Governance, veterinary legislation and quality

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Summary
This review of governance distinguishes between ends and means and, by highlighting the complexity and differing definitions of the concept, defines its scope and focuses discussion on its characteristics in order to establish an interrelationship between veterinary legislation and governance. Good governance must be backed by legislation, and good legislation must incorporate the principles and instruments of good governance. This article lists some of the main characteristics of governance and then reviews them in parallel with the methodology used to draft veterinary legislation, emphasising the importance of goal-setting and stakeholder participation.
This article describes the criteria developed by the Veterinary Legislation Support Programme (VLSP) of the World Organisation for Animal Health (OIE) for assessing the quality of veterinary legislation. It then makes a comparison between the quality assurance process and the good governance process in order to demonstrate that the introduction and proper use of the tools for developing veterinary legislation offered by the OIE VLSP leads to a virtuous circle linking legislation with good governance. Ultimately, the most important point remains the implementation of legislation. Consequently, the author points out that satisfactory implementation relies not only on legislation that is technically and legally appropriate, acceptable, applicable, sustainable, correctly drafted, well thought through and designed for the long term, but also on the physical and legal capacity of official Veterinary Services to perform their administrative and enforcement duties, and on there being the means available for all those involved to discharge their responsibilities.

Keywords
Governance – Quality assurance – Veterinary legislation – Veterinary Services.

Introduction
If we consider legislation to be a tool of governance, we are forced to adapt legislation to governance, because the tool must be appropriate for the job, and principles must remain consistent between the two. Conversely, if we recognise the rule of law, governance must conform to legislation. Both legislation and governance are constructs based on rules and concepts that are not very different and are, in fact, naturally interdependent.

Law is one of the oldest disciplines and long predates the concept of governance, which for many years remained implicit. Governance could even be considered a new and emerging phenomenon, one that arose from a system that had reached a critical threshold of complexity. (An emerging phenomenon refers to a phenomenon occurring in dynamic systems which become overly complex, whereby the system’s components react with each other to create something new. Although the phenomenon can be observed and characterised, it cannot be predicted solely from knowledge of its components [3].)

We see, therefore, that there is a distinction between the legal norm itself and its development: the norm is developed by government and must comply with the principles of governance; the established norm obeys the legal tradition and can only be interpreted and applied by a judge.
If we theorise about governance and introduce a value judgement by which we qualify governance as ‘good’ or ‘bad’, it is important to discuss issues that have a direct influence not only on the way in which norms are established but also on their use.

**Governance**

**Origin**

Although governance has become a familiar term, it is still hard to provide a universal definition. A brief overview of its origins is useful in understanding its scope and potential aims. Indeed, we should avoid surrendering to a new doctrine and making legislation subservient to it; we should not adhere indiscriminately to rules whose purpose is unknown, overlooked or forgotten.

N. Holec and G. Brunet-Jolivald provide some very interesting insights on the subject (4). In Old French, the word *governance* was used as a synonym for government, to denote the art or manner of governing. It passed into the English language in the 14th Century, before falling into disuse in France, partly because it was associated with the Ancien Régime. When the Thatcher government (1979) challenged the cost-effectiveness of local administrations, the concept of governance was reimported into political science by researchers when they coined the term ‘urban governance’ to distinguish it from the pejorative connotations of ‘local government’. At this point the term was brought back into use in France – where a vowel was added (*gouvernance*).

In fact, it had reappeared in the 1930s (2) in a strictly economic sense, limited to business, where a company’s superiority lay in the efficiency of its organisation. It really took hold in the United States in the 1980s in the form of ‘corporate governance’.

International financial institutions use the term ‘good governance’ to define the criteria for good public administration in countries undergoing structural adjustment programmes. In this case, good governance is an instrument for achieving predefined objectives, rather than good governance being the objective itself.

**Background**

Looking beyond the commonly accepted definition of governance as a ‘manner of governing’, the current concept is based on the assertion that societies are undergoing a crisis of governability. This leads to the assumption that the crisis was a product of the traditional political model, which gives the political authorities sole responsibility for administering public affairs and aims to remedy a growing dysfunction in government action by introducing new principles and new forms of public regulation. These consist mainly of involving actors of every stripe in the management of public affairs – members of civil society, professionals, citizens and trade unionists – through a participation and negotiation process designed to culminate in common goals and projects.

This approach focuses on the multiplicity and diversity of actors involved in public administration and prompts governments and international organisations to look to new partners, such as non-profit organisations, private enterprises and citizens, to help find solutions to the collective problems of society. This tends to shift responsibilities and the line between government and civil society, with public authorities relying increasingly on the private and voluntary sectors and, in some cases, abandoning important prerogatives.

This highlights the interdependence of authorities involved in collective action. Such interaction is made necessary by the fact that no actor, either public or private, has the necessary knowledge or means for tackling the problems alone, but the participation, negotiation and coordination that it entails renews the importance of arbitration and decision-making, and hence the responsibility of the public authorities. Forgetting this would be to run the serious risk of a loss of government authority, or at the very least a profound change in the political model.

**Purpose**

The complexity of the governance concept, its multiple interpretations and the fact, as stated earlier, that it is based on an assumption, is reason enough to inquire for what purpose the concept is used.

It is clear that introducing the concept of governance leads to changes in decision-making mechanisms and the functioning and control of institutions. This gives civil society added influence, with the risk not only of powerful groups gaining even more sway over public affairs, to their own advantage, but also of poorly represented sections of society becoming marginalised.

At the same time, there is a risk of favouring short-term interests to the detriment of a long-term political vision.

There are at least three types of approach:

– that of internationalists who sometimes confuse governance with regimes, and sometimes with the world order

– that of financial institutions which implemented ‘good governance’ (which they understood to mean good financial management of public affairs) as an...
ideological tool at the service of privatisation policies, which Marie-Claude Smouts summed up in 1998 by saying that the governance concept was linked to what the major financial institutions had made it: an ideological tool for a minimal State (8)

– that of public policy analysts who propose a proliferation of regulatory mechanisms, levels and decision-making bodies, and reject any suggestion of central organisation and control.

It is not the aim of this paper to defend any of these approaches – the author simply wishes to underline the fact that, as governance can be conceived in different ways and used for different purposes, the associated legislation can also vary and we need to be very vigilant concerning the long-term effects, given the inertia of institutions and legislation.

These approaches have a significant influence on veterinary legislation and below are two examples that are frequently encountered:

(i) Over-ambitious legislation on privatisation of the veterinary profession is established in countries where this is physically impossible for geographic or demographic reasons. Such norms can break up a public service before the private sector is in a position to take over, or result in it being financed artificially through actions of doubtful technical value.

(ii) The official Veterinary Services are caught up in a general move towards decentralisation, thus fragmenting their chain of command and weakening their responsiveness. The author believes that, while decentralisation is justified in many fields, it is not applicable to enforcement functions such as animal health inspection or supervision; nobody would suggest applying the idea to the army, national police, finance ministry or customs!

Definition or description?

With that caveat, the author believes the governance concept to be entirely relevant and likely to contribute to real progress. We can approach it from the top down, in terms of its mechanisms, or from the bottom up, in terms of its impact. We could also simply describe its characteristics.

In the ‘top-down’ category, the United Nations Commission on Global Governance defines governance as ‘the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative action taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest’.

While there are many other definitions (which underscores the variability of the concept), most include consultation between the public administration and stakeholders in society. The purpose of such consultation is to serve the public interest by mediating between the many conflicting interests to arrive at consensus.

In this context, governance could be interpreted either as a system of norms, or as a process. In the first case, governance means drawing up consensual rules arrived at through consultation. In the second case, there are no norms, only mechanisms for dialogue between stakeholders. Governance is then considered as a process for accommodating multiple stakeholders, each with their own interests.

Provided that all stakeholders are properly represented and have the necessary expertise, the author believes that, by definition, greater citizen involvement in public life, in pursuit of the public interest, furthers democratic progress. The World Organisation for Animal Health fully recognises the importance of this point and has made ‘interaction with stakeholders’ one of the four fundamental components of the OIE Tool for the Evaluation of Performance of Veterinary Services (10).

The choice of characteristics for governance can therefore be used to clarify its purpose, devise the tools and plan its supervision.

Below are the criteria listed by the Public Management Service (PUMA) of the Organisation for Economic Co-operation and Development (OECD) (6):

1) Accountability: government is able and willing to show the extent to which its actions and decisions are consistent with clearly defined and agreed-upon objectives.

2) Transparency: government actions, decisions and decision-making processes are open to an appropriate level of scrutiny by other parts of government, civil society and, in some instances, outside institutions and governments.

3) Efficiency and effectiveness: government strives to produce quality public outputs, including services delivered to citizens, at the best cost, and ensures that outputs meet the original intentions of policymakers.

4) Responsiveness: government has the capacity and flexibility to respond rapidly to societal changes, takes into account the expectations of civil society in identifying the general public interest, and is willing to critically re-examine the role of government.
5) **Forward vision**: government is able to anticipate future problems and issues based on current data and trends and develop policies that take into account future costs and anticipated changes (e.g. demographic, economic, environmental, etc.)

6) **Rule of law**: government enforces laws, regulations and codes transparently and equally.

In the specific case of Veterinary Services there is already a consensus as to what constitutes good governance and this has been codified by the OIE; we can state that good governance is characterised by services that enjoy long-term funding, are accessible to all and are delivered efficiently, without waste or duplication, and are transparent and free from fraud or corruption.

**Rule of law**

The sixth and last PUMA criterion makes legislation a key element of governance. It is legislation that establishes the rules of reference, without which there would be arbitrary control and unfair competition. Compliance with the law is essential and is part of the very definition of the rule of law. However, neither the existence of legislation, nor even its implementation, are enough to ensure good governance. For this we need legislation that meets society's expectations fully, i.e. it must be drafted in line with the above principles... of good governance!

This is important because it introduces the concept of the mutual influence of legislation on governance and of governance on legislation: there is no such thing as good governance without legislation, and bad legislation does not permit good governance.

What we must do now is transpose this approach into legislation in general, and veterinary legislation in particular.

**Quality of veterinary legislation**

The OIE *Terrestrial Animal Health Code* and *Aquatic Animal Health Code* (9, 11) lay down a set of standards that each Member Country must implement, which usually entails the adoption of appropriate legislation. (The term ‘legislation’ is used here in the general sense, without reference to particular fields.) Legislation falls naturally within the sovereignty of states, which draw up laws according to their own procedures, taking into account their particular legal, political, economic and cultural context. To facilitate these efforts and encourage the trend towards the harmonisation of rules in the veterinary field, which help to facilitate and secure trade, the OIE provides Guidelines on Veterinary Legislation (12) and has developed a special support programme. The intention here is not to review the technical content of such legislation, but to examine the principles governing its formulation.

Veterinary legislation is a heterogeneous set of legal norms from many sources that govern the veterinary field: they emanate from all the various authorities concerned – not just the Veterinary Services – and take the form of international conventions, laws, regulations and even jurisprudence.

Work in the veterinary field centres on animals, but its ultimate aim is to protect food safety and human health. This is a responsibility that the State cannot delegate (Fig. 1).

Responsibility for the different elements may fall to one or more bodies depending on each country's organisation and choices. This means that veterinary legislation will be defined in relation not only to the veterinary field but also to a variety of legal norms.

This dual variability explains why there can be no universal veterinary legislation transposable from one country to another, and why it is necessary to develop legislation on a case-by-case basis. It is in this very development process that the above-mentioned principles of good governance should be applied.

Although the principle of the ‘rule of law’ (point 6) clearly implies that veterinary legislation must exist and should be implemented fairly, it also needs to respect other principles. In particular, legislation must meet a clear and agreed objective, provide the expected service and be adapted continuously to changing circumstances.

It is interesting to note the convergence between these characteristics and the normative definition of quality: 'the set of characteristics that give that entity the ability to satisfy expressed and implicit needs' (standard ISO 8402 of the International Standards Organization) or 'the ability of a set of intrinsic characteristics to satisfy requirements' (standard ISO 9000:2000).

Drafting legislation that respects these principles is therefore part of a quality approach. Thus, it suffices to specify the requirements in order to assess the quality of legislation. The OIE Veterinary Legislation Support Programme (VLSP) does this by defining the characteristics of legislation that embody the main quality criteria, providing a benchmark against which to make an assessment. (Some examples of national legislation are provided here; in most cases the name of the country has been omitted).
- Legislation developed in accordance with the traditions and rules of society
  Example: Article 3 of Guinea’s Livestock Production Code (Code de l’élevage) states: ‘This Code takes into account the traditional techniques and ancestral methods of conflict resolution and overcoming natural or structural problems, wherever they prove likely to achieve or support the desired progress or to respect the social equilibrium.’

- Positioning and drafting of texts comply with the legal system in force
  Counter-example: ‘Article 2. Subjects of application
  Where a provision is stipulated in an international treaty to which [country name] is a member differing from the provisions of this Law, that international treaty shall then apply.’

Not only does this reiterate what the country’s Constitution states, but most important of all it recognises that the law may give rise to conflict, whereas it should ensure conformity with the legal environment.

- Constant relevance of the technical solution covered by the text
  Counter-example: Law concerning the establishment of a National Veterinary Association:
  ‘Art. 3: A Regional Council shall be set up in each of the regional districts…
  Art. 4: The Regional Council shall comprise four members …
  Art. 14: A National Council shall be set up …’

However, as this country only has around 10 veterinarians for some 20 rural regions, the provisions cannot be applied, irrespective of the legal quality of the law. The technical solution is therefore inappropriate.

- Conformity of technical and legal solutions with international provisions

- Rigour in legislative drafting and consistency with local and international law
Legislative drafting refers to the techniques used to design normative systems. It covers both legislative methods, as an intellectual process, and legislative technique, which concerns the drafting of rules. It includes formal legislative drafting, relating to the rules governing the drafting and form of legal texts, and material or substantive legislative drafting, covering the methodology and procedures for adopting legislation.

**Fig. 1**
Veterinary domain
This simplified diagram can be transposed to aquatic animals.
Legal texts in some countries contain phrases such as: ‘Prior contrary provisions are repealed’. This type of provision is very common and reflects an inability to establish the rule of law and to update it. What it says effectively is ‘the most recent text is always right’ and that it is impossible to know whether a provision is applicable without being familiar with all previous texts!

- Intelligibility and accessibility
Some legal texts are difficult to follow, for example: Article 1 of European Council Directive 89/465:
‘… Those Member States which, on 1 January 1989, subjected to value added tax the transactions listed in Annex E, points 4 and 5, are authorized to apply the conditions of Article 13A (2) (a), final indent, also to services rendered and goods delivered, as referred to in Article 13A (1) (m) and (n), where such activities are carried out by bodies governed by public law.’

- Acceptability

- Applicability (technical and legal) and enforcement

- Cost for the administration and stakeholders, and long-term sustainability

The above list is doubtless incomplete and the criteria are inter-related or underpin others. For instance, while upgradability and flexibility are not mentioned directly, they are covered by the adjective ‘constant’ applied to the term ‘relevance’.

Most of these criteria can be readily linked to the above-mentioned principles of governance. This shows that the OIE VLSP is in full accordance with the rationale of good governance.

As it relates to different specialities, the overall quality of legislation can be divided into two components: internal quality and external quality (Fig. 2). The two components are clearly not independent because poorly drafted, and hence unintelligible, legislation would lead to implementation problems. The issues of intelligibility and accessibility lie at the interface between the two components.

Internal quality relates essentially to legislative drafting and principally concerns the form of the legislation and its consistency with the entire body of law, as well as the procedures for its adoption and administration.

External quality takes into account all of the effects of the legislation and covers virtually all the principles of good governance.

To ensure quality veterinary legislation, it is therefore necessary to address and analyse all the above points. For the purposes of this paper, the discussion below is limited to the main points only.

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**Fig. 2**
Quality of legislation
Development of quality veterinary legislation

Rationale and objectives

Preparation of a legal provision should always start with a description of the rationale and objectives, which should not simply be a summary written as an afterthought. Although self-evident, this prerequisite, which corresponds to principle 1, ‘Accountability’ (i.e. ‘government is able and willing to show the extent to which its actions and decisions are consistent with clearly defined and agreed-upon objectives’) as well as to principle 5, ‘Forward vision’, is frequently poorly implemented for two main reasons.

The first is confusion between objectives. For instance, in a developing country, setting standards to ensure that slaughterhouses meet the requirements of importing countries is not the same as setting standards to improve the local animal health situation by controlling illegal slaughter. If the two objectives are confused and are contained within a single legal text, it is highly probable that there will be problems of acceptability or feasibility, as well as with implementation. Conversely, if separate texts – or chapters – are proposed for each of the objectives, they may well be acceptable to all parties concerned, namely exporters on the one hand and local producers on the other.

Such confusion is also commonplace in texts governing controls, where the procedure takes precedence over the end result. Accordingly, there are many instances of rules on the composition of administrative dossiers (approvals, licensing, marketing authorisation, etc.) that fail to define the criteria to be respected, opening the door wide to arbitrary decisions.

The second reason is a more or less deliberate concealment of the objective. This is the case when legal provisions, under the pretext of serving the public interest, concede advantages to certain groups. It is common in legislation covering the professions, where monopolies are established with no obvious benefit for society. This is a very complex and insidious issue that may be a constraint on good governance. Powerful lobbies in focus groups, or imbalances in representation, deliberate or otherwise, can lead to such situations, as can lack of transparency.

A clear description of the objectives is therefore the first step towards good legislation, as confirmed by jurist Hans Kelsen, who defined a legal norm as an expression of will.

Type of and need for legislation

An objective can be achieved in various ways. Of the different public policy options available, including incentives for self-regulation such as communication and information, legislation remains the key instrument that is most frequently used. It provides a benchmark and the means for fair implementation. However, except in cases where ‘all that is not permitted is forbidden’, the rule of law always has the effect of restricting the exercise of freedom and is justified only in cases where the public interest is considered to outweigh any constraints imposed on the individuals or social groups concerned. In the context of good governance, this comparison is essential because it all boils down to determining the point of consensus and the optimum legal mechanism for implementing it.

Clearly, it is difficult to measure objectively the public interest on the one hand, and the constraint on the other. Therefore it is not enough merely to explain the principle or to establish consultation mechanisms. Transparency (point 2) and responsiveness (point 4) are also required, which calls for genuine political will. Creating or encouraging such an environment will help to improve the quality of veterinary legislation. This would entail organising representation and ensuring that all stakeholders are represented.

Stakeholder identification and participation

The principles of governance require society to be involved, either directly or implicitly, in the following three stages:

– setting the objective, which should be ‘clearly defined and agreed upon’ (point 1), meaning, of course, that it must be transparent and have been debated, or even requested, by society
– developing the rule, in which civil society must be involved, if only to ensure its acceptability

– implementation, to verify that the service meets the original intentions of the public authorities and civil society (point 3) and remains in step with changing circumstances (point 4).

Any provision drafted in the field of veterinary legislation should conform to this rationale. This requires accurate identification of stakeholders and the use of appropriate consultation frameworks.

Stakeholders should be identified from the public sector, as well as from the arenas of economics and civil society, including the many associations concerned, such as those for the protection of consumers, animals or the environment.
Although stakeholder identification is not particularly complex, it does pose a problem of representativeness. A consultation process that is too broad leads to paralysis, and one that is too narrow to the emergence of dominant groups, including the administration itself.

On this central issue of good governance, the importance of the public authority's accountability is clear, because organising consultations is not a neutral process. Setting the chronology of the debates can turn participation into a simple rubber-stamping exercise, and selecting the interlocutors can bias the conclusions.

It is not a matter of simply seeking the broadest possible participation, but of seeking optimum representativeness while maintaining effectiveness.

The best guarantee is provided by a legal consultation process, some items of which can be included in veterinary legislation itself, such as advisory committees, and by establishing rules governing representation.

If no such rules exist, stakeholder participation is a dangerous instrument because it can be manipulated.

**Legal context and impact**

Point 6 concerning the rule of law is clearly essential and not only a key point of governance, but also, and above all, a pillar of the rule of law and democracy. However, for a law to be respected, it must reflect the needs of society and its components must not deviate from general principles. Veterinary legislation should always be part of the laws in force. Yet there is a widespread tendency to establish new rules without taking into account those that already exist, which are unwittingly swept aside by the dreaded phrase ‘any contrary provision is repealed’!

The legal context then rapidly becomes complicated and confusing, to the detriment of legal certainty.

Respect for the legal framework contributes to the rule of law and constitutes an act of ‘good governance’. For this reason, veterinary legislation should not focus solely on technical considerations but must be part of the local legal system. ‘Unnecessary laws weaken necessary laws’ (7) and the inflation of legal texts is rightly identified as a discrediting factor and costly for those affected.

**Social, technical and financial impact**

The debate on the consequences of a legal or regulatory provision calls for input data for an impact study and, as previously mentioned, properly functioning consultation mechanisms in order to determine which is the most efficient, acceptable, sustainable and durable provision.

Human nature does not readily accept constraints. As the establishment of a rule, even with consent, necessarily has a cost, it will have an impact only where there is a perceived benefit or a control mechanism.

The establishment of a rule therefore calls for resources to be deployed for applying the rule, both by those required to comply with it and by the public authority that must enforce it.

An OECD report (5) states that the costs imposed on businesses in OECD Member Countries by government regulations account for 7.5% of gross domestic product (GDP). The European Commission estimates that GDP would increase by 1.4% in the European Union if Member States were to reduce the administrative burden by a quarter! This sizeable amount should make us aware that one of the responsibilities of those drafting texts is a thoroughgoing examination of the consequences of any legal norm. This is not to challenge the usefulness of norms but merely to demonstrate the importance of evaluating their impact.

The forecasting and distribution of administrative burdens should no longer be dissociated from the development of legislation and regulations. This is clearly an act of good governance. Any text that cannot be financed by society or the public authority because it does not have the necessary resources, weighs on and undermines the credibility of the legal framework, with no hope of achieving the text's objectives.

The impact is not only financial. Administrative control procedures also represent a burden, and delays in processing an application for a permit, for example, can penalise businesses heavily. In some cases, not only are they not justified by safety imperatives, they also give rise to corruption.

An assessment of all these impacts prior to taking a decision is therefore an essential tool of governance. While it is not possible to present an exhaustive list in this article, some key considerations of any impact assessment are the:

- type and amount of work generated for operators and supervisory administrations, including staffing needs and vocational training requirements
- organisation of the administrations in charge of implementing the legal provision, in particular blocking factors, decision-making delays, redundant controls, overlapping jurisdiction and conflicts of interest
- capital and operating costs incurred for both operators and the public authorities
- method for financing the provision: tax, investment to bring operators into compliance (at their own expense), user fees, etc.
short-, medium- and long-term positive and negative effects on employment, trade and competition, and on the various stakeholders.

**Monitoring and assessment mechanism and indicators**

Finally, the criterion of responsiveness (point 4) means that the implementation of legislation must be monitored in order to adapt it as fully and rapidly as possible to changes in the situation and in society.

This calls for relevant indicators and effective monitoring systems. Indicators to monitor achievement of the objectives must therefore be planned at the same time as the legal provisions.

**Implications**

For veterinary legislation to evolve in a context of good governance, these principles must be applied to the development process itself, and this calls for the establishment of appropriate powers and procedures. This has an impact on the organisation of official Veterinary Services, which must be able to incorporate these principles into the design and enforcement of veterinary legislation, as well as into staff training.

This means that the ‘legislation’ function must be identified clearly in the functional organisation chart of the Veterinary Services and, in particular, the necessary technical, legal and economic powers must be assigned to the legislation function. Note that this function is not necessarily ‘located’ in the Veterinary Services, but it must be available to them wherever it is located.

**Quality assurance**

‘Good governance’ makes it possible to draft texts that have every chance of being appropriate because the involvement of competent and representative stakeholders can contribute key elements and ensure that all the quality criteria are taken into account.

The four steps in the PDCA (plan–do–check–adjust) cycle (1) (also known as the Deming cycle) are as follows:

- define the rationale and objectives, then carry out opportunity and impact studies (Plan)
- implement the provisions (Do)
- carry out controls (Check)
- use indicators to monitor and improve the provisions (Adjust) (Fig. 3).

The methodology is therefore exactly the same as for quality assurance. Note that quality assurance, as defined by standard ISO 8402, is a ‘series of pre-established and systematic activities laid out in the quality system framework that are performed when needed to prove that an entity will meet quality expectations’. The quality system therefore encompasses the entire organisation and the processes needed to ensure quality.

If quality systems are seen as a human organisation involved in a cycle of progress, there are remarkable similarities between quality assurance and good governance systems, where legislation is to governance what procedures are to quality assurance: namely, the means for ensuring their implementation, control and sustainability.

Figure 4 illustrates a quality assurance system.

Based on quantifiable objectives defined by the management, skilled operators implement relevant procedures and carry out self-checks. Where appropriate, they can derogate from the occasional inappropriate procedure based on their expertise and initiative.

Product quality controls, customer complaints and audits (not shown in the diagram for reasons of clarity, as they apply to most stages) can also be used to ensure that results meet the objectives and, above all, to detect and resolve anomalies to ensure continuous improvement of the system, notably by revising procedures. Penalties are included only as a reminder, as they cannot be used as a follow-up to self-checks or audits because this would break the improvement cycle. Penalties can be imposed only for wilful misconduct, which rarely occurs in quality assurance systems.

Note that in Figure 4 the human factor is the real critical point in each step. Contrary to popular opinion, the author...
views quality assurance as not simply an accumulation of rules and procedures, but as the harmonious management of human factors. This can be seen in Figure 4 in keywords such as ‘communication’, ‘consensus’, and ‘motivation’, which apply only to human relationships.

Transposing the terminology brings to light the symmetry between legislation and governance (Fig. 5). While the general layout of Figure 5 is similar to that of Figure 4, unlike with quality assurance, the functions of ‘derogation’ (i.e. measures derogating from common law under exceptional circumstances) and ‘self-checks’ are exceptional, while the ‘penalty’ function is more developed and critical. This is principally because of differences in the scale of the system and the commitment model. Self-regulation is possible in a company where the employees have a strong and contractual relationship with their management. It is unrealistic on the scale of an entire society. For this reason, veterinary legislation cannot do without a control mechanism or a robust penal mechanism.

The difference would appear to lie not in the general structure of the system, but in its scale and the specific development of certain functions.

Thus, the core components of quality assurance, legislation and governance are goal-setting, consultation, consensus, rule-making and responsibility, all of which figure explicitly in good governance criteria.

**Implementation of veterinary legislation**

The OIE VLSP was developed to take into account these considerations. The aim was not to propose or amass standard rules, but to facilitate the design and actual implementation of rules that are necessary and meet the chosen objectives.

Taking into account the above-mentioned points helps to ensure the acceptability and applicability of legislation, but not necessarily its implementation. This calls for appropriate assessment, control and penalty mechanisms. In most cases these mechanisms pre-date the new norms. If this is not the case, or if they are incomplete, they should be established simultaneously to ensure that the legislation
Fig. 5
Analogy between quality assurance and good governance

Accountability: government is able and willing to show the extent to which its actions and decisions are consistent with clearly defined and agreed-upon objectives

Transparency: government actions, decisions and decision-making processes are open to an appropriate level of scrutiny by other parts of government, civil society and, in some instances, outside institutions and governments

Responsiveness: government has the capacity and flexibility to respond rapidly to societal changes, takes into account the expectations of civil society and, in identifying the general public interest, and is willing to critically re-examine the role of government

Forward vision: government is able to anticipate future problems and issues based on current data and trends and develop policies that take into account future costs and anticipated changes (e.g. demographic, economic, environmental, etc.)

Efficiency and effectiveness: government strives to produce quality public outputs, including services delivered to citizens, at the best cost, and ensures that outputs meet the original intentions of policymakers

Role of law: government enforces equally transparent laws, regulations and codes

Compliance

Rule of law
is actually implemented and meets the objectives; this is what the OIE VLSP means by designing legislation holistically, i.e. preparing a veterinary technical provision at the same time as all the other substantive and legal provisions needed to implement the provision.

Finally, it is rare for a new norm to be implemented in its entirety within a short timeframe. It needs to be phased in, to avoid instantly plunging the majority of Veterinary Services and veterinary professionals into an unlawful situation. This is highly detrimental to consensus and can give rise to circumvention and, more particularly, corruption. For this reason, the OIE programme also recommends that veterinary legislation should be introduced gradually.

Good veterinary governance therefore means that Veterinary Services must have adequate means of control because, again contrary to a widely held belief, the official Veterinary Services are not responsible for implementing veterinary legislation but for enforcing it among all those concerned. This is a very important point because it marks the difference between the functions of the State and the tasks that can be privatised. So, while vaccination can be carried out by anyone who is given this responsibility, only the public authority can make it compulsory and it alone retains the power of enforcement.

Proper implementation of veterinary legislation therefore requires responsibilities to be clearly defined, with one constant: official Veterinary Services are responsible for establishing the rule, on the one hand, and enforcing it, on the other. Between the two, all types of implementation are possible: public, delegated, private or mixed.

Thus the implementation of veterinary legislation requires Veterinary Services to have the legal and material capacity to perform the necessary controls, which come under both administrative and enforcement functions. This is covered in points 2.7 to 2.11 of the OIE Guidelines on Veterinary Legislation (12).

Conclusion

This theoretical approach shows that, while veterinary legislation is a key instrument of good governance, it is complex and must itself be developed or evolve in accordance with principles similar to those of good governance. These principles are much like those used by quality assurance, and focus heavily on goal-setting and stakeholder consultation.

Nevertheless, it would be futile to expect to achieve faultless regulation of such complex human organisations merely by implementing a few principles and processes. Moreover, this paper has underlined some of the risks. Holding consultations to take into account public interest can quickly become a cover for making concessions to lobby groups. The fact remains that introducing these concepts, and taking into account civil society's needs and expectations when developing veterinary legislation to support good veterinary governance, is undoubtedly a step in the right direction.

Stakeholder consultation mechanisms themselves require civil society to have a sufficient level of education, development and organisation to ensure real representation. Indeed, experience tells us that the stages of progress cannot be chained together in any old order, so those responsible for developing veterinary legislation should also encourage the emergence of representative trade organisations, transparent debate and independent decision-making, all of which feature in the OIE Codes (9, 11).

The introduction of these practices creates an unstoppable cycle of improvement: transparency makes it necessary to adapt the objectives to the wishes of the stakeholders, whatever the original intentions of the initiators, and thus we create a virtuous circle where the tools developed for good governance will improve governance still further.
References


