums and shared resource management structures. This collaborative effort between public and private institutions and organizations thus enables states and localities to facilitate participatory processes and once solutions are found, depending on the level and origin of the issue, to monitor implementation (Orly 342).

When effectively facilitated, devolved governance efforts, through town planning meetings and shared resource management structures, enable broad-based contributions to decision-making.⁷ However, when implemented without regard to issues of universal representation and geographic and linguistic access to decision-making forums, the process may

7 In Philippe Nonet and Philip Selznick's *Law and Society in Transition: Toward Responsive Law*, "Responsive Law" is described in relation to both "Repressive Law" (law as servant of repressive power) and "Autonomous Law" (law as differentiated institution capable of taming repression and protecting its own integrity) (14, 63). Repressive Law generally takes little note of affected interests. A "common source of repression is the poverty of resources available to governing elites" (33) in circumstances where "urgent tasks must be met under conditions of adequate power but scarce resources" (36). Autonomous Law can be characterized by the rule of law born when legal institutions acquire enough independent authority to impose standards of restraint on the exercise of governmental power (53). Specialized legal institutions claim qualified supremacy within defined spheres of competence (53). Autonomous law reflects a transition from blanket certification of the source of power to a sustained justification of its use. "Legal institutions purchase procedural autonomy at the price of substantive subordination" (58). The downside is that the application of rules ceases to be informed by a regard for purposes, needs, and consequences.

replicate and possibly exacerbate existing representation problems (Foster 485), simply offering a means of providing input on existing plans rather than originating plans at the community level. New governance faces challenges similar to those in responsive law—which sees law as a "facilitator of response to social needs and aspirations" (Nonet and Selznick 14)⁸—such as subjectivity in rule-making and the danger of getting the moral question wrong by caving into power politics (as advanced through special interests, for example). Likewise, new governance approaches face the potential danger of rendering community resource problems "less visible or subject to scrutiny, because the farther the process is removed from a centralized decision-maker, the less accountability there will be" (Foster 485). Research has suggested that in order to benefit from devolution and decentralization (Alexander, "Reflections" 737–38),

8 Among the challenges noted by Nonet and Selznick include the fact that "responsive law is a precarious ideal whose achievement and desirability are historically contingent and depend especially on the urgencies to be met and the resources that can be tapped" (116). Specifically, there is the danger of subjectivity in rule making and "getting the moral question wrong." The achievement of responsive ideals depends a great deal on the development of "cognitive competence" (xx) (within the judiciary) to consider social conditions, gather relevant information from outside sources in order to search for a solution, rather than arbitrarily lay down a rule.

the necessary conditions for new governance's success should include: (1) the broadest possible degree of stakeholder participation compatible with effective decision making, (2) effective and informed monitoring (Alexander, "Reflections" 740–41; Ali, "Measuring Success" 104), (3) ensuring participants have the necessary skills for participation (Alexander, "Reflections" 740–41), (4) the development of managerial and procedural safeguards (Salamon 1611), and (5) ensuring stakeholder participation under conditions of social conflict and distributional inequalities (Alexander, "Reflections" 740–41). In order to overcome potential barriers to full representation, it is necessary to examine ways in which reflective decision-making processes might be strengthened to address potential disparities, the focus of the final section of this paper (Ali, "Measuring Success" 99–100).

DEVOLVED REFLECTION AS A RESEARCH METHODOLOGY AND APPROACH TO POLICY REFINEMENT

In an effort to apply reflective processes to research design with the aim of generating insights that might contribute to dispute resolution organizations, a series of approaches to reflective engagement will be examined. These research approaches, drawing on participatory reflection, aim at contributing to a growing body of work supporting the advancement of comparative dispute resolution systems in a transnational context. Insights from

these studies will be explored, including lessons learned as to how local engagement both responds to and shapes global norms in an effort to enhance access to justice. The reflections will draw on insights from four projects highlighting the role of engaged participation and shared knowledge generation in facilitating conditions conducive to advancement within governance systems—whether in the form of community engagement with global consumer financial institutions, cross border-arbitration, or post-disaster governance initiatives. The work traces the role of capacity building, cohesion, and collective contribution to knowledge generation.

In examining the dynamics by which dispute resolution organizations—including consumer financial dispute resolution mechanisms, court-annexed mediation, and cross-border arbitration systems—change and develop, it appears that rather than fundamental or top-down shifts in structure, they often proceed through "iterative revolutions" in both thinking and organization. The idea of iterative revolutions, building on the concept of scientific paradigmatic shifts described by Thomas Kuhn, implies that, over time, organizations develop through experiencing new challenges, asking new questions, and addressing these questions through a collective body of shared knowledge and practice. This is similar to his notion that the evolution of scientific theory does not emerge from the mere accumulation of facts, but rather

from a set of changing intellectual circumstances and possibilities. A core element of this process requires exploring alternatives to “long-held, obvious-seeming assumptions” through asking questions and reflecting on experience (Kuhn 139, 159). In contrast to the traditional scientific model in which a lone scientist engages in paradigm-challenging experiments, this process implies the collective work of groups, organizations, and communities engaged in a joint exploration of knowledge.

ENGAGING IN REFLECTIVE PROCESS
AS SCHOLARS, USERS, AND
PRACTITIONERS: RESEARCH APPROACH

Drawing on experiences over the past fifteen years in conducting research into alternative dispute resolution institutions, this section reflects on efforts to establish reflective spaces amongst practitioners and users of such systems. This effort reflects a growing interest in the use of reflection to advance the performance of existing Alternative Dispute Resolution (ADR) organizations. For example, emerging opportunities for feedback and self-reflection amongst mediation administrators, aiming to improve overall quality and procedural fairness in mediation, have been examined (Welsh). In addition to policy reflection within court settings, reflective research approaches have been used to advance understanding of how comparative systems of ADR function and advance in diverse contexts.

The following will highlight three approaches to employing a process of devolved reflective engagement: (1) diversifying research participation and collaboration on interview design, (2) exploring relevant principles to guide analysis, and (3) developing greater understanding of the impact of community cohesion on efforts to govern under conditions of crisis. What unites each of these efforts is a concern with the development of comparative reflective spaces to address what has been working well, identify and address challenges, and articulate suggestions for improvement in the context of diverse cultural and social environments. The core impetus for this approach is the notion that “the realization of justice is dependent upon universal participation and action among all members and agencies of society” (ISGP 10). The aim is to create spaces where a growing number of individuals and practitioners can share insights that contribute to the ongoing improvement, refinement and progress of dispute resolution institutions.

Within this reflective approach, interdisciplinary inquiry is employed, which appreciates the role of “values and ideals in the world [as being] central to social understanding” (Krygier xi) and recognizes “the contributions that social inquiry can make to human well-being” (Selznick, *Humanist Science* 17). This form of inquiry is often referred to as a “values-based” approach. The interdisciplinary nature of this approach envisions that

“what we draw upon intellectually match the character and complexity of what we are trying to understand” (Krygier xiii), and it begins with an “identification of the values at stake in particular social processes, practices and institutions; clarification of the nature of these values’ understanding of what endangers them; and exploration of the conditions in which they might thrive” (Krygier xi). By examining what has been working in advanced organizations, it is possible to synthesize “more than a collection of case studies,” finding “patterns and commonalities that point to a coherent new model” (Laloux 4).

In general, this research approach builds upon a mixed methodology that involves a combination of survey work and comparative case studies. Each of the four following sections will examine: (1) the key approaches to reflective engagement employed in the studies, (2) relevant insights, and (3) limitations.

I. DIVERSIFYING RESEARCH PARTICIPATION AND COLLABORATING ON INTERVIEW DESIGN

One study, *Resolving Disputes in the Asia-Pacific Region: International Arbitration and Mediation in East Asia and the West*, sought to examine how diverse cultures approach the resolution of conflict in the context of the integration of global markets.⁹ Building

9 For a full discussion of this study, see my 2010 book, *Resolving Disputes in the Asia-Pacific: International Mediation and*

on the observation that “for none is self-sufficiency any longer possible, inasmuch as political ties unite all peoples and nations, and the bonds of trade and industry . . . are being strengthened every day” (‘Abdu’l-Bahá, qtd. in Esslemont 250), the project sought to widen the base of survey participants to reflect the growing diversity of the international arbitration community, particularly in the East Asian region, and to engage diverse practitioners in conversations regarding interview design and interpretation.

First, to extend the existing Western-focused research on international arbitration as practiced in Europe and North America, this project sought to provide empirical understanding of the attitudes and perceptions of over 115 arbitrators, judges, lawyers, and members of the rapidly expanding arbitration community in China, Hong Kong, Korea, Japan, Singapore, and Malaysia, alongside counterparts in North America and Europe. The project covered both international commercial arbitration and mediation, providing an empirical analysis of how both types of dispute resolution are conducted in the East Asian context.

Second, the research project focused on participation by those immediately and substantially affected by the potential outcome of the research. Participants were given a voice in framing and reframing the interview questions, in selecting the means of answering the questions defined by the research, and in determining the Arbitration in East Asia and the West.

criteria by which to decide whether a question had been validly answered by reviewing and co-creating the interview questions at the outset of the project (Diessner 11). Likewise, the research drew on the model of “social science as public philosophy,” as described by Robert Bellah et al., which “accepts the canons of critical disciplined research” but at the same time “does not imagine that such research exists in a vacuum or can be ‘value free’” (302). In this light, the research placed special attention on examining the underlying values that inform contemporary processes of dispute resolution in diverse regions. This approach drew on recent insights in the field of socio-legal studies regarding the growing need for legal study to be underpinned by a stronger grasp of how legal frameworks are understood across traditions and cultures (Twining, *Globalization* and “Have Concepts”), while examining underlying values that guide dispute-resolution processes (Nonet and Selznick).

Insights from Reflection

The results of the 115-person survey and 64 follow-up interviews highlight the importance of two major factors at work in the field of international arbitration: global convergence and informed diversity (Slaughter). The major finding of the research was that, due to the relatively flexible nature of the United Nations Model Law on International Commercial Arbitration, which allows countries to gradually

and selectively adopt particular provisions thereof, a relatively high degree of substantive legal uniformity in arbitration rules (global convergence) can coexist with, and be enriched by, procedural variation in settlement processes and techniques (informed diversity) across regions. For example, while eighty states have adopted the Model Law on International Arbitration, producing general consistency in arbitration law, the provisions allow for variation amongst states in the role of the arbitrator and the extent to which the arbitrator may be involved in settlement efforts (Ali, *Resolving Disputes* 1). Based on the norm of “global deliberative equality” and the basic moral precept that “our species is one, and each of the individuals who compose it is entitled to equal moral consideration” (245), regional diversity enhances the range of possible approaches and techniques to be employed in arbitration and enables a more global examination of best practices that draws on a wide range of experiences. Regional distinctions are reflected in varying arbitrator perceptions regarding the arbitrators’ role in settlement, whether settlement is regarded as a goal in arbitration, and the efforts made in the course of arbitration to settle disputes. For example, the survey found a greater openness to exploring settlement options and a greater degree of support for arbitrator-initiated settlement discussions among practitioners working in East Asia. Such diverse experiences are understood as not static but fluid, as a set

of learned institutional and ideological expressions based on shared norms and beliefs about the world (Karlberg).

Based on sixty-four open-ended interviews, practitioners' insights center on what they can do to improve the practice of international arbitration in a cross-cultural context. Such insights include the need for better cross-cultural training of arbitrators, more multi-disciplinary and multi-cultural panels, more bilingual arbitrators, a wider pool of arbitrators from diverse countries, greater transparency in and strengthening of local arbitration tribunals, and, finally, better training of counsel and arbitrators as to the uses and timing of mediation. In addition, nearly all arbitrators interviewed felt that extensive adversarial practices were not advantageous to the parties or to arbitration in general.

Limitations

While the study sought to extend the existing understanding of international arbitration practice in diverse regions by expanding the survey pool to international arbitrators working in East Asia, a key limitation was its bifurcated presentation of perspectives, grouping practitioners into two distinct regions. Such comparative groupings create a false notion of separateness. An effort was made to address this limitation by focusing on arbitrators' "region of practice" rather than "nationality." Yet, any study that involves cross-jurisdictional comparisons inherently involves

categorizations. In an interconnected global community, the findings could have been more fruitfully presented as regional insights rather than as a distillation of comparative statistics.

II. EXPLORING RELEVANT PRINCIPLES TO GUIDE ANALYSIS OF DISPUTE RESOLUTION INSTITUTIONS

To explore guiding principles in the analysis of consumer financial dispute resolution systems, the project *Consumer Financial Dispute Resolution in a Comparative Context* presented comparative research about the development and design of grievance mechanisms in East Asia, North America, and Europe. Situated in the immediate aftermath of the 2008 Financial Crisis, this project sought to examine how governments and self-regulatory organizations design and administer financial dispute resolution mechanisms in the context of increasingly turbulent financial markets.¹⁰ Drawing on insights from a multi-jurisdictional survey, the project examined the emergence of global principles that influence the design of financial dispute resolution models. Using these principles, the project analyzed the performance and application of ombuds and arbitration systems, attending to the objective of enhancing capacities that enable institutions to "respond creatively to challenges . . . [through]"

¹⁰ For full discussion of this study, see my 2013 book, *Consumer Financial Dispute Resolution in a Comparative Context: Principles, Systems and Practice*.

. . . the ability to . . . uphold standards of fairness and equity” (BIC 12).

First, the project explored the development of global principles that influence to varying degrees the design of consumer financial dispute resolution systems in diverse societies. Emerging standards—gleaned from the Equator Principles, the Basel Accords, Rule of Law principles, and the UN Millenium Development Goals—included the need for accessible grievance mechanisms, financial dispute prevention through transparent risk disclosure and risk mitigation, impartiality, equity, accountability, and fairness.

Second, the project drew on these selected global principles as a lens for analyzing processes and structures that gave rise to the development of accessible, efficient, and equitable financial ombuds and arbitration systems. In order to glean best practices, it examined comparative institutional dispute resolution structures and results in selected financial centers in East Asia, North America, and Europe. By comparing corresponding financial dispute resolution centers in seven jurisdictions, the research aimed to understand how these jurisdictions addressed consumer complaints through unique structures of financial dispute resolution, including ombuds, arbitration, and multi-tier processes that involved a combination of direct negotiation, mediation, and either ombuds or arbitration mechanisms.

Third, drawing on relevant global principles, a survey was conducted

between Fall 2011 and Summer 2012. With a framework of accessibility, transparency, impartiality, equity, accountability, and fairness, the survey assessed how arbitrators and ombuds viewed the benefits and challenges of particular methods of consumer financial dispute resolution, alongside suggestions for improvement. Nearly 100 survey questionnaires were distributed to practitioners throughout the world. A total of forty-eight arbitrators and ombudspersons from East Asia, North America, Europe, the Middle East, and Africa responded. The participants represented experienced practitioners, members of government regulatory ombuds services, and private arbitration commissions. The majority of those surveyed (forty-four percent) had worked for institutions involved in consumer financial dispute resolution for more than four years.

Insights from Reflection

Key questions raised by the study intersect with scholarship in the law and development field, studies in dispute system design, and work examining the impact of globalisation on international legal practice. These questions include: How can systems of consumer financial dispute resolution be designed in diverse contexts to effectively and fairly administer the resolution of financial disputes? How can such centers draw on emerging global principles of accessibility, efficiency, impartiality and fairness? How

might such centers consequently contribute to the health of the broader economic environment? In particular, socio-legal dispute processing literature has long investigated how appropriate regulations and policies may be developed to limit the effect of the power and knowledge gap of “repeat players,” typically well-resourced institutions, such as commercial banks, that engage in repeat litigation against one-time users, such as consumers, in institutional dispute resolution settings. Previous studies in respect to litigation tend to suggest that “haves” (i.e., large businesses and financially well-endowed organizations) tend to fare better in courts than “have-nots” (Galanter). Therefore, if such disputes are to be effectively addressed, attention to procedural safeguards, aimed at addressing structural inequities due to resource disparities in the design and development of such systems, is necessary.

The survey results showed that practitioners of consumer financial dispute resolution viewed ombuds processes as particularly useful in providing an independent and accessible review service for financial customers. The service also helped to identify areas of systematic risk, including repeated predatory behaviour on the part of banking institutions, such as their lack of adequate risk disclosures that could inform regulatory oversight (Survey 1, July 2011–March 2012). Perhaps as a result of such benefits, the use of ombuds processes has been increasing in recent years. At the same

time, practitioners acknowledged areas for continued improvement, including the need for greater public education (Survey 1), as well as regulatory oversight and quality assurance of ombuds processes (Survey 4, July 2011–March 2012).

Limitations

The project’s global, principle-based perspective was helpful in identifying relevant achievements and gaps in existing practice. At the same time, the small sample size of the survey pool (n=48) limits the generalizability of the findings.

III. UNDERSTANDING THE IMPACTS OF COMMUNITY COHESION ON EFFORTS TO GOVERN UNDER CONDITIONS OF CRISIS

Informed by the view that “justice is dependent upon universal participation and action by all members and agencies of society” (ISGP 10), the project *Governing Disasters: Engaging Local Populations in Humanitarian Relief* examined lessons learned in the realm of local engagement in post-disaster response.

The project analyzed six case studies of post-disaster governance experiences in Haiti, Indonesia, Japan, Myanmar, Thailand, and New Orleans, focusing on how organizations at the international, state, and public/private levels are learning to engage with communities following natural disasters. It also analyzed input from sixty-nine humanitarian aid and disaster

response practitioners from eighteen countries and regions to understand the dynamics, challenges, and lessons learned in a decentralized yet coordinated global process of post-disaster humanitarian assistance.¹¹

Insights from Reflection

The project found that the key to efficacious post-disaster recovery is the centrality given to local actors in the direction and design of relief programs. Where local partnership and knowledge generation is cohesive, meaningful, and inclusive, disaster relief efforts are more targeted, cost-effective, efficient, and timely. Specifically, the principal finding of the survey and follow-up questions was a statistically significant correlation between the level of community engagement and perceived effectiveness of response.¹² In particular, where engagement is robust, relief efforts are perceived to be more effective than in situations where engagement is weak. Global- and country-level cluster organization—based on the concept of “experimentalist governance” (i.e., provision of greater discretion to local actors)—consists of a supervisory authority originating at the global level that oversees state, regional, and local

cluster level teams in a decentralized system. This cluster system helped to overcome tensions between over-centralization on the one hand and lack of oversight on the other.

In particular, surveyed relief aid workers noted that local-based partnerships in planning lead to a number of positive outcomes, including more “effective communication”; “better long-term sustainability”; “ownership in work”; “flexibility”; “partnership”; “trust”; “good relationships with the community”; and a more “culturally accepted” approach. Yet, the study found that very few recovery programs achieve high levels of partnership: only seven percent viewed their relief program as “highly effective.” The majority of survey participants viewed their relief program as “generally or somewhat effective” (sixty-one percent). The challenges cited by relief workers included: integrating diverse viewpoints “with various worldviews and needs”; achieving unity of action and movement “in the same direction”; lack of situational awareness; corruption and unfair distribution of resources; top-down policies and donor priorities; and prejudice and stereotypes. In addition, in some cases, the findings demonstrated a misunderstanding of participation. For example, some respondents saw participation as “convincing the local public and government to [get] involved in the programs” and “getting all partners on board with response,” rather than consulting together on the design and objectives of such

11 For a complete discussion of this study, see my 2016 book, *Governing Disasters: Engaging Local Populations in Humanitarian Relief*.

12 For additional discussion, see my article, “Toward Peer Presence in Post-Disaster Governance: An Empirical Study.”

programs. One respondent noted that often a response is designed in a way that is “not necessarily made to meet the real problems of beneficiaries but . . . rather [to] meet the will and objectives of [the] donor regarding bilateral cooperation” (Ali, *Governing Disaster* 260).

Suggestions for advancing systems of post-disaster governance included: “systematic decentralized decision-making for response”; planning based on “real needs of people on the ground using local human and material resources”; “increased meaningful participation”; “integrated but decentralized approach”; “exchanging lessons learned”; and “engaging local partners with their traditional response skills and knowledge.” In particular, socio-legal scholars of disaster studies have found that access to meaningful decision-making forums amongst local community members remains an important concern, given that “factors of inequality contribute to producing higher rates of vulnerability” in disaster contexts and usually reflect “the profound asymmetry that divides those who decide from those who will be affected by such decisions” (Izzo 71).

In particular, the most advanced examples of collaborative response demonstrated that “when an effort is participatory, in the sense that it seeks to involve the people themselves in the generation and application of knowledge, as all forge together a path of progress, dualities such as ‘outsider-insider’ and ‘knowledgeable-ignorant’

quickly disappear” (Universal House of Justice, letter dated 26 November 2012). Building on an existing base of community cohesion, “a consultative climate is encouraged that permits options to be examined dispassionately and appropriate courses of action selected” (BIC, *Prosperity* 5). For example, the response of the community of Daidanaw, Myanmar, to Cyclone Nargis in 2008 demonstrated how long-term patterns of community consultation enabled it to rapidly and effectively respond to the disaster. The Local Spiritual Assembly of Daidanaw hosted everyone in the village to consult about existing needs and resources, organizing volunteers to draw from reserves to provide food and water to community members and surrounding villages, with priority given to the elderly and children. In consultation with the community, a decision was made to “begin a plan to reconstruct the homes damaged and everyone young and old capable of helping took turns to offer their help, cooking, building, [and] carrying things” (Ali, *Governing Disaster* 221). According to an observer, it was the prompt assistance of the Assembly of Daidanaw that alleviated most of the pain and distress, as it hosted everyone and provided them rice soup and water for two days, preventing even more deaths. Later, the community began to assess damage, and succeeded in re-planting crops after obtaining a modest loan for the purchase of seeds and a tractor that was shared among community members.

Similarly, in Indonesia, following the Indian Ocean Tsunami in 2004, a community-driven development (CDD) strategy, which engaged local communities and built on existing networks, was put in place. Following an initial investment of time and resources to build capacity for group decision-making, the first step involved building institutional and social infrastructure, including local councils, in many cases of nine individuals. “The creation of the community councils . . . involve[d] educating the community about moral leadership and having the council elected on the basis of merit and trustworthiness, which usually result[ed] in the local government elites (who have typically exploited community funds in the past) being generally excluded from the councils” (World Bank, qtd. in Ali, *Governing Disaster* 86). The result was that community members came to see themselves more as partners than customers or recipients in a development process. The community councils facilitated transparency and resource efficiency through comparing a number of reconstruction proposals submitted by village members. Rules “require[d] that any village group submitting a proposal must send a delegation of at least two women and one man to the Kecamatan decision meeting where villagers presente[d] and decide[d] on which proposals w[ould] be funded” (Ali, *Governing Disaster* 86).

In comparison with programs using conventional top-down models of reconstruction, projects adopting a CDD

strategy were completed 18 months ahead of schedule, produced more output, and cost 56 percent less. Overall, the CDD projects have rebuilt 140,000 houses, constructed 2,500 miles of road, and supported 200,000 small and medium businesses (Amsberg).¹³ The occupancy rate of housing built by the CDD project was 97 percent, whereas that of similar houses was only about 82 percent. Other benefits included less duplication of efforts, the use of locally procured materials, and transparency—making CDD projects less prone to corruption.¹⁴

Unity of action amongst stakeholders was critical to the process. As noted by George Soraya, “this model would not have worked in Aceh and Jogjakarta if a member of the communities felt dissatisfied or marginalized in the process. Unity in all aspects of the process was paramount in achieving effectiveness and efficiency of the reconstruction”¹⁵

Limitations

Given the random nature of disasters and multiplicity of players, comprehensive analysis of governance efforts is generally difficult (Drabek and McEntire). In addition, the small

13 Online statement by Joachim von Amsberg, Country Director for Indonesia of the World Bank Group.

14 For complete discussion, see my book, *Governing Disasters: Engaging Local Populations in Humanitarian Relief*.

15 See: <http://blogs.worldbank.org/eastasiapacific/comment/reply/3398>.

sample size (N=69) does not permit generalizable findings. Rather, the purpose of the survey and case studies is to offer insights into how institutional capacities for community participation and engagement might be built.

SUMMARY

The above projects sought to apply a framework of reflective engagement by (1) diversifying research participation and collaboration on interview design, (2) exploring relevant principles to guide analysis, and (3) developing greater understanding of the impact of community cohesion on efforts to govern under conditions of crisis.

Efforts to apply devolved reflective practice in dispute resolution research, alongside emerging international customary law pertaining to community participation and developments in new governance scholarship, echo a common concern with community engagement and deliberation. Such efforts are a useful initial step in applying principles of reflection in research and practice settings. However, reflection isolated from a broader framework of collective study, consultation, and action inhibits meaningful advancement. Experience has shown that significant advances in organizational and governance programs result from reflective practice woven into a wider tapestry of study, consultation, and action, which will be discussed in the final section.

DEVOLVED REFLECTION AND SYSTEMATIC LEARNING

It is useful to consider how reflection interacts with a broader systematic learning framework consisting of consultation, action, and study, in contributing to social progress and advancing the reflective process within organizations, governance institutions, and research practices.

As noted above, several challenges have been identified in the context of devolved governance: the potential of replicating and possibly exacerbating existing representation problems by simply soliciting “input” on existing plans rather than originating them at the community level (Foster 485); the subjectivity of rule-making; the danger of getting the moral question wrong through unregulated decision-making processes’ vulnerability to power politics (as advanced through special interests, for example); and rendering community resource problems “less visible or subject to scrutiny, because the farther the process is removed from a centralized decision-maker, the less accountability there will be” (485). Research has suggested that to succeed devolution and decentralization should include (1) the highest possible degree of stakeholder participation compatible with effective decision-making (Alexander, “Reflections” 740–41),¹⁶ (2) ensuring participants have the necessary skills for participation (Alexander, “Reflections”

16 See my article “Measuring Success in Devolved Collaboration.”

740–41), (3) the development of managerial and procedural safeguards (Salomon 1611), and (4) ensuring stakeholder participation in conditions of adversity and wider social conflict (Alexander, “Reflections” 740–41). Work in global experimentalist governance likewise hypothesizes that all five elements of a governance regime—(1) initial reflection and discussion, (2) articulation of a framework, (3) implementation and adaptation at local levels, (4) feedback from local contexts, and (5) re-evaluation and revision of goals where appropriate—must operate together in order to “constitute a form of governance that fosters a normatively desirable form of deliberative and participatory problem solving” (de Burca, Keohane and Sabel 2).

Reflection alone is insufficient to contribute to social progress since this act, when disengaged from action and study, provides no arena in which to test and revise understanding. Rather, reflection forms one component of a broader framework consisting of (1) studying, reading society, and formulating a vision; (2) consultation; and (3) action and reflection on action, which together contribute to the achievement of social justice and organizational advancement (OSD). For the past twenty or so years, the Bahá’í community has been engaged in a process of capacity-building at the local level to strengthen capabilities for consultation and decision-making, drawing on principles including the equality of women and men, unity in diversity, the independent search for truth, and the

interconnection between individual and collective advancement.

A statement on social action prepared by the Office of Social and Economic Development at the Bahá’í World Centre (OSD) notes that the first stage of “reading society and formulating a vision” involves “understanding . . . the nature and state of society, its challenges, the institutions operating in it, the forces influencing it, and the capacities of its peoples” (OSD 11). This does not necessarily “involve formal studies.” Rather, “conditions need to be understood progressively, both from the perspective of a particular endeavour’s purpose and in the context of a vision of humanity’s collective existence” (11).

In contrast to common notions of participation—as providing input rather than originating plans within the community, and as bifurcating “insiders” and “outsiders”—the process of reading society and formulating a vision “from within . . . seeks to involve the people themselves in the generation and application of knowledge . . . [A]ll forge together a path of progress, [and] dualities such as ‘outsider-insider’ and ‘knowledgeable-ignorant’ quickly disappear” (OSD 11). The concept of insiders and outsiders in many instances continues to be used in global resolutions concerning humanitarian sector participation, as they try determine the identity of individuals qualified as locals (Pouliny). Yet, such concepts often create false barriers between individuals who seek to contribute to the betterment

of a given community. Such individuals, regardless of origin, can “be a source of strength, contributing innovative ideas and local knowledge which, when mobilised and used appropriately, can lead to solutions that can make a fundamental contribution to community life” (Tran et al. 152).

To overcome the danger of getting moral questions wrong through caving in to power politics, in reading society, community members jointly formulate a vision. This vision, according to the OSED’s “Statement on Social Action,” “express[es] a general idea of how goals are to be achieved: the nature of the strategies to be devised, the approaches to be taken, the attitudes to be assumed, and . . . some of the methods to be employed” (11). Such a vision, over time, becomes “more and more precise” and “able to accommodate constantly evolving and ever more complex action” (11).

The second stage, involving consultation amongst members of a community, may be applied in “analysing a specific problem, attaining higher degrees of understanding on a given issue, or exploring possible courses of action” (OSED 12). In each case, “consultation may be seen as collective search for truth” (12). It is understood that “participants in a consultative process see reality from different points of view, and as these views are examined and understood, clarity is achieved” (12). From this perspective, “truth is not a compromise between opposing interest groups. Nor does the desire to exercise power over

one another animate participants in the consultative process. What they seek, rather, is the power of unified thought and action” (12). This principle has direct implications for achieving cohesive community participation and overcoming conditions of social conflict.

Describing the interplay between justice, unity, and consultation, Bahá'u'lláh, writing in the mid-1800s, stated that “no man can attain his true station except through his justice. No power can exist except through unity. No welfare and no well-being can be attained except through consultation” (qtd. in BIC, *Prosperity* 8). The Institute for Studies in Global Prosperity (ISGP) further observes that “the realization of justice is dependent upon universal participation and action among all members and agencies of society” (10). Consultation has the potential to bestow “greater awareness and transmutf[e] conjecture into certitude” (Bahá'u'lláh, qtd. in Universal House of Justice, *Promise* 12). It is a “cause of awareness and of awakening and a source of good and well-being” (Bahá'u'lláh, qtd. in *Compilation* 93) and a process that makes manifest the “maturity of the gift of understanding” (93). It has been described by the Universal House of Justice “as the means by which agreement is to be reached and a collective course of action defined” (letter dated 24 January 1993). Promoting reflection and participation, the consultative process aims to be “substantive and creative; it must allow the people themselves

access to knowledge and encourage them to apply it" (ISGP 7). At times, consultation might be exploratory, advisory, or decisional in nature (Karlberg, "Media"). The process is not an "end in itself," but rather a means for "heightening collective consciousness, and fostering unified action" (Razavi, "Bahá'í Participation"). The ISGP has identified capabilities needed for effective participation: to "think systematically in understanding problems and searching for solutions; use methods of decision-making that are non-adversarial and inclusive; [and] contribute to the effective design and management of community projects" (7).

As noted above, consultation is not a process of mobilizing support, pushing an idea, manipulating information to show it in the best light, or adhering to a strict set of procedures. Rather, the outcome of true consultation depends on the spiritual condition of those involved. In particular, members of a consultative group "must take counsel together in such wise that no occasion for ill-feeling or discord may arise. This can be attained when every member expresseth with absolute freedom his own opinion and setteth forth his argument. Should any one oppose, he must on no account feel hurt for not until matters are fully discussed can the right way be revealed. The shining spark of truth cometh forth only after the clash of differing opinions" ('Abdu'l-Bahá, *Selections* 44:1). Further, members of a consultative group must "proceed with the utmost devotion, courtesy, dignity, care and moderation

to express their views. They must in every matter search out the truth and not insist upon their own opinion, for stubbornness and persistence in one's views will lead ultimately to discord and wrangling and the truth will remain hidden" (45:1). Finally, the members who are consulting "should behave in the utmost love, harmony and sincerity towards each other" ('Abdu'l-Bahá, qtd. in *Compilation* 96) and be characterized by "purity of motive, radiance of spirit, [and] detachment from all else" ('Abdu'l-Bahá, *Selections* 43:1). Consultation is described as a "spiritual conference" and "not the mere voicing of personal views" ('Abdu'l-Bahá, *Promulgation* 72). It should "have for its object the attainment of the light of truth upon questions presented and not furnish a battleground for opposition and self-opinion" (72).

The interrelationship between consultation and reflection ensures that decision-making "benefit[s] from a diversity of perspectives through a consultative process which, understood as the collective investigation of reality, promotes detachment from personal views, gives due importance to valid empirical information, [and] does not raise mere opinion to the status of fact or define truth as the compromise between opposing interest groups" (Universal House of Justice, letter dated 2 March 2013, 4). A key concern is learning "how to maintain such a mode of learning in action, how to ensure that growing numbers participate in the generation and application of relevant knowledge and how to devise

structures for the systemization of an expanding worldwide experience and for the equitable distribution of the lessons learned" (4). In particular, "as effort is made to welcome increasing numbers into thoughtful discussion on the direction of their collective development, decision-making processes become more consultative and participatory . . . [and] leaders are enabled to better analyze specific problems, attain deeper understanding of complex issues, and evaluate courses of action with clarity and impartiality" (BIC, "Rising").

The type of consultation described here requires developing a number of interrelated capacities through concerted efforts on the part of individuals and communities. Changing old habits of debate, conflict, and violence and establishing new principles of initiative, detachment, and collaboration requires patience and a long-term commitment (Ruhi, "Overview"). Capacity-building materials developed by the Ruhi Institute oriented toward community betterment, which incorporate the development of knowledge, attitudes, and skills associated with consultative processes, have been described as exerting a "vital" influence on individual and collective transformation (OSED). Such materials are currently being used in local settings; numerous communities, drawing on capabilities of consultation, selflessness, higher motivation, and creativity and "operat[ing] in a mode of learning—characterized by regular and ongoing reflection on efforts undertaken," have

been able to respond in times of crisis by "tak[ing] meaningful and effective steps to respond and recover" (BIC, "Rising").

An example of a cohesive, resilient community response resulting from an ongoing process of learning in action may be found in the activities of the Tanna, Vanuatu, Bahá'í community following Cyclone Pam in 2015. After most of the homes in the affected region were destroyed, participants in the junior youth empowerment program quickly mobilized to clear the fields of debris, dry out all of the textbooks at the school, and visit homes to assess conditions. Community-based consultation, guided by a common vision from study of a Bahá'í International Community statement on long-term development and energized by daily devotions, resulted in efficient, unified home rebuilding efforts, beginning with those of the elderly and concluding with the school and other community spaces. The spirit of cooperation and service inspired fellow community members to arise to assist in the reconstruction process (Sonjel).

At the level of global reflection and discourse, new approaches to socio-economic development by stakeholders increasingly draw on consultative principles to raise questions "about the salient assumptions . . . of the development process and to identify avenues of research and action in relation to those questions" (Weinberg "Contributions" 191). Such a process recognizes that ethical and social values lie at the heart of individual

and collective ordering (Weinberg, “Contributions”; Heller) and views stakeholders not as “beneficiaries” but rather as active “protagonists of development” (Arbab, “Promoting a Discourse” 213). Exemplifying efforts to apply consultative processes in socio-economic development in on-line-offline spaces, an initiative in Taiwan, “vTaiwan,” promotes meaningful deliberation among large numbers of participants on matters of social concern. vTaiwan has been used to facilitate conversations on the regulation of a range of social concerns, including offensive online images, ride-sharing services, and financial technology. Its “focused conversation” method consists of collectively defining objectives, crowd-sourcing the development and ordering of the agenda, reflection in a virtual space through sharing input and feedback, interpretation of findings, and decision-making. Stakeholders contribute to the interpretation of data and potential lines of inquiry by reviewing and discussing them through a website, meetings, and hackathons. As of February 2018, twenty-six cases had been discussed through the platform, with eighty percent resulting in concrete policy action (vTaiwan).

Of direct importance in achieving impactful outcomes through collective reflection is the creation of shared meanings and attitudes about social reality, which paves the way for constructive action. This creation requires a process of transforming “habits of thought,” as described by Weinberg,

since “in many ways our minds are involved in constructing the world we find ourselves in. Our perceptions and the concepts we hold determine the social reality we see and create” (“Identity” 74). Shared understandings of concepts such as social equity, human security, power, the common good, or community evolve through “a dynamic process of learning, dialogue, and praxis in which social challenges and solutions are constantly redefined and reassessed . . . By building a broader framework of analysis that encompasses not only material and technical variables but the normative and spiritual dimensions of various social issues, new insights can emerge that enrich dialogues previously locked into narrow conceptual boundaries” (82–83).

Complementing processes of study, reflection, and consultation is the stage of “action and reflection on action,” which involves both systematic action and constant reflection to “ensure that [an activity] continues to serve the aims of the endeavour” (OSED 12). Evaluation, while useful, is not sufficient to serve the requirements of a structured reflection process “through which questions can emerge and methods and approaches . . . [be] adjusted” (12). Beyond evaluation of distinct indicators—which often focuses on measuring narrow technical results, is influenced by governance structures, and exerts a corresponding influence on such structures in their conceptualization of problems (Davis 73–74)—a more critical point of analysis is the

advancement of social, technical, and ethical capacity-building.

The entire learning process, defying the new governance categories of “either ‘top-down’ or ‘bottom-up’” approaches, is characterized by “reciprocity and interconnectedness” (OSD 6–7). For example, as “a group of people working at the grassroots begins to gain experience in social action, the first lessons learned may consist of little more than occasional stories, anecdotes, and personal accounts” (6). However, “over time, patterns tend to emerge which can be documented and carefully analysed” by local administrative institutions that extend beyond “opinion or the mere collection of various experiences” (6). At the same time, such learning processes, to be effective, are connected “to a global process” with structures “at all levels, from the local to the international, to facilitate learning about development” (6). At the international level, “such learning calls for a degree of conceptualization that takes into account the broader processes of global transformation underway and which serves to adjust the overall direction of development activities accordingly” (6). In order to do this, the OSD serves as “a learning entity dedicated to the systematization of a growing worldwide experience” and as a conduit to “disseminate the knowledge thus generated, strengthening structures for this purpose and lending impetus to the process of learning at all levels” (6).

CONCLUSION

This paper has explored “devolved reflection” as a mode of reflective organizational practice, as an emerging legal principle and norm of international law, as an analytic and normative framework for new governance policy, as an applied reflective research methodology, and as a component of a wider tapestry of consultation, action, and study. In exploring the application of this framework, it examined lessons learned from research into how local engagement both responds to and shapes global norms in an effort to enhance access to justice. It drew on insights from work highlighting the roles that engaged participation and shared knowledge generation play in facilitating conditions conducive to dynamic advancement within governance systems—whether in the form of community engagement with consumer financial institutions, cross-border arbitration, or post-disaster governance initiatives. I hope, thus, to have highlighted the relevance of reflective engagement, as well as its potential to contribute to institutional advancement and collective knowledge generation when carried out within a broader systematic context of study, consultation, and action.

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