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## Feature Service

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## **Building Rule of Law: From Buzzword to Reality**

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As the competition for foreign investment is heating up, the functionality of legal systems increasingly plays a central role in determining countries' ability to attract and retain foreign capital. A functional legal system is not only key in building economic foundations, it is also crucial in safeguarding democratic values. However, in many developing countries legal systems are marred by inconsistencies, and newly written laws frequently fail to properly address the issues they should. This gap between policy design and policy implementation is largely due to weakness in the rule of law – a governing structure dependent on the consistent and systematic applications of legal rules. Although “rule of law” is frequently cited in the development field today, few understand it well at the level of implementation. This article sketches the essential framework of a functioning democratic society based on rule of law and highlights successful private sector-led approaches to building such societies.



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The competition for foreign direct investment is heating up as never before. The prestigious Institute for International Finance indicates that private financial flows into emerging markets are at nearly \$280 billion for 2005. Attention of governments and business communities in these markets is riveted on how best to attract investors and maximize FDI for strong economic growth. A key determinant of whether a country can succeed in this global competition is the quality of its legal regime. From a business perspective, rule of law and democracy have become inseparable and essential to well functioning markets.

That should not be surprising. Functional legal systems are necessary to safeguard property rights and to enforce contracts, just two key foundations for broad-based economic prosperity. Without property rights, assets are trapped in a “hold” cycle that prevents their transfer or investment. Without contract enforcement, deals are limited to known persons or those with close references. With appropriate systems and mechanisms provided through the rule of law, however, options are much broader. And the path to adapting the systems and mechanisms appropriately lies in responsiveness to public need, expressed not only through the ballot box but also through daily interaction and input from an engaged citizenry – through democratic governance.

In newly formed democracies all over the world, citizens are realizing that the transition to democratic governance is an effort much larger than getting out the vote and are becoming increasingly engaged in ensuring that the day-to-day interactions that citizens expect of their governments – from border crossings, licenses, and infrastructure construction to traffic enforcement and other service delivery – are also handled in a manner that reflects the democratic values of transparency, accountability, and responsiveness. These values must permeate the new system through the rules that bind it – through the law.

The Republic of Georgia, for example, became widely synonymous with corruption after the fall of the Soviet Union. Then on July 23, 1999, its Parliament adopted the General Administrative Code “to ensure respect by administrative bodies for human rights and freedoms, public interests, and rule of law.” This Code includes extensive provisions dealing with freedom of information and the transparency of public agency meetings. Granting citizens the power to obtain information on the activities of local officials or on agency spending dramatically changes the political culture by forcing government institutions at all levels to become more accountable and responsive. The Partnership for Social Analysis (PSI) used the transparency and inclusive decision-making provisions of the Code as part of a campaign to hold agencies accountable for implementation and give

civil society groups a role in policymaking. To do so, PSI focused on several key elements: capacity, incentives, and consequences.

First, it demonstrated that government agencies were not applying a number of the Code’s provisions in accordance with the law. This was partly due to lack of financing of administrative bodies, insufficient internal management, and the perception of public officials that under present conditions they will never be held responsible for ignoring the legislation. PSI surveyed businesses and civil society groups to identify concrete experiences and outline specific issues, then prioritized the most blatant and widespread violations of the Code. It worked with interested agencies to educate personnel (building capacity) and to identify appropriate management mechanisms for implementation (providing incentives). It also sent “administrative warnings” (ensuring consequences) to agencies that failed to respond to requests for information, and even filed a legal case against the Ministry of Finance for refusal to respond. PSI won the case, demonstrating that citizen engagement and an informed, independent judiciary can change government practices. To help educate businesses and the public about their rights to receive information from government agencies, PSI published a booklet entitled the “Business Monitoring of Implementation of the General Administrative Code” in May 2002 and built a coalition of some 70 organizations interested in helping to monitor and promote proper implementation of the Code. The ongoing work of the Coalition enhances the capacity of the bureaucracy to respond; at the same time it ensures that there are consequences for not responding, providing independent oversight of the administration of the Code. PSI’s case study not only illustrates the positive impact that sound democratic governance can have for the business community, it demonstrates the key role that non-governmental organizations can play in ensuring that rule of law has reality beyond words on paper.

## Understanding Rule of Law

“Rule of law” and “democratic governance” are key concepts in the development field today, yet how well understood are they at the level of implementation? There are currently many democratic development efforts and programs underway whose missions are to implement or strengthen rule of law. Some truly address issues critical to democratic development and sound governance while others simply reflect a “bandwagon effect” that pays lip service to the latest buzzwords. Because few of the programs offer an encompassing definition of rule of law, it may be useful to ensure a common understanding of what constitutes rule of law and which components and underpinnings are necessary

to claim that it legitimately exists. From this definition, the implications for implementation can be assessed and illustrated.

Rule of law is perhaps best defined as the exercise of authority or control (“rule”) based on custom or practice of a community that is prescribed or formally recognized as binding (“law”) and enforced by a controlling agency (more on this later). More broadly, it is a governing structure dependent on the consistent and systematic application of legal rules. It is a means to regulate human behavior, uphold rights, restrain government, resolve disputes, and tackle social problems.

Rule of law is based on three fundamental democratic principles: supremacy of law, equal protection under the law, and impartial enforcement for infractions of the law. It is distinct from a “state of laws” or “rule by law” in which compliant legislatures or courts are used to legitimate authoritarian power or in which the rulers are considered above the law. These characteristics are what make rule of law such an integral part of a democratic system. Rule of law is the antithesis not just of anarchy, but of rule of man, discretionary power, abuse of power, official corruption, and arbitrary punishment.

Though the above pitfalls exist even within countries that have a well functioning system of rule of law, the law in such systems serves as a means to constrain and correct problems. Indeed, it provides transparent mechanisms for ongoing changes as needed. Countries that successfully implement the rule of law commonly rely on a system of checks and balances whereby different branches of government are responsible for promulgating, approving, and enforcing the law, and each has a measure of control on possible excesses by the others. In the U.S., for example, the legislative branch (Congress) writes the laws, which are signed by the Executive branch (the President) and reviewed by the judicial branch (various levels of courts). The Executive branch, through a host of departments and agencies, is responsible for enforcement, again subject to judicial review. Parliamentary systems, by contrast, intertwine the Executive and Legislative branches, which act in concert to write and pass the laws but may each be able to dismiss the other. Parliamentary systems also maintain separation of power through the checking mechanism of the judiciary.

Independent judiciary is thus crucial to functional rule of law. It provides a mechanism for settling disputes peacefully and impartially and offers a means of resolving disparity in the application of laws through an appeals process that deals with inconsistencies and contradictions, not only in the law itself but also in enforcement – such as when a plaintiff appeals a fine levied solely because he refused to bribe an

inspector. This remains true whether the country is based on civil law or common law. In civil law countries such as France, Ecuador, and Mozambique, all law is legislative. The judge applies the law to the case before him, but does not shape judicial decisions that become binding for future law. Judicial discretion is exercised through interpretation and the crafting of analogies. In common law countries, such as Britain, Uganda, and Singapore, law is considered as based on custom, and judges can essentially “make law” through their rulings and may even overturn legislative enactments. Moreover, unlike civil law systems, common law systems rely upon the concept of case law precedent that governs subsequent decisions.

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*To speak of a well written law that is not implemented is to brag of one's new car that has no engine.*

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Though the judiciary plays a key role in both civil and common law systems, the distinction can affect implementation and complicate transition efforts in civil law countries, as in the case of Ecuador. The National Association of Entrepreneurs in Ecuador (ANDE) surveyed the legal landscape there in 1997 and found that, since the Republic was founded in 1830, some 92,250 legal norms were created, of which 52,774 were in force. The sheer number of overlapping, unclear and contradictory laws created an environment of legal chaos that left the application and enforcement of laws to the discretion of bureaucrats – a breeding ground for corruption. Since Ecuador is a civil law country, courts could not reconcile law or create precedents. To address this issue, ANDE recommended creating a seven-member judicial committee empowered to codify and reconcile Ecuador's laws, bringing about the clarity needed for proper enforcement. The committee was established in Ecuador's new constitution in 1998. Further advocacy resulted in changes to about 20% of the laws on the books to strengthen the legal system and reduce corruption. ANDE's follow-on advocacy campaign aims to reconcile the remainder of the conflicts, highlighting how stronger rule of law creates a more competitive business environment while facing a Herculean task of doing so in Ecuador's civil code legal system.

## **Beyond Words**

In a number of transition countries with newly written laws, locals will say that “there is nothing wrong with the law; it is implementation that is problematic.” Yet the law

cannot be seen as the words on paper, separate from the implementation. Such a perception is often the result of a law not being drafted “based on custom or practice of the community.” The problem is frequently compounded once the law is enacted due to lack of the other major point within the definition: control and enforcement. As we saw in the case of Georgia, this is not true rule of law. To speak of a “well written law” that is not implemented is to brag of one’s new car that has no engine. Enforcement is the engine of rule of law.

So what makes a law well written and enforceable? Clarity, conciseness, compliance, consequences, and capacity are all essential.

**Clarity.** First of all, any legal requirements must be written; no oral conditions or agreements can change the written law. All substantive requirements of a law (or regulation) should be laid out clearly in the body of the law, not in a preamble or separate annexes that are not incorporated. All terms must be clearly defined and answer the following questions: Who is subject to this? What is being regulated? What is expected? When is it expected? What constitutes a violation? What are the consequences for violation? Who is the final determinant of whether violation has occurred? With Ecuador’s plethora of contradictory laws, this initial hurdle was crucial as ANDE sought to improve the rule of law and operating environment for the economy there.

**Conciseness.** There is certainly an art to answering all of the above questions clearly without using reams of paper to cover every possible scenario. Conciseness is a goal, however, precisely because it improves clarity. Detailed explanation opens room for internal contradictions, vagueness, a need for additional terminology, loopholes for examples not explicitly mentioned, and confusion regarding variations within examples. A concise law contains sufficient detail to answer the above questions and provide clarity in implementation, then stops. Legal systems that presume that what it not explicitly allowed remains forbidden have a difficult time with this aspect, as the law must anticipate all possible variations of acceptable acts. They also lack flexibility in responding to new developments and technologies that open doors unanticipated by the law, thus stymieing action until the law catches up with possibility – a condition that can cripple economic growth.

**Compliance.** In the case of the Georgian Administrative Code, the law was in good shape from the standpoint of clarity and conciseness, but there was little compliance at first. For true effectiveness, compliance must be primarily voluntary. Thus ease of compliance and incentives for compliance are important. In many transition countries, laws compel compliance yet do not truly provide opportunity for it. In Russia, for example, until recently it was nearly impossible to operate a business in full compliance with all of the laws

and regulations. The taxes, fees, licenses, etc. were not only difficult and time-consuming to obtain, but the money required would consume more than 100% of the business profit. The Russians have taken initial steps to address this problem by simplifying the requirements for business and making it possible to comply. The Prohibition Era in the United States is another useful lesson in compliance. As a social norm – alcohol consumption – was criminalized, compliance rates were so low that enforcement became impossible, and Prohibition was eventually repealed. When the average businessman or citizen recognizes that it is completely unrealistic to comply with a law, it is not seen

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*Benefits for compliance are an important and under-rated aspect of enforcement*

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as binding, and respect for all law suffers, as it did during the U.S. Prohibition era. Much of the rule of law hinges on respect for the law, such that citizens appreciate the stability that a law provides, recognize its value, and willingly comply. Without the willing compliance of a majority of citizens, the system degenerates into corruption and lawlessness or into a police state of draconian enforcement.

**Consequences.** These must be of both “stick” and “carrot” nature, both of which PSI brought to bear in its quest for Administrative Code implementation. Consequences of compliance should include benefits provided. Consequences of paying taxes, for example, should include provision of basic infrastructure and stability, access to services, and some sort of social safety net. Lack of benefits is a major contributor to the size of the informal sector in many economies, as entrepreneurs and workers see little reason to comply willingly with business and labor laws that impose many responsibilities without offering additional possibilities for business growth. Benefits for compliance are an important and under-rated aspect of enforcement, ensuring that the majority complies willingly with the law and making it possible to have many aspects of compliance self-monitored. Yet focus on consequences is generally on consequences for violation. These must be known beforehand, appropriate in scale, and consistently and fairly applied, as well as involve codified processes that include an appeal process. Enforcement agencies of all types not only make the consequences known beforehand, they generally publicize specific instances of punishment to ensure that potential violators understand the risks they face and appreciate the ability of the enforcing agency to detect violations. It is instructive to note the plethora of enforcement mechanisms within a well-functioning system. Tax offices, environmental agencies, prosecutors’ offices, health and

safety inspectors, drug enforcement agencies, border patrols, and police departments at all levels of the nation, state, or locality are just a few of the many institutions involved in enforcement -- a large effort to maintain rule of law. As PSI shows, NGOs also have a key role to play, acting as watchdogs, public educators, and change leaders.

**Capacity.** Writing the rules, regulations, and laws, though difficult to do well, is just the beginning. Implementation requires the abilities of a broad set of institutions for review, enforcement, and appeal. These institutions include not only the institutions that promulgate the laws, but the monitoring and enforcing agencies as well as the reviewing institution, the courts. This is an important consideration not just once a law is passed, but at the beginning stages of considering draft laws, as it quite often makes the difference between the “good law on paper” and the implemented law. Laws written without consideration for capacity often do not reflect the realities at the operational level and risk becoming divorced from actual practice. This is one reason why assessment of functioning informal arrangements is often a good starting

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point for assessing how laws will work when formalized.

PSI rightly asked if the agencies and courts that would be responsible for making the Administrative Code law work had the understanding, incentives, administrative systems, skills, and personnel needed? Basic capacities in all of these areas are required for effective implementation. This is why many rule-of-law programs focus on training and administration for legislators, police, bureaucrats, and the judiciary. Learning new approaches and tasks that are not currently part of the “custom and practice of the community” may be necessary to master administration of a new law. These new approaches and tasks should not be so complex that they overwhelm the implementers’ ability to adapt or exceed available budgets. A recent positive change to banking laws in Uzbekistan, for example, allows depositors to withdraw their money for uses other than salaries and travel (as withdrawals had been restricted). The implementation problem there was that banks only had withdrawal forms for salaries and travel; there was no “other” form that could be used to complete the transaction – a maddeningly simple fix, but a hurdle for compliance initially because existing systems were not reviewed as part of the change.

Just as incentives, benefits, and consequences play a key role in gaining compliance from those to whom a law applies, they also play a key role in ensuring that implementers apply the law appropriately. Those who will be responsible for instituting and enforcing the law should see the value of their role and should experience clear benefit from doing their job well; they should also experience clear consequences for failure, abuse, or violation. For example, the policeman or inspector who issues fines must value his job for its salary, labor benefits, respect, and esprit de corps rather than for its potential profit through extortion. The position’s value, coupled with the consequence of losing the position, makes the risk of accepting bribes too high to be tempting. PSI recognized this in its study of the Administrative Code implementation and worked not simply to chastise the Ministries who did not comply initially, but to ensure that they gained the tools and management systems without which they could not begin to comply.

### **Political Will for Transition**

Transition to a rule-of-law system requires a shift in values that must permeate the implementing institutions and the public. As mentioned before, the values include respect for the law, supremacy of the law, recognition of rights, equality under the law, government restraint, and fair and impartial enforcement. Assessing functioning norms in the informal sector and adapting them for formal laws is one key way to gain acceptance of change from the grassroots. Such change may still encounter resistance within various levels of government, however. Thus, political will from the top and push for change from the grassroots are both key to making the shift effectively.

This is most difficult in cases where transition is just beginning and those in highest power fear loss of control, wealth, prestige, perhaps even life or liberty. It takes an extraordinary leader to risk position for societal good in a non-violent systemic transition, and the world has seen too few Ashokan kings who find the wisdom to retreat from brutality toward benevolence and good governance. Thus political will from the top generally arises two ways: promises of a gradual approach that is less threatening to accumulated perquisites, or higher immediate risk of systemic implosion. While China wrestles to balance the former approach, Middle Eastern leaders may soon be facing the latter as the populations there grow more discontent and volatility rises. A popular sentiment to “throw the rascals out” is not sufficient to ensure that new leaders are more democratically responsive, however. The battles in many parts of Africa are exemplar of how volatile and damaging the pressures can become when the old system is no longer accepted and paths to a new system are blocked. Even those aiming for a gradual

approach from the top often find that domestic pressures from the grassroots and foreign pressures through diplomacy can lead to implosion. The collapse of the Soviet Union was a case in point, in which internal economic pressures and political maneuvering were magnified by intense calls for change within international circles and throughout the entire Soviet sphere until the gradual approach of glasnost and perestroika gave way to a popular rebellion removing walls, fences, and imposed leaders. The outcome of that upheaval is still being shaped as the components of the former Soviet Union face similar pressures – as seen recently in Ukraine and Georgia and perhaps soon in the Central Asian states. Political will is such a determinant factor in whether a country transitions successfully to rule of law that development experts now design related incentive and assurance mechanisms, such as those instituted by the U.S. Millennium Challenge Corporation as part of its development assistance funding.

## What Can Be Done?

Making such a transition that touches societal values is, of course, easier said than done and does not follow a linear path. It requires sound assessment of the issues and the opportunities for change and a keen understanding of the local situation, institutions, and culture. Organizations working in newly democratized or transition countries have a wealth of practical experience to share, however. Several approaches undertaken at the grassroots level by associations or policy institutes with support from CIPE include:

- *Legal simplification/de-duplication*: ANDE's work in Ecuador, described earlier, is slow and arduous, yet contributes greatly to clearing the confusion of laws and enabling a stronger, supportive environment for economic growth and democratic decision-making processes.
- *Administrative monitoring*: PSI's approach was methodical in its analysis of the causes of noncompliance and used both collegial assistance and assertive insistence to gain compliance – classic “carrot and stick” for enforcement. The result was that the rule of law prevailed to provide democratic governance in the citizens' day-to-day interactions with the Ministries – a key step forward as Georgia's institutions, like its democracy, continue to develop.
- *Congressional outreach and advisories*: Instituto APOYO helped bridge a gap in technical resources for Congress at a crucial time for Peru. The 1990s ended in economic crisis and political turmoil after years of power consolidation by President Alberto Fujimori under the guise of “reform” that benefited cronies and other elites. Many positive economic reforms that had been enacted earlier were reversed as popular support waned for reforms under Fujimori's leadership. When Fujimori

finally resigned, Peruvians became more eager for change, and the Instituto APOYO saw an opportunity to help devise a responsive, coherent, pro-reform economic framework by addressing the Congress' lack of technical and financial resources to identify the real nature of policy dilemmas or the implications of policy options.

APOYO developed a legislative advisory program to foster interactive communication among Congress, experts, and civil society, and help Congress make informed decisions resulting in a responsive, pro-reform framework. It drafted a list of important reform topics, prioritized them by consulting with experts, interviewing legislators, examining the prospective Congressional legislative calendar, and polling legislators on what would be most helpful to them. The top priorities were then each addressed in an informative bulletin containing concrete information supported by in-depth research, consultations, and interviews with specialists and private sector leaders. These analytical bulletins were posted on the Internet and distributed to Congress, staff persons within the Congress, policy experts, the business community, the press, academia, and members of civil society. A special seminar organized around the topic of each bulletin brought together Congressmen, business leaders, and policy experts to provide feedback.

Instituto APOYO's bulletins helped influence the discussion of legislation and achieved its goals of providing the newly elected Congress, members of civil society, and the general public with sound information and analyses of specific economic reform issues. It also facilitated communication between policy experts, business representatives, members of civil society, and Congress so that decision making became more informed and participatory. Yet APOYO also learned valuable lessons about the complexity of earning legislative approval: that the promotion of reform requires highly assertive dissemination and advocacy, and that forming strategic alliances with private-sector groups and other reform-oriented organizations is key to developing successful advocacy programs. Generating demand for reform, in addition to providing technical advice on how to proceed, is crucial for success. This participatory approach is necessary for laws to address local needs and expectations, leading to governance that is democratic through both the enactment process and the daily implementation.

- *Public-private dialogues*: Associations are particularly well placed to bring the private sector together with government representatives, providing an open forum that offers a voice to the business community and provides crucial constituent feedback for officials. The Addis Ababa Chamber of Commerce (AACC) is the

only representative body that speaks with authority on behalf of the largest Ethiopian business community, and its radio show “The Voice of Addis Chamber” (VAC) has been one of its most successful programs. Not only serving as an instrument for the dissemination of information in an information-deprived area, VAC is also a forum for improved consultation between government officials and private sector leaders, enabling both to clarify policy issues and constraints and become more conversant with each other’s positions on issues. This engagement between the public and private sectors resulted in the establishment of the Permanent Public-Private Consultative Council, co-chaired by the Minister of Trade and Industry representing the Government and the President of the Ethiopian Chamber of Commerce (who is also President of the Addis Ababa Chamber of Commerce) for the private sector. Representatives from a variety of associations and government ministries participate on the Council. VAC also provides a regular forum for discussing basic weaknesses in the existing legal and regulatory environment and gives AACCC, the wider business community, and the government an opportunity to propose and discuss concrete solutions to those weaknesses. In this way, VAC stimulates increased demand on the part of the public, the private sector, and government circles for reform of current laws and regulations.

AACCC’s achievements through its VAC radio program have contributed to more sustainable business growth, economic reform, and governmental recognition that the private sector and the general public are extremely important in contributing to policy decisions. Overall, improved means of effective communication have increased the capacity of the business community to play a leadership role in the democratic process.

- *Alternative draft legislation:* The Almaty Associations of Entrepreneurs’ “Reducing Administrative Barriers” program has mobilized the Kazakh private sector to address damage done by the Administrative Code. The complex Code, drafted behind closed doors in 2001, created an unhealthy business environment, with excessive regulation, burdensome licensing requirements, overbearing inspections from a variety of enforcement agencies, complex and arbitrary taxation, a weak financial sector, and poor banking practices. Chief among business concerns is the presumption of “guilty until found innocent” in the Code and fines disproportionate to the violation. In order to combat abuses of power, AAE sought more clearly defined jurisdictions for each state agency and penalties for inspectors found to be misusing their authority for personal gain. AAE compiled statistical data through

### An Implementation Scorecard

- No one above the law
- Checks and balances on power
- Clear authority of the law
- Equal protection
- Enforceability
  - > Clarity
  - > Conciseness
  - > Compliance
    - \* Grounded in local norms
  - > Consequences
    - \* Benefits & Incentives
    - \* Punishments
  - > Capacity
    - \* Understanding
    - \* Resources & Incentives
    - \* Administrative & management systems
    - \* Skills
    - \* Personnel
- Impartial enforcement
- Political Will
  - > Leadership
  - > Grassroots
- Engaged Citizens
  - > Elections
  - > Open Media
  - > Civil Society advoc ates
  - > Watchdogs
  - > Membership Organizations

a nationwide business survey to identify the conditions that hinder entrepreneurship; researched the Code’s inconsistencies and contradictions; organized working groups for legal experts, businessmen, international and local NGOs, government representatives, and parliamentary officials to identify concrete clauses where the Code should be modified; hosted a series of forums for businessmen; drafted 253 specific legislative changes based on the input; conducted a media campaign with multiple press conferences and media participation in policy roundtables to raise awareness of the problems and proposed solutions; and published several information papers distributed throughout the business community and government institutions. With this comprehensive approach, AAE gained consideration from Parliament of its 250+ reforms, which were also publicly supported by President Nursultan Nazarbaev. Not satisfied with

the usual slow pace of enactment, AAE negotiated for accelerated “fast-track” implementation of the two most crucial reforms.

For the first time, the Kazakh business community united behind a common legislative program. AAE’s “bottom-up” process of advocacy was well grounded in the needs of their members (as gauged by a large-scale survey) and offered solutions through a transparent process that brought together grassroots energy and expert advice.

- *Coalition-building:* The lack of trust and communication among key socio-economic groups and the government, aggravated by the persistence of the old rules of the game and weak or poorly enforced new laws and institutions, hindered Romania’s initial transition to democracy and slowed its growth considerably. The Romanian business community faced a hostile commercial environment. Entrepreneurs quickly realized that if something was not done, democracy and its accompanying freedoms would be jeopardized. Independent business associations formed to address the problems, but were limited in impact. Several then formed an alliance, the Strategic Alliance of Business Associations (SABA), in order to speak with one voice and improve their participation in policymaking. SABA believed that communication between governmental and non-governmental organizations ensures quality and competitiveness of the government’s programs and the country’s laws at the same time that it promotes creativity and synergy beneficial to the country’s image and to the quality of the business environment. SABA initiated an open dialogue between the Romanian business community and the president, which resulted in several key improvements in Romania’s business environment. The coalition’s efforts resulted in the creation of a non-partisan, public-private Commission for the Improvement of the Business Environment, which drafted and advocated for a modern, Western-style tax code for Romania. After a slow and frustrating start, confidence between members of the public and private sectors was built. Public hearings to publicize and obtain feedback on the new tax code helped garner support from even the most skeptical. In the end, representatives of the business community and the government agreed on a set of fundamental principles for a modern tax code. The effectiveness and usefulness of this open dialogue for crafting responsive policies was confirmed when, much to the private sector’s surprise, government representatives resumed the dialogue after the 2000 elections and used a similar model to resolve conflicts and overcome challenges related to Romania’s

accession to the European Union.

Dozens of other examples of business associations and think tanks conducting public education and awareness campaigns, leading inclusive advocacy efforts, and becoming watchdogs can be found in the case studies and publications of CIPE’s partner network found on [www.cipe.org](http://www.cipe.org).

## Conclusion

Assessed in this context, rule of law is not simply a matter of writing legislation or of rote enforcement of laws on the book. Without an integrated system of institutions that create order and facilitate daily transactions of all types – from traffic flow to business contracts – true rule of law and true democratic governance are lacking. At the core of the system stand the citizens. Their respect for and faith in the system is necessary for it to be effective. This respect and faith is best earned where rule of law and democratic governance converge most: through full day-to-day involvement of the citizens – not just as voters, but also as constituents, taxpayers, policy advocates, law abiders, applicants, beneficiaries, reporters, watchdogs, whistleblowers, association members, union leaders, consumers, and participants of all types in commerce and society. They provide the ultimate legitimacy to the law and weight on the scales of power.

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