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# The Role of a National Integrity System in Fighting Corruption

*Petter Langseth, Rick Stapenhurst, and Jeremy Pope*

## Abstract

The issue of corruption has come to center stage. The economic consequences of pervasive corruption, and recent trends toward democratization, have increased the pressure for accountability and transparency from those in public office. This paper does not suggest that there are any easy solutions or models that can be applied in the fight against corruption; nor does it suggest that any country has yet designed an ideal model, or indeed, that such an ideal model exists. What this paper does argue is that while each country or region is unique in its own history and culture, its political systems, and its stage of economic and social development, similarities do exist and that experience and lessons are often transferable. A “national integrity system” is proposed as a comprehensive method of fighting corruption. It comprises eight pillars (public awareness, public anti-corruption strategies, public participation, “watchdog” agencies, the judiciary, the media, the private sector, and international cooperation) which are interdependent. Establishing and strengthening such an integrity system requires identifying opportunities for reinforcing and utilizing each of these pillars in the fight against corruption.

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Corruption is a problem that all countries have to confront. Solutions, however, can only be home-grown. National leaders need to take a stand. Civil society plays a key role as well. Working with our partners, the Bank Group will help any of our member countries to implement national programs that discourage corrupt practices. And we will support international efforts to fight corruption and to establish voluntary standards of behavior for corporations and investors in the industrialized world.

The Bank Group cannot intervene in the political affairs of our member countries. But we can give advice, encouragement, and support to governments that wish to fight corruption—and it is these governments that will, over time, attract the larger volume of investment. Let me emphasize that the Bank Group will not tolerate corruption in the programs that we support; and we are taking steps to ensure that our own activities continue to meet the highest standards of probity.

*—James D. Wolfensohn, President of the World Bank  
1996 Bank-Fund Annual Meetings Speech*



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## Foreword

As part of its Governance program, the Regulatory Reform and Private Enterprise Division of the Economic Development Institute (EDIRP) has worked with Transparency International to facilitate a series of anti-corruption workshops, seminars, and surveys in Uganda, Tanzania, and Jordan. Participants in these workshops have included top public administrators, representatives of international and bilateral donors, journalists, and civil society, all collaborating in the fight against malfeasance. Workshop participants outlined innovative ways to increase transparency and accountability, and reported the progress of more traditional reform activities in civil service, budgeting, and financial management. This paper draws on the experience of these activities, which are reviewed more fully in Transparency International's "National Integrity Sourcebook" and in a companion EDI Working Paper "National Integrity Systems: Country Studies" (forthcoming).

While this paper does not suggest that there are any easy solutions or models that can be ap-

plied in the fight against corruption, it does propose a "national integrity system" as a comprehensive method of fighting corruption.

Petter Langseth is a Senior Public Management Specialist at the World Bank, Rick Stapenhurst is a Public Sector Management Specialist at the World Bank, and Jeremy Pope is Executive Director of Transparency International. The authors would like to acknowledge the contributions of Alex Muganda, Damian Kato, and Augustine Ruzindana to this paper. The Division would also like to acknowledge the comments of Susan Rose-Ackerman, Peter Richardson, Jules Muis, Kenneth Dye, and the assistance of Shahrzhad Sedigh, Kathryn Galt, and James E. Quigley in production. The views expressed herein are entirely those of the authors and do not necessarily reflect the views of the Economic Development Institute or the World Bank.

*Danny Leipziger*  
*Division Chief*  
*Regulatory Reform and Private Enterprise Division*  
*Economic Development Institute*



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## The Role of a National Integrity System in Fighting Corruption<sup>1</sup>

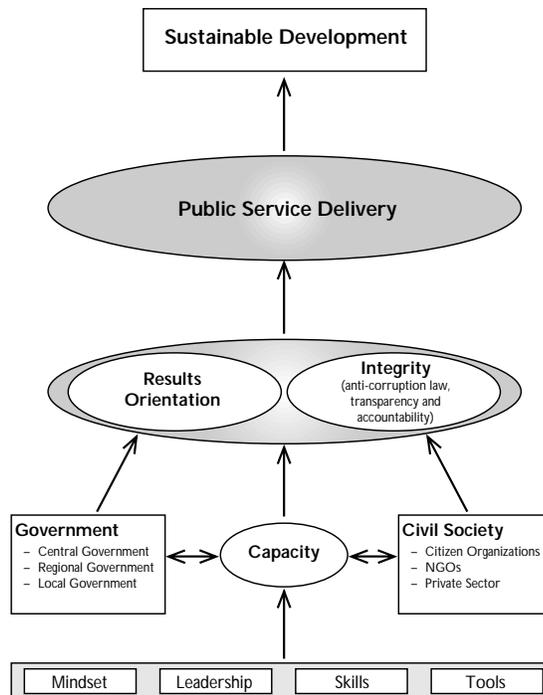
Structural adjustment focused attention on the need for more effective and efficient public service institutions and use of public resources. The post-structural adjustment era has seen this effectiveness and efficiency linked to a number of other issues: (a) to capacity development where state institutions without the requisite capacity and expertise cannot adjust to a market economy; (b) to results-oriented management, emphasizing the importance of monitoring performance and measuring results; and (c) to public participation in the adjustment process, underscoring the need to tap into the valuable resources and creativity of civil society, while at the same time helping to strengthen the political legitimacy of the state.

A significant issue, however, has been ignored until recently: the promotion of national integrity (see Diagram 1). All of these issues—capacity development, results orientation, public participation, and the promotion of national integrity—need to be addressed holistically if the delivery of public services is to be both efficient and effective and is to contribute to sustainable development. It is the thesis of this paper that the promotion of national integrity is an integral part of this process since corruption inhibits the performance of public institutions and the optimal use of resources. As this paper explains, levels of national integrity need to be enhanced, and corruption reduced, if efforts to promote sustainable and equitable development are not to be undermined.

Corruption engenders wrong choices. It encourages competition in bribery, rather than in quality and price of goods and services. It inhibits the development of a healthy marketplace. Above all, it distorts economic and social development and nowhere with greater damage than in developing countries. Too often, corruption means that the world's poorest must pay for the corruption of their own officials and of companies from developed countries, although they are least able to afford its costs. Moreover, available evidence shows that if corruption is not contained, it will grow. Once a pattern of successful bribes is institutionalized, corrupt officials have an incentive to demand larger bribes, engendering a "culture" of illegality that in turn breeds market inefficiency.<sup>2</sup>

The argument is not simply a "moral" or "cultural" one. Forms of grand corruption need to be contained for practical reasons. Faced with the challenge of maintaining or improving standards of living, no country can afford the inefficiency that accompanies corruption. Emerging democracies, in particular, brave considerable political risks if corruption is not contained, as the corrupt can greatly weaken the authority and capacity of the fledgling state. While apologists for corruption may argue that corruption can help grease the wheels of a slow-moving and over-regulated economy, evidence indicates that it increases the costs of goods and services, promotes unproductive investments, and leads to a decline in the quality of infrastructure services.<sup>3</sup>

**Diagram 1: Capacity Building, Results Orientation, and Integrity: The Building Blocks for Improved Public Service Delivery**



Corruption reports unfold in the news media on a daily basis and clearly demonstrate that it is not something that is exclusively, or even primarily, a problem of developing countries. Recent events in Europe and North America have shown all too clearly that corruption is not a topic on which the developed countries have any moral high ground.

Corruption depends on three factors: the overall level of public benefits available, the risk inherent in corrupt deals, and the relative bargaining power of the briber and the person being bribed.<sup>4</sup> As a single transaction, corruption takes place where there is a meeting of opportunity and inclination. The strategies to contain it, therefore, should address both elements. Opportunities can be minimized through systematic

reform, and inclination reduced through effective enforcement and deterrent mechanisms.

Such mechanisms, when designed as part of a national effort to reduce corruption, comprise an integrity system. This system of checks and balances, designed to manage conflicts of interest in the public sector, limits situations in which conflicts of interest arise or have a negative impact on the common good. This involves both prevention and penalty. An integrity system embodies a comprehensive view of reform, addressing corruption in the public sector through government processes (leadership codes, organizational change) and through civil society participation (the democratic process, private sector, media). Thus, reform is initiated and supported not only by politicians and policy makers, but also by members of civil society.

After offering some definitions and examining conceptual issues, this paper analyzes the main costs of corruption and the reasons for its existence and growth. The balance of the paper outlines the principal elements of a national integrity system founded on a holistic approach bringing together various methods and actors. Insights gleaned from joint EDI/Transparency International workshops held in Uganda, Tanzania, and Jordan contribute substantially to this paper; in these workshops participants sought to identify key actors in the promotion of national integrity.<sup>5</sup> The paper concludes by reflecting on ways of managing anti-corruption efforts.

The nature of societies and the challenges they face vary greatly. An integrity system requires country-specific design.

### **1. What is Corruption?**

Corruption is, in its simplest terms, the abuse of entrusted power for personal gain or for the benefit of a group to which one owes allegiance. The word “corruption” is commonly applied to situations of dishonesty in general, but for the purposes of this paper, “corruption” involves behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves or those close to them by the misuse of the public power entrusted to them.<sup>6</sup>

Corruption may be divided into two categories: “petty,” or survival, corruption practiced by civil servants who may be grossly underpaid and depend on small rents from the public to feed their families and pay school fees, and the “grand corruption” of high public officials who make decisions involving large economic rents.

Corruption occurs in all countries, regardless of levels of social and economic development. In general, it is most likely to occur where public and private sectors meet, and especially where public officials have a direct responsibility for the

provision of a public service or the application of specific regulations or levees. This includes, for example, public procurement and contracting, licensing activities, such as the granting of import or export permits, and the rezoning of land and the collection of revenue, whether through taxation or customs duties.

For corruption to take place, the following elements must be present: a public official, discretionary power, a misuse of that public power by the public official, and a benefit (whether in money or in kind) resulting to that official.<sup>7</sup> There are two general cases: the first where services or contracts are provided “according-to-rule”; the second where transactions are “against-the-rule.” In the first situation, an official receives private gain illegally for doing something which he or she is ordinarily required to do by law (a phenomenon often described as “grease” payments as they expedite a procedure that would have been carried out any way). In the second situation, the bribe is paid to obtain services which the official is prohibited from providing (e.g., granting contracts that would not otherwise be awarded).<sup>8</sup> Each situation requires different solutions, investigated below in Section 4.

The significance and impact of corruption varies considerably across the world. In this regard, it is often suggested that corruption is part of the “culture” of many countries (“cultural relativism”). Yet, the fact people in a particular country may tolerate demands for small payments in return for official services (e.g., the issuing of permits, licenses) does not necessarily imply that they approve of it; it may simply be that they “perceive it as the most workable way of obtaining things they want or need... [a] perception that may gradually be undermined by rising prices... or dashed more abruptly if consumers come to believe that the underlying scarcities are artificially contrived or that more desirable alter-

native processes are really possible.”<sup>9</sup>

In some cases, corruption may reflect practices introduced to a culture by external influences.<sup>10</sup> Some Asian countries might be beset by corruption, yet certain historians have noted that this phenomenon originated, nor with the locals, but with the colonizing Dutch East India company. The company’s men “were underpaid and exposed to every temptation that was offered by the combination of a weak native organization, extraordinary opportunities in trade, and an almost complete absence of checks from home or in Java... Officials became rich by stealing from the company.”<sup>11</sup> The same author writes, “Corruption was introduced into [the Philippines] during the Spanish colonial period.” In Singapore after World War II, “the British Army officers in charge of local purchases had probably never before been exposed to the type of temptations... whatever resistance there was in them melted away with mercurial speed.”<sup>12</sup> See also Yoong Siew-Yah (1973).

There are significant differences in perceptions and practices between various cultures. What some accept as reasonable and appropriate will differ widely. These differences, however, may have more to do with how business is conducted (through the giving of presents and of hospitality) than with attempts to “buy” favorable decisions. There is a clear distinction between “reciprocity” and reciprocities classified as bribes.<sup>13</sup>

## **2. The Costs of Corruption**

At the conceptual level, there are many costs associated with corruption. However, it is hardly surprising that there is little hard evidence on the incidence and magnitude of corruption. Surveys of businesspeople indicate that the problem varies widely across countries and that even within countries, some public agencies (for example, customs and tax collection) are more prone to

corruption than others. Surveys also indicate that, where corruption is endemic, it imposes a disproportionately high cost on small businesses.<sup>14</sup> Most important, the heaviest cost is typically not in the bribes themselves but rather in the underlying economic distortions they trigger.<sup>15</sup>

Once a pattern of successful payoffs is institutionalized, corrupt officials have an incentive to raise the size of bribes demanded and to search for alternative ways to extract payments. Officials may refuse to serve clients unless a bribe is paid. They may design a major procurement project at too large a scale and with too much specialized equipment as a way of generating large bribes and keeping them hidden. They may accept payments to reveal secret information on tenders and privatization projects and to favor insiders. All of these examples risk imposing large costs on society.

### *2.1 Market Misallocation and Inefficiency*

There are many costs associated with corruption. It produces market inefficiency because the need to pay bribes is an entry barrier to the market. This point is well summarized by David Gould and Jose Amaro-Reyes, who state that:

Corruption, it is also argued, leads to economic inefficiency and waste, because of its effect on the allocation of funds, on production, and on consumption. Gains obtained through corruption are unlikely to be transferred to the investment sector, for example, as ill-gotten money is either used in conspicuous consumption or is transferred to foreign bank accounts. Such transfers represent a capital leakage to the domestic economy. Furthermore, corruption generates allocative inefficiency... corruption lowers the general welfare of the populace. Finally, the gains from corruption tend to draw labor away from productive, non-cor-

rupt activities. Moreover, since corruption affects recruitment and promotion patterns, the most efficient employees may not be recruited at all and the allocation of positions may be inefficient.

Based on an analysis of benefits and costs, they conclude corruption "...has a deleterious effect on administrative efficiency and political economic development.<sup>16</sup> Corruption introduces other kinds of inefficiencies into public sector contracting. Such costs of corruption can be summarized in three categories:

- a) Waste of resources:
  - if corruption takes the form of a kickback, it serves to diminish the total amount available for public purposes.
  - corruption results in a substantial loss in productive effort: the prospect of payoffs can lead officials to create artificial scarcity and red tape.
  - corruption represents a rise in the price of administration (the taxpayer must pick up the costs of bribery).
- b) Distortion of allocation:
  - corruption causes decisions to be weighed in terms of money, not human need. Public housing, for instance, is designed for the poorest families, not those who can pay the most.
  - a corrupt act represents a failure to achieve public sector objectives (e.g., corruption in appointments induces inefficiency and waste; corruption in the allocation of scarce university places results in best use not being made of a scarce opportunity, etc.).
- c) Failure to lead by example:
  - perceived by the people, corruption in government lowers respect for constituted authority and so the legitimacy of government; moreover, if the elite politicians and senior civil servants are widely believed to

### Box 1: A Cemetery of White Elephants...

"A cemetery of white elephants, still-born projects and drained of funds, Africa is larded with abandoned motorways eaten away by the savannah, factories that went down the drain barely a year after opening, rail lines impassable due to a lack of maintenance, hydroelectric dams that have been abandoned owing to non-profitability." I. Remil Godeau in *Jeune Afrique*, July 1994.

As Dieter Frisch, former Director General of Development of the European Commission, notes, "[t]here are ruins of factories in the name of development all over Africa that either never began operation or never achieved economic utilization of their capacities, or else operated at a loss that forced the state to subsidize them. When one traces the entire network through, it is discovered in a majority of cases that the state structure protects the unprofitable operations. There is more than a presumption of corruption because for what other reason could such anti-developmental decisions have been taken?" From Frisch (1994), "The Effects of Corruption on Development."

be corrupt, the public will see little reason why they, too, should not misbehave.<sup>17</sup>

Recent econometric research suggests there is a negative association between high levels of corruption and economic growth.<sup>18</sup> Case study materials from around the world indicates that illegal payoffs can increase the cost and lower the quality of public works projects sometimes by as much as 30–50 percent.<sup>19</sup>

It is extremely difficult to calculate the economic damage produced by corruption owing to the secrecy surrounding illicit payments systems. Initial studies suggest that corruption-related costs to the world economy have reached significant levels, estimated at several billions of US dollars per year.<sup>20</sup> Other sources, however, sug-

gest that these estimates are very conservative, and speculate that the “commissions” paid by arms dealers alone to be at least US\$2 billion a year.<sup>21</sup> They also report that French revenue authorities do not question commissions of up to 15 percent of the global total of a contract.<sup>22</sup>

Dieter Frisch, former Director-General of Development at the European Commission, has observed that because corruption raises the cost of goods and services, it may contribute to the debt of a country (and carries with it recurring debt-servicing costs). Sub-standard goods are provided and inappropriate or unnecessary technology is acquired as a result of corruption. As a consequence, when a country increases its indebtedness to carry out projects that are not economically viable, the additional debt includes not merely the 10–20 percent extra cost due to corruption; rather the entire investment, all 100 percent, can be attributed to dishonest decisions to proceed with unproductive and unnecessary projects<sup>23</sup> (see Box 1).

In a corrupt environment, resources may be directed towards non-productive areas—the police, the armed forces and other organs of social control—as the elite move to protect themselves, their positions and their material wealth. Resources otherwise available for socio-economic development will be diverted into security expenditure. This in turn can cause the weakening of market institutions as rent-seeking, rather than investment, becomes the major objective of policymakers.

### **3. Why Corruption Flourishes**

The sources of corruption are numerous and complex. Poverty, some say, is at the root of the problem; without poverty there would be no corruption. But even if poverty is an underlying cause, it cannot be the only one. If poverty were the cause of corruption, then it would be hard to explain why industrialized countries are beset by

scandals, very few of which involve anyone who might be categorized as “poor.”

Corrupt leaders unquestionably deepen the poverty of their people. Public expenditure decisions are fueled by private gain and subsidized by bribes with scant regard for the good of the country or its people. Corruption can thus be seen as a cause of poverty, not only a result of it.

In the poorest countries—often those with corrupt elites—there is a manifest failure by government to pay a living wage to public servants. Frequently the state is wholly unable to afford to do so. Thus, as is described in further detail below, inadequate remuneration for public officials is widely regarded as being a contributing cause of corruption at least at the petty level, if not throughout the system.<sup>24</sup>

#### *3.1 Systemic Bureaucratic Corruption*

Systemic corruption occurs where corruption has become an integral part of the system, that is, the system cannot function without it. Systemic corruption is the nemesis of anti-corruption reformers, and a new government may find itself impotent in reforming the very system it must rely on to govern.

This type of ingrained corruption tends to flourish in situations where public sector wages fall below a living wage (see Box 2). Several consequences can ensue. First, civil servants cease to place any value on the job they hold. Individuals may feel forced to augment their income from outside sources (second jobs, absenteeism, moonlighting). Second, if the salary differentials from promotions are low, any salary increase would be unlikely to reflect adequately the work and responsibility that accompany such a promotion. This leads to low motivation for merit-based advancement.

Third, unnecessary or extended foreign travel may be undertaken by government elites. Windfalls coming from foreign travel are seen as

an unofficial (and tax free) way of bringing in come up to an acceptable level. Fourth, “ghosts” will appear on the state payroll. Persons who are deceased or retired will continue to be paid, and fictitious names will appear so that as much as a quarter of those on the public payroll are actually non-existent.<sup>25</sup>

These four categories of behavior can be regarded as petty corruption. No one is getting very rich; rather, it is a strategy for survival. These civil servants are victims, as well as perpetrators, of a systemically corrupt government. The result of their behavior, however, can be cumulative and costly.

Other activities typically classified under “petty corruption” include:

- revenue officials practicing extortion by threatening to levy surcharges on tax payers or importers unless bribes are paid, in which case unjustifiably low tax assessments are made or goods are passed for importation without payment of any duty at all;
- law enforcement officials extorting money for their own benefit by threatening to impose penalties unless bribes are paid (which are frequently less than the penalty the offense would attract if it went to court);
- providers of public services (e.g., drivers’ licenses, market stall permits, passport control) insisting on payments to speed up service or prevent delays; and
- superiors in the public service charging “rents” from their subordinates, requiring them to raise set sums each week or month and to pass these upwards.

More alarming are abuses of bureaucratic discretionary power, usually occurring in rigid systems with multiple sources of monopoly power. A planned economy, where many prices are below market-clearing levels, provides incen-

### **Box 2: Systemic Corruption in Hospitals**

Describing his own experience, Stanislav Andreski notes: “I have known hospitals...where the patients had to pay nurses to bring them a chamber pot; where the doctors (who were receiving a salary from the state and were supposed to treat the sick free of charge) would only look at those patients who had given them money, and saw first those who had paid most, regardless of whose condition was most urgent. Those in charge of the dispensary stole the medicaments and then sold them either to the patients on the premises or to the traders. The doctors did the same, taking the medicaments for use in their own private consulting rooms. Patients unable to pay got injections of colored water. Many who did pay were cheated and got exactly the same.” He adds that the people guilty of such deeds were not “monsters”: often their salaries were delayed or did not come at all, many owed substantial sums to pay for their training or as bribes for their appointments, and even if the medicaments available were dispensed properly, the staff could only attend to a tiny fraction of those in need. Further more, “a person whose probity and sense of duty shows his colleagues in a bad light risks being slandered or pushed out.”

From *The African Predicament: A Study in the Pathology of Modernization* (London Michael Joseph, 1968), p. 96.

tives for payoffs as a way to allocate scarce goods and services. Transactions that would be legal trades in market economies are illegal payoffs in these systems. In addition to selling goods and services to the highest bribe bidders, public servants can have incentives to create even more bottlenecks as a way of extracting higher payoffs.

Officials, for example, might create delays or introduce costly conditions. The fundamental problem is not simply the existence of controlled

prices set below the market-clearing level, but also the monopoly power of state officials who are not threatened with entry by more efficient and lower-priced competitors.<sup>26</sup>

Other activities associated with bureaucratic discretionary power include:

- ministers “selling” their discretionary powers;
- officials taking percentages on government contracts, which are then often paid into foreign bank accounts;<sup>27</sup>
- officials receiving excessive “hospitality” from government contractors and benefits in kind, such as scholarships for the education of children at foreign universities;
- officials contracting government business to themselves, either through front companies and “partners” or even openly to themselves as “consultants”;
- political parties using the prospect of power, or its continuation, to levy large rents on, say, international businesses in return for government contracts (which may be dressed up as a “donation” to a designated “charity”).

Some suggest that systemic bureaucratic corruption was perhaps most widespread throughout the former Soviet bloc, where the state of the economy gave officials an incentive to exploit their positions for private gain and gave their customers and clients an incentive to make pay-offs. Corruption was common because the formal rigidity of the system was not supported by an impartial legal system capable of enforcing rules. Instead, ultimate authority was exercised by senior managers who often had their own reasons for bending or changing the rules. Subordinates could not appeal to “the law” as a reason for resisting the demands of their superiors.<sup>28</sup>

Stories of the United States’ “robber barons” in the 1920s are invoked to argue that “cowboy capitalism” is just a transition stage that must be

endured on the way to a more mature market economy. The danger, however, is that corruption can become so widespread that it can undermine and destroy the transition stage itself. Even if corruption is a by-product of economic growth under some conditions, this does not imply that it facilitates growth or that it does not have other negative political and social consequences.

### *3.2 Private Sector Involvement*

Private sector companies, be they domestic or international, feel the pressure to bribe. These firms provide two main justifications for their actions. First, in certain countries, it is often perceived to be very difficult for anyone to win a major government or parastatal contract without paying a large bribe. This is normally done through a representative who receives a percentage commission when the business is secured. A company then may justify its action not only on the ground of “business necessity” but also that it is merely conforming to local practice.

Second, although any form of bribery may be thought to be legally wrong, off-shore bribery is generally condoned “because everybody does it.” It may even be morally defended on the grounds that the resulting business is saving jobs—regardless of the fact that it may be costing jobs elsewhere. Illegal payments made by companies in order to obtain foreign contracts are tolerated, if not actively encouraged, in many industrialized countries. The reason is that winning export orders creates employment opportunities at home and improves the balance of trade.

It is increasingly apparent that companies engaging in practices of “grand corruption” can unwittingly bring into the organization certain deleterious repercussions of this behavior. For example, a corporation that instructs and trains staff to evade laws and to launder bribes as “commission” may well find those same staff cutting into the benefits for individual gain, thereby

stealing from the corporation .

#### 4. Establishing a National Integrity System

The ultimate goal of establishing a national integrity system is to make corruption a “high risk” and “low return” undertaking. As such, it is designed to prevent corruption from occurring in the first place. And because corruption tends to be a systemic problem, the primary emphasis is on changing systems, rather than blaming individuals.

An overview of some of the past successes and failures in combating corruption reveals the following problems:

- (i) the limits of power at the top: an incoming administration may wish to tackle corruption effectively, but inherits a corrupt bureaucracy that impedes efforts for change;
- (ii) the absence of commitment at the top: without demonstrated commitment there is a lack of moral authority to enforce laws and to punish the corrupt, an absence of confidence among rule-enforcers that enforcement actions against powerful people will be supported by the top leadership, and an absence of public belief that the leadership is serious;<sup>29</sup>
- (iii) overly ambitious promises leading to unrealistic and unachievable expectations and a loss of public confidence;
- (iv) reforms that are “piecemeal” and uncoordinated: no-one “owns” the reforms, and no one is committed to seeing that the reforms are implemented and kept up to date;
- (v) reforms that rely too much upon the law or too much on enforcement: this leads to repression, abuses of enforcement power and the emergence of further corruption);

#### Box 3: The Seven Principles of Public Life

*Selflessness:* Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other materials benefits for themselves, their family, or their friends.

*Integrity:* Holders of public office should not place themselves under any financial or other obligation to outside individuals or organization that might influence them in formance of their official duties.

*Objectivity:* In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

*Accountability:* Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

*Openness:* Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

*Honesty:* Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

*Leadership:* Holders of public office should promote and support these principles by leadership and example.

From the “First Report of the Committee on Standards in Public Life” (London: HMSO, 1995).

- (vi) reforms that “overlook” those at the top and focus only on the “small fry”:

- if the law is applied unfairly and unevenly, it soon ceases to have any legitimacy or deterrent effect;
- (vii) the failure to establish institutional mechanisms that will outlive the leaders of the reforms; and
  - (viii) the failure of government to draw in the actors best able to assist it from civil society and the private sector.

Country strategies vary a great deal, but worldwide the policy responses to corruption typically involve one or more of the eight following “pillars” (see Diagram 2):<sup>30</sup>

- public sector anti-corruption strategies;
- “watchdog” agencies;
- public participation in democratic process;
- public awareness of the role of civil society;
- accountability of the judicial process;
- the media;
- the private sector and international business;
- international cooperation.

These pillars are interdependent. If one pillar weakens, an increased load is thrown on to the others. If several weaken, their load will tilt, so that the round ball of “sustainable development” rolls off. Establishing a National Integrity System requires identifying gaps and opportunities for utilizing each of these pillars, as well as catalyzing the work of the government, civil society, donors into a coherent framework of institutional strengthening.

#### *4.1 Public Sector Anti-Corruption Strategies*

The responsibility for maintaining standards and minimizing corruption within the public service falls on the public administrator. Criminal law is too blunt to serve as the main instrument for addressing corruption in the public service because: (a) it is concerned only with minimum standards; (b) it emphasizes enforcement rather

than prevention; (c) the burden of proof is on the government (in corruption cases, usually only the officials involved know the facts); and (d) it is costly and time-consuming.

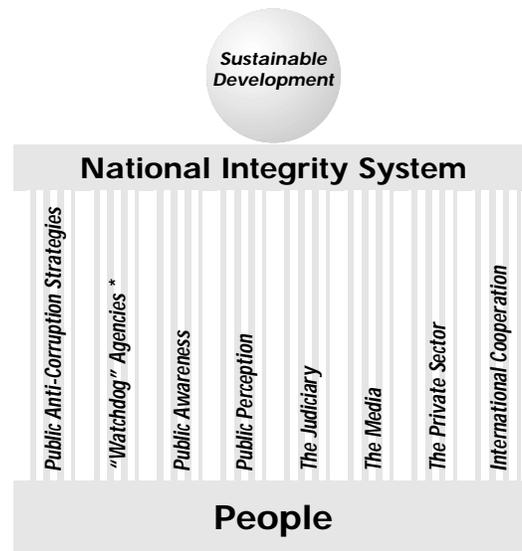
If properly conceived, regulations governing conflict of interest in the public service are directed towards erecting and maintaining an administrative and management system to protect the public decision-making process. Rather than detecting and punishing the wrongdoer after the fact, such a system reduces the risk of corruption occurring in the first place. In a well-managed administrative system, the incidence of corrupt practices would be minimized and, where they did occur, swift disciplinary action would be the norm.<sup>31</sup> Focus should be placed, therefore, on reforming public service procedures and systems to make them more accountable to the public interest.

In other words, in an environment of systemic corruption, significant civil service reform will prove elusive if corruption is ignored. In fact, the result could be a reformed but more efficiently corrupt system. Corruption must be faced from the onset of the reform process and dealt with as an integral part of the process.

##### 4.1.1 ETHICAL CODES

Fighting corruption requires a clear ethical commitment by political leaders to combat corruption wherever it occurs. One promising extension of this principle is the establishment of a public sector ethical code in some countries. The code sets out the ethos which should guide those in managerial/leadership positions; it reminds them of their responsibilities to the public and requires declarations of assets and income. (See Box 3). Yet, these codes have not met with great success, due mainly to lack of enforcement. An exception is Papua New Guinea where the code is central to activities of, and enforced by, the Ombudsman’s office. Political figures at all levels

**Diagram 2: The Pillars of Integrity**



\* Anti-corruption agencies, Ombudsman, Auditor General

have felt the weight of the Ombudsman’s authority, and in a number of cases senior political careers have come to an abrupt end.<sup>32</sup>

Establishing and maintaining ethical codes depends on a number of critical conditions:

- the ethical environment must be accepted by a broad segment of the public sector;
- deviations must be dealt with equally and consistently across the public sector;
- the ethical environment requires political commitment and leadership as well as broad support by civil society.

#### 4.1.2 IMPROVED REMUNERATION

The inadequacy of public sector salaries contributes greatly to corrupt activities at the level of need, of “petty corruption.” Ensuring living wages is crucial to public sector efficiency and effectiveness. Singapore has been conspicuously successful in this endeavor. An anti-corruption strategy was put into place in the country, along with gradual pay raises, fair salary structures, and

strict penalties. Now, Singapore’s public service salaries are among the highest in the world (see Box 4) and its productivity and effectiveness widely recognized. In common with other countries, there will be occasional Singaporean official who succumbs to the temptations of “grand corruption,” but the problem of corruption is fairly under control.<sup>33</sup>

The Government of Uganda has undertaken the challenge of civil service reform with support from the World Bank and substantial bilateral assistance.<sup>34</sup> In the course of this reform, all civil servants’ benefits are being “monetarized.” Civil servants are now allowed to decide whether they wish to receive benefits or have them replaced with their monetary equivalent. It is hoped that this freedom to create discretionary spending with their “benefits package” will enhance the value they attach to their posts, decrease temptations to accept bribes, and lead to higher standards of service delivery to the public.

#### **Box 4: Improving Government Salaries in Singapore**

Prime Minister Lee Kuan Yew, the architect of Singapore's anti-corruption drive, was asked to justify a policy of paying cabinet ministers well when an increase was being discussed in 1985. His reply was that Singapore needed to preserve its most precious assets through an administration that was "absolutely corruption-free" and with "a political leadership that can be subject to the closest scrutiny because it sets the highest standards."

He continued, "It is not easy, because if we lost this, then our reason for existence, our *raison d'être* will disappear. Why does this island survive? Why does it attract banks, computer software, financial services, information services, manufacturing—in preference to many countries better endowed with natural resources, manpower, and markets? Any traveler knows that, because from the moment you hit the airport to the time you get into the taxi, you travel on the road, you know the difference, whether a place works on rules or it bends rules...How do you ensure that a fortuitous, purely accidental group of men who came in 1959 and after 26 years of office have remained stainless?...Every member knows that there is no easy money on the take. That's the way we are. Nobody believes that we spent money to get into this House...I 'm one of the best paid and probably one of the poorest of the Third World prime ministers...There are ways and ways of doing things. And I'm suggesting our way, moving with the market, is an honest, open, defensible, and workable system. You abandon this for hypocrisy, you'll end up with duplicity and corruption. Take your choice."

Quoted in *Straits Times*, 23 March 1985, pp. 14–16. See also John S. T. Quah, "Singapore's Experience in Curbing Corruption," *Political Corruption: A Source Book*, eds. Arnold J. Heidenheimer et al. (New Brunswick: Transaction Publishers, 1989), pp. 848–9.

It is essential, of course, for public servants and the public at large to understand fully the rationale behind any major public sector pay raises, and for them to appreciate that together with the benefit of higher pay comes the responsibility of enhanced account ability. Raising pay with no increases in oversight could simply result in prospective job candidates paying for the privilege of obtaining a government job.

#### 4.1.3 ADMINISTRATIVE REFORM

Organizational change within the civil service can help minimize the opportunities for corrupt practices. Such measures include:

- improving work methods and procedures to reduce delay;
- increasing the effectiveness of supervision to enable superior officers to check and control the work of their staff;
- carrying out surprise checks on the work of officers;
- instituting in-service training for civil servants at all levels together with the formulation and dissemination of clearly-defined ethical guidelines and rules of conduct;
- developing internal financial management systems that ensure adequate and effective controls over the use of resources;
- providing channels for complaints to enable junior officials to complain about their superiors' corruption;
- rewarding achievement, recognizing good behavior, and acclaiming role models;
- making the necessary security arrangements to prevent unauthorized persons from having access to a department's premises; and
- reviewing the anti-corruption measures taken once in three to five years with the aim of introducing further improvements.<sup>35</sup>

A discretionary element in decision-making contains the potential for abuse. Eliminating dis-

cretionary decisions altogether, while resolving the dilemma, would be impossible and impractical. Instead, in those areas where discretion must be maintained, it would be more realistic to reduce the “monopoly power” of bureaucrats by providing rival sources of supply. For example, citizens may apply for a driver’s license at any motor vehicle office; businesses may obtain operating licenses from any of several officials or offices. Conversely, police forces could operate in overlapping jurisdictions so that no official can guarantee a lawbreaker he will not be arrested. Such reforms may not end unofficial “charges” but they will at least drive the “price” down. If the level of bribes is low enough, even a modest effort at law enforcement may discourage corrupt officials.<sup>36</sup>

It is possible to limit the scope for abuse more systematically by keeping the areas for discretion narrowly defined and by providing clear, public guidelines for the exercise of this discretion. A good example of the guiding principles of administrative law can be found in Zambia’s Lusaka Statement on Government Under the Law (1992) endorsed by Commonwealth Law Ministers in 1993 and by successive meetings of senior judges in various regions (see Annex A).

#### 4.1.4 DISCLOSURE OF INCOME/ASSETS/GIFTS

One of the key instruments for maintaining integrity in the public service is the periodic completion by all in positions of influence of forms stating their income, assets and liabilities. Disclosure of assets and income certainly will not be accurately completed by those taking bribes. However, it will force them to record their financial position and, in so doing, lay an important building block for any subsequent prosecution. However, today’s evidence points to the inadequacy of any voluntary or informal system. Corruption can only be reduced if it is made a high risk and a low return undertaking.<sup>37</sup>

To whom should disclosure be made? Disclosure may be made by politicians to the Speaker of Parliament or to the Ombudsman, or publicly to the people at large. The matters to be disclosed will differ from country to country. Clearly this disclosure should cover all significant assets and liabilities, and a few countries insist that they include a copy of the latest income tax return. Some countries extend these requirements to close blood relations, but others will limit disclosure to the official and his or her spouse (although even this is contested, on the grounds that a spouse should be entitled to privacy from his/her partner). In any case, laws must embody what a society regards as fair and reasonable. If not, enforcement will be impossible, therefore serving to undermine the integrity system itself.

The problem does not end with disclosure. There is also the matter of gifts received by those in public office. Gifts can take many forms—a lunch, a ticket to a sports event, an expensive watch, shares in a company, a holiday abroad, perhaps school fees for a child. Some are acceptable; others are not. What is unacceptable is excessive hospitality, such as all-expenses paid holidays for a purchasing officer and spouse.<sup>38</sup>

More difficult to classify are such things as lunches or festive presents; though even here the acceptance of seemingly trivial gifts and hospitality over time can lead to situations where an official has unwittingly become ensnared by the “donor.” The dividing line usually rests at the point where the gift places the recipient under some obligation to the gift-giver. The acceptable limit will differ from one society to another, but it can be set in monetary terms so that gifts exceeding it must be declared.

Most governments have written rules clarifying what is and is not acceptable for a Minister to accept as a personal benefit. For example, Malawi recently adopted the follow-

ing guidelines:

A “casual gift” means any conventional hospitality on a modest scale or an unsolicited gift of modest value offered to a person in recognition or appreciation of his services, or as a gesture of goodwill towards him, and includes any inexpensive seasonal gift offered to staff or associates by public and private bodies or private individuals on festive or other special occasions, which is not in any way connected with the performance of a person’s official duty so as to constitute an offense under Part IV [which governs corrupt use of official powers].<sup>39</sup>

#### 4.1.5 POLICY AND PROGRAM RATIONALIZATION

Public programs riddled with corruption can sometimes be reformed through redesign and rationalization efforts.<sup>40</sup> The first option, however, is program elimination. Many countries have rules and regulations that, even if honestly administered, serve no broad public purpose. They can and should be discontinued. Other programs might serve a valid function, but are not effective where corruption is endemic.

Second, the program’s basic purpose could be retained, but redesigned to make it simpler and easier to monitor. For example, if economic efficiency is a program goal, then reforms could introduce legal, market-based schemes. But simplification will not always reduce corruption if the rules are very rigid. Bureaucratic rigidity frequently breeds illicit behavior on the part of both public servants and suppliers. Thus, simplicity will work only if it is not excessively arbitrary and if senior officials or independent enforcement officials aggressively pursue anti-corruption measures.

Finally, privatization of state-run enterprises and services can reduce the opportunities for corrupt practices, mainly because private sector accounting methods and competitive market pres-

ures reduce corruption and make corruption more difficult to hide. These benefits however, must take into consideration the possible adverse effects of privatization (unemployment of civil servants, risk of private sector monopolies).

Substantive policy reform, involving reform of the regulatory and tax systems and the elimination of unnecessary programs, is a difficult and time-consuming task. It is also an undertaking that must be geared to the needs and problems of a particular country. Attempts to identify sources of corruption in programs and reduce or eliminate them require detailed, country-specific knowledge.

#### 4.1.6 IMPROVED PROCUREMENT PROCEDURES

Public service procurement procedures can be improved in the following ways:

- *Procurement should be economical.* It should result in the best quality of goods/services for the price paid, or the lowest price for the stipulated/acceptable quality of goods/services; this does not necessarily mean procurement of the lowest priced or best quality goods available, but the best combination of these factors to meet the particular needs.
- *Contract award decisions should be fair and impartial.* Public funds should not be used to provide favors; standards/specifications must be non-discriminatory; suppliers/contractors should be selected on the basis of their qualifications and the merit of their offers; there should be equal treatment of all in terms of deadlines and confidentiality.
- *The process should be transparent.* Procurement requirements, rules and decision-making criteria should be readily accessible to all potential suppliers/contractors, preferably announced as part of the invitation to bid/make an offer; opening of bids

should be public; and all decisions should be fully recorded.

- *The procurement process should be efficient.* The procurement rules should reflect the value and complexity of the items to be procured; procedures for small value purchases should be simple and fast; as purchase values and complexity increase, more time and more complex rules are required to ensure that principles are observed; “decision making” for larger contracts may require committee and review process, but bureaucratic interventions should be kept to a minimum.
- *Accountability is essential.* Procedures should be systematic and dependable, and records should be maintained that can explain and justify all decisions and actions. Competence and integrity in procurement encourages suppliers and contractors to make their best offers, in turn leading to improved procurement performance. Purchasers that fail to meet high standards of accountability and fairness should be identified quickly as poor partners with which to do business.
- *A sound and consistent framework is required* to establish the basic principles and practices to be observed in public procurement. This can take many forms, but there is increasing awareness of the advantages of a unified Procurement Code setting out the fundamentals and supplemented by more detailed rules and regulations of the implementing agencies. A number of countries are consolidating existing laws that may have developed in haphazard fashion over many years, into such a code.<sup>41</sup>

#### 4.2 “Watchdog” Agencies

A nation serious about fighting corruption may

need to establish new institutions to carry out anti-corruption functions. Anti-corruption agencies, the office of the Ombudsman, and supreme audit institutions are reviewed below for the “watchdog” role they might assume.

##### 4.2.1 ANTI-CORRUPTION AGENCIES

In recent years, governments have sought to bolster detection efforts by introducing independent anti-corruption agencies or commissions. Given that prevention is more efficient and effective than prosecution, a small investigative and monitoring unit with appropriate authority—perhaps reporting directly to the legislative body—may be much better placed to ensure that effective preventive steps are identified and taken. To operate successfully, an anti-corruption agency must possess the following:

- committed political backing at the highest levels of government;
- political and operational independence to investigate even the highest levels of government;
- adequate powers of access to documentation and to question witnesses; and
- leadership which is publicly perceived as being of the highest integrity.<sup>42</sup>

It is important that any special powers conferred on an anti-corruption agency conform to international human rights norms, and that the agency itself operate under the law and is accountable to the courts.

From the outset, the shape and independence of a commission may well be determined by how the officeholder is appointed or removed. If the appointing mechanism ensures consensus support for an appointee through parliament, rather than government, and an accountability mechanism exists outside government (e.g., a parliamentary select committee on which all major parties are represented), the space for abuse for non-partisan activities can be minimized.

It is important that the anti-corruption agency have the power to freeze those assets it reasonably suspects may be held on behalf of people under investigation. It may be desirable for the agency to do so prior to getting a court order when speed is of the essence. Without this power, funds can simply be transferred electronically in a matter of minutes. This presupposes the need for a vital tool—a well thought-out and effective system for monitoring the assets, income, liabilities and lifestyles of decision-makers and public service officials.

It is usual for an agency to have the power to seize and impound travel documents to prevent a person from fleeing the country, particularly as its power of arrest arises only when there is reasonable cause to believe that an offense has been committed. It is also customary that the agency have the power to protect informers. In some cases, informers may be junior government officials who complain about the corrupt activities of their supervisors.

If an extravagant lifestyle is only corroborative evidence in support of a charge of actual corruption, it will not be of much use. Where a civil servant in a position to profit personally is enjoying a lifestyle wholly out of line with his or her known income, it is thought in some countries not to be unreasonable for the civil servant to be required to provide an acceptable explanation for his or her wealth.<sup>43</sup>

#### 4.2.2 OMBUDSMAN

The Ombudsman constitutes an office that independently receives and investigates allegations of maladministration. The primary function of the Ombudsman is to examine:

- (i) a decision, process, recommendation, act of omission or commission which is contrary to law, rules or regulations, or is a departure from established practice or procedure; is perverse, arbitrary,

unjust, biased, oppressive or discriminatory; or, involves the exercise of powers motivated by bribery, jobbery, favoritism, nepotism, and administrative excesses; and

- (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude in the administration or discharge of duties and responsibilities.

As a high-profile, constitutional institution, the office of Ombudsman is potentially better able to resist improper pressure from the Executive than are other bodies. It can perform an auditing function to stimulate information flows to reveal and contain the limits of corruption in government; the confidentiality of these procedures gives the office an added advantage in providing a shield against the possible intimidation of informants and complainants.<sup>44</sup> The office of the Ombudsman also acts to prevent corruption and maladministration. It can recommend improvements to procedures and practices and act as an incentive for public officials to keep their files in order at all times.

Whether under-funded or not, the office of the Ombudsman should be responsible for its own budget and not be subordinate for funding to another, larger department. With a lack of resources to fulfill the mandate of the post, it is often only “the will of the Ombudsman” that sustains the office-holder in the job. This undesirable situation should be addressed when reforming a country’s integrity system.

#### 4.2.3 SUPREME AUDIT INSTITUTIONS

Responsible internal financial management is crucial to national integrity, but supreme audit institutions are in many ways the linchpin of a country’s integrity system. As the agency responsible for auditing government income and expenditure, the supreme audit institution acts as a watchdog over financial integrity and the credibility of reported

information (as well as 'performance' or 'value-for-money' auditing). While supreme audit institutions can vary from country to country—for example, in Anglo-Saxon countries this institution is the Auditor General, while in many French-speaking countries it is the *cours de comptes*—the functions of the office are not dissimilar:

the [Auditor General] audits the Appropriation Accounts on behalf of the House of Commons. He is the external auditor of Government, acting on behalf of the taxpayer, through Parliament, and it is on his investigations that Parliament has to rely for assurances about the accuracy and regularity of Government accounts.<sup>45</sup>

The responsibilities of the office of the Auditor General also include ensuring the Executive complies with the will of the Legislature, as expressed through parliamentary appropriations; promotes efficiency and cost effectiveness of government programs; and prevents corruption through the development of financial and auditing procedures designed to reduce the incidence of corruption and increase the likelihood of its detection.

The supreme audit institution is of such significance that it warrants special provisions concerning appointment and removal procedures and the protection of the office-holder's independence from the control of the governing party, politicians, and senior civil servants. Ideally, the issues of selection, accountability and authority can be incorporated into a country's constitution.

To be effective, any external auditor must be devoid of accountability to, or susceptible to pressures from, the clients or institutions being audited. The office should not be a part of, or managed by, a government department it has to audit. To be so would create a systemic conflict of interest and to open the door to forms of "management." The supreme audit institution's clients are parliament (or comparable bodies)

and its subjects are the public officials entrusted with public expenditure.

Unfortunately, this office can be particularly vulnerable to pressure from its clients, and in the majority of cases, the Executive. To assure independence, the office should have relative freedom to manage the department's budget and to hire and assign competent professional staff. The latter is important if it is to maintain its ability to match the capability of senior officials in government.

### *4.3 Public Participation and the Democratic Process*

In political systems where elections occur, transparency in the election process is essential. This would include the need for an independent Election Commission (or similar body) and non-partisan polling officials. The commission's role is to ensure the elections are "fair," inasmuch as they follow existing laws and regulations, including such checks as limits on party election campaign spending. To enable a commission to respond to changing circumstances, some countries have given their commissions limited law-making powers.

As a matter of policy, citizens' groups should be able to observe the processes of their own elections. It is unfortunate that a need for international observers should be deemed necessary in many developing countries. This provision may be required until the responsibility for monitoring is accepted by a country's civil society and can be undertaken in a non-partisan manner.

The recent South African experience shows how taking necessary steps to reform parliamentary practices and procedures can prepare a path towards accountability and transparency, thereby restricting corruption in the democratic process. The reform process there centers on rendering the parliamentary process as open to the public and the press as possible, and empowering select

committees, particularly the Public Accounts Committee, to hold the Executive accountable. All select committees meet in public, and if they wish to go into a closed session they must publicly debate the reasons for doing so. Parliamentarians have been empowered to call civil servants to account and to have inputs into the detailed scrutiny of budgetary estimates. Not only does the South African constitution guarantee open, fair, and transparent government procurement, but it also ensures access to information and other rights of due process.<sup>46</sup>

*4.4 Public Awareness and the Role of Civil Society*  
Anti-corruption campaigns cannot succeed without public support. If ordinary people and businesses at all levels of society expect to pay bribes and are accustomed to dealing with the state through payoffs, even as a “necessary evil,” then a change in attitudes is essential if fundamental, systemic change is to occur.

Several complementary strategies can have an impact. Some countries have engendered public understanding through public awareness programs focused on: the harm done by corruption; the fact that the corrupt are stealing the public’s money; the public’s rights to services; and the public duty to complain when officials behave corruptly. In this regard, Tanzania conducted a study to ascertain public perceptions of existing levels of corruption and where it is taking place; this provides a baseline against which progress toward reduced corruption can be measured.<sup>47</sup> These studies also serve to give insights into what civil servants regard as being “corrupt,” what they are prepared to report or to discipline, and what prevents them from doing so.

The role of civil society is integral to a national integrity system; the notion that state activities can take place in a vacuum simply does not stand up to experience.<sup>48</sup> Civil society encompasses the expertise and networks needed to

address issues of common concern, including corruption. And it has a vested interest in doing so: most corruption involves two principal actors, the government and the private sector, with civil society as the major victim.

Civil society organizations’ ability to monitor, detect and reverse the activities of the public officials in their midst is enhanced by their proximity and familiarity with local issues. Indeed, this may be the training ground needed to gain the experience and confidence necessary for action at the national level. Of course, in many countries where corruption is rife, civil associations are weak. However, the very involvement of an emerging civil society can, of itself, provide strength and stimulus for its further development.

Civil society can address issues of corruption by drawing on the expertise of accountants, lawyers, academics, NGOs, the private sector, religious leaders and, perhaps most importantly, ordinary citizens. In Australia, workers in some occupations are involved in industry safety inspections, and in New South Wales consumer groups help to identify hazardous products on sale. In New Zealand, tired of abuses of power by private and government monopolies, a loose-knit group of largely commercial interests has come together to create MUMS (Major Users of Monopoly Services). The group acts as a watchdog on businesses ranging from international airlines and telecommunications concerns to pulp-and-paper producers and film production companies.<sup>49</sup>

There are also examples of joint citizen-state action. For example, Neighborhood Watch schemes are now an established feature of many countries, strengthening links between citizens and police. Hong Kong has set up an Independent Commission Against Corruption, with an entire department devoted to community relations and advisory committees.

#### *4.5 Accountability of the Judicial Process*<sup>50</sup>

In the common law system of a number of countries, the Attorney General is not only a member of the Executive but is also the Chief Law Officer of the state. As the latter, the Attorney General acts as the “guardian of the public interest”<sup>51</sup> and has extensive powers and discretion with respect to the initiation, prosecution and discontinuance of criminal proceedings. The Attorney General also has primary responsibility to provide legal advice in matters of public administration and government. The proper performance of these functions depends on impartiality and freedom from party political influences; this can be threatened if the Attorney General is subject to Cabinet control and if Parliament is effectively dominated by the Executive.

One of the most blatant abuses by the Executive is the practice of appointing supporters to the courts.<sup>52</sup> The judicial appointment process is a critical one, therefore, though some governments have found that their own supporters develop a remarkable independence of mind once appointed to high office. To combat this independence, the Executive can manipulate the assignment of cases, perhaps through a compliant Chief Justice, to determine which judge hears a case of importance to the government. It is essential that the task of assigning cases be given not to government servants but to the judges themselves, and that the Chief Justice enjoy the full confidence of his or her peers.

At the lower level of the court structure, a variety of corrupt means are used to pervert the justice system. These include influencing the investigation and the decision to prosecute before the case reaches the court; inducing court officials to lose files, delay cases or assign them to corrupt junior judges; corrupting judges themselves (who are often badly paid or who may be susceptible to promises of likely promotion); and bribing opposing law-

yers to act against the interests of their clients.

Clearly, these corrupt practices call for action on several fronts. Those responsible for the investigation and prosecution of cases must impose high standards on their subordinates; court officials should be accountable to the judges for their conduct and subject to sanction by the judges where, for example, files are “lost”; and the judiciary itself must insist on high ethical standards within its own ranks, with complaints being carefully dealt with and, where necessary, inspection teams visiting the lower courts to ensure that they are functioning properly.

The ways in which judges are appointed and subsequently promoted are crucial to their independence. They must not be seen as being appointed for political reasons, but solely for reasons of competence and political neutrality. The public must be confident that judges are chosen on merit and for their individual integrity and ability, not as a reward for party service or as a precaution by the Executive to ensure that it will have a friendly face on the bench if the rule of law is violated.

It is implicit in the concept of judicial independence that provision be made for adequate remuneration of the judiciary and that a judge’s right to the remuneration not be altered to his or her disadvantage.<sup>53</sup> If judges are not confident that their tenure of office, or their remuneration, is secure, they may be more susceptible to corruption.

It is axiomatic that a judge must enjoy personal immunity from civil damages claims for improper acts or omissions in the exercise of judicial functions. This is not to say that the aggrieved person should have no remedy; rather, the remedy is against the state, not the judge. Judges should be subject to removal or suspension only for reasons of incapacity, or behavior which renders them unfit to discharge their duties.

Situations involving widespread corruption and judicial tampering can be dealt with by establishing commissions of inquiry or by the appointment of a “special prosecutor”—a public office which has been used in the United States with conspicuous success (e.g. the Watergate scandal).

There are several good reasons for having strong recovery mechanisms against corruption in the civil (as opposed to the criminal) law. Civil courts provide a less onerous atmosphere than the criminal courts for dealing with the consequences of corruption. In the civil court, the burden of proof is not as demanding, and in appropriate cases, the burden of disproving assertions can be more effectively and fairly placed on the suspect. Evidence obtained through civil law need only establish guilt via a “balance of probabilities” rather than “beyond a reasonable doubt.”

There are several reasons, too, why private citizens should be able to sue in cases of corruption. One reason involves the potential liability of the state for the losses incurred to a citizen or groups of citizens by reason of the actions of a corrupt official. For example, if the state can be shown to have been negligent in its administration, then those who suffer a loss as a result of a corrupt public procurement exercise may well have a substantial claim for compensation.

#### *4.6 Role of the Media*

The right to know is linked inextricably to accountability. Informed appraisal of government by the public, press and parliament is a difficult, even impossible, task if government activities and decision-making processes are obscured from public scrutiny.

Legislation is often required. Hence the desirability of Freedom of Information (FOI) legislation.<sup>54</sup> Not only can FOI legislation establish a

right of review (e.g., by the Ombudsman), it also can establish practices which must be observed, even by those least willing to do so. It can help reverse the presumption of secrecy. Citizens are given the legal right of access to official documents without having to first prove special interest, and the burden of justifying non-disclosure falls on the government administration. Naturally, documents whose disclosure might actually harm the public interest are exempted (e.g., criminal investigations, budget proposals, and sensitive economic information).

Freedom of information is also enhanced through a free press, which ranks alongside an independent judiciary as one of the twin powers that can serve as a powerful counterforce to corruption in public life. Unlike judges, public prosecutors and Attorneys-General, the privately-owned media is not appointed by politicians; it is sustained by the public. Regardless of ownership, the media should be, and can be, free of the political patronage system.

The degree to which the media is independent is the degree to which it can perform an effective public watchdog function relating to the conduct of public officials. Just as the Legislature should keep the Executive under day-to-day scrutiny, the media should diligently monitor both the Legislature and the Executive against corruption. Politicians and civil servants may be more tempted to abuse their positions for private gain when they are confident they run no risk of public exposure and humiliation through the media. Even today, there are many countries that censor the press and jail journalists.

Laws declaring “freedom of expression” require support and enforcement from the courts. An independent judiciary is the handmaiden of a free press. A prerequisite for building a free press, therefore, is a legal system that is independent of political influence and has firm constitutional support for a free press.

Through the responsible judgments of editors and journalists, a culture of freedom of the press develops. This culture is an important guarantor of the ability of the press to operate as a watchdog on public office holders.

Independence of the media is a complex concept. In general terms, it focuses on the notion that journalists should be free of interference from authorities in the responsible pursuit and practice of their profession. In reality, the owners of the media intervene daily in the operations of the journalists under their employ. In many countries, the government itself is the largest media owner, which can undermine the independence of the media.

Where this happens, efforts should be undertaken to strengthen the independence of the media, possibly through the privatization of existing state-controlled media. Diversifying media ownership could ensure that competition within the media stimulates a wider range of perspectives on public policy issues and provides a check on the political power of media magnates.<sup>55</sup>

In numerous countries, laws uphold the notion of a free press, but also include constraints in the form of “reasonable limits” on grounds of national security or individual privacy. There may be times when national security demands temporary limits on the media (to limit hate literature or curb racial and ethnic tensions). The danger is that governments can abuse such discretion.

#### *4.7 The Role of the Private Sector*

The most compelling reason for companies to review their ethical behavior is likely to be that of self-interest. As noted above, a growing body of evidence suggests that companies tolerating corruption abroad by their employees are placing themselves at risk. “Off the books” accounts, secret bank accounts, paying staff while they serve prison terms and using former senior staff as

“middlemen” all cultivate an atmosphere in which the bottom line justifies criminal activity. This is inherently dangerous, and it may be only a matter of time before the company itself finds that it is the victim of similar conduct on the part of its employees.

There appears to be considerable scope for international professional associations and federations of private companies to include a mandatory anti-corruption clause in their ethics codes, with expulsion from its membership as the sanction for non-observance. When such an association is strong in terms of worldwide membership, its members have relatively little to fear from non-members gaining an unfair advantage from bribery.

#### *4.8 International Cooperation*

The only country that has made it illegal to pay bribes offshore is the United States.<sup>56</sup> Other countries, somewhat paradoxically, have a dual set of rules, making it illegal to bribe domestically but implicitly condoning bribery offshore. A country must be able not only to extradite corrupt officials when they flee abroad, but also to obtain assistance with finding evidence, taking statements from witnesses, and seizing bank records and company documentation (mutual legal assistance). Even more important, countries need help in locating, freezing or seizing the proceeds of corruption when these are placed in “safe havens” in foreign countries.

There is now an abundance of legal tools that can be used in fighting international corruption. But before they can be used, there are some basic requirements that must be met. If a country’s domestic courts are seen as not being independent, or as corrupt, then it is unlikely that courts in other countries will respect its rulings on corruption or extradition. In a word, it is essential that the rule of law prevail and be seen to prevail if foreign mutual legal assistance is to be forthcoming.

It is also important for law enforcement officials to stay abreast of recent international developments. Limited forms of assistance are being offered by some banking centers.<sup>57</sup> For example, the Swiss Government will now provide assistance where a court finds that monies have been stolen, though it will not yet to do so in the pre-trial stages of an investigation.<sup>58</sup>

New approaches to international cooperation on corruption are needed in both developed and developing countries. The following are some measures that can be taken:

- to achieve any meaningful control over international corruption, it is desirable that a country receive judicial cooperation from its major trading partners (e.g., extradition of suspects, search and seizure of evidence), as well as from off-shore banking centers; and
- to gain the necessary levels of international mutual legal assistance, a country's domestic laws should be harmonized with those of the countries with which it is seeking judicial cooperation.

In this regard, an international convention on drugs is helping to set the tone. Led first by Europe, and then by the 52 Commonwealth countries, the international community now subscribes to a UN drugs convention that contains provisions requiring them to provide mutual legal assistance in illicit drug cases, including the location and forfeiture of the proceeds of drug trafficking.

Since 1990, a series of international measures, triggered by the Financial Action Task Force Initiative of the G7, have been undertaken to make the "laundering" of funds having origins in drug trafficking a criminal offense. As a result, at least 40 countries, including nearly all members of the OECD, have implemented legislation and other administrative arrangements to trace the flow of such funds through their banking

systems. These arrangements require commercial banks to report to the Central Bank or a national criminal intelligence office on the receipt of deposits which may have criminal origins. With the EU, these arrangements have been embodied in a directive that is binding on member states.

## **5. Conclusions: Managing Change for National Integrity**

The issue of corruption has come to center stage. The economic consequences of pervasive corruption and recent trends toward democratization have increased the pressure on those in public office for accountability and transparency in the performance of their duties.

This paper does not suggest there are easy solutions that can be applied in the fight against corruption; neither does it suggest any country has yet found an ideal model, or indeed that such a model exists. What this paper does argue is that while each country or region is unique in its own history and culture, its political system, and its stage of economic and social development, similarities in a national integrity system do exist and lessons learned are often transferable.

A national integrity system comprises a number of principle elements. Those reviewed in this paper—public sector anti-corruption strategies, watchdog agencies, public awareness and participation, accountability of the courts, roles of the media and the private sector, and international cooperation—can be taken as the pillars on which a national integrity system can be built...and on which sustainable development depends.

Any one of these elements will have only limited impact in the fight against corruption. Ethical codes or new procurement rules, for example, will have little effect unless implemented and enforced by independent agencies; an ombudsman, supreme audit institutions, and anti-

corruption agencies are examples of “watchdog” authorities that can perform these functions. Similarly, anti-corruption strategies depend on the active support and vigilance of civil society and the media; a responsible media can be enlisted to raise public awareness of the harmful repercussions of corruption and of citizens’ right to expect ethical conduct from civil servants. The elements of a national integrity system are mutually-reinforcing.

While all of these elements do not need to be carried out or strengthened simultaneously, how a national integrity system is initiated and managed can determine the success or failure of reform efforts. It is vital for each country to define the most strategic elements for reform in order to maximize existing opportunities for positive change while providing critical support to weak areas that, left unattended, could undermine the reform program. Moreover, a few successful and substantial measures will demonstrate to the public that government leaders and representatives are seriously fighting corruption.

The broader societal and political context within which reforms are undertaken will condition the effectiveness of a national integrity system. A democratic political framework creates different incentives for corruption than an authoritarian regime. Opportunities for bribery will vary in market and state-run economies.

In all countries, regardless of the stage of development, it is crucial that promotion of a national integrity system and the fight against corruption be as politically-inclusive and citizen-friendly as circumstances allow. This requires:

- a committed political leadership (where possible, on an all-party, non-partisan basis), that shows its commitment by willingly submitting to a comprehensive monitoring of assets, incomes, liabilities and life-styles;
- public involvement and participation in

the reform process, with proposed changes debated widely to generate a sense of ownership among the public and reinforce the values embodied in reform;

- participation by civil service unions and other employees’ groups; and
- involvement of professional groups as well as community and religious leaders.

Performance targets and monitoring systems are necessary to measure progress towards reduced corruption. To be effective, results-oriented management must create incentive structures and an enabling environment to encourage achievement of civil service reform targets and quality results. These results should be disseminated to the public at large; sharing information with civil society represents a significant step in ensuring transparency and accountability in government. ❖



## **Annex A: Government Under the Law (The Lusaka Statement), 1992**

The statement reads as follows:

An administrative authority, when exercising a discretionary power some countries have found useful to:

- (i) pursue only the purposes for which the power has been conferred;
- (ii) be without bias and observe objectivity and impartiality, taking into account only factors relevant to the particular case;
- (iii) observe the principle of equality before the law by avoiding unfair discrimination;
- (iv) maintain a proper balance between any adverse effects which its decision may have on the rights, liberties or interests of persons and the purpose which it pursues;
- (v) take decisions within a time which is reasonable having regard to the matters at stake;
- (vi) apply any general administrative guidelines in a consistent manner while at the same time taking account of the particular circumstances of each case.

### **Procedure:**

- (i) *Availability of guidelines.* Any general administrative guidelines which gov-

ern the exercise of a discretionary power some countries have found useful to either be made public or communicated (in an appropriate manner and to the extent necessary) to the person concerned, at his or her request, whether before or after the taking of an act concerning the person;

- (ii) *Right to be heard.* In respect of any administrative act of such a nature as is likely to affect adversely his or her rights, liberties or interests, the person concerned should be entitled to put forward facts and arguments and, in appropriate cases, submit evidence which should be taken into account by the administrative authority; in appropriate cases the person concerned should be informed, in due time and in an appropriate manner, of these rights;
- (iii) *Access to information.* Upon request, the person concerned should be informed, before an administrative act is taken and by appropriate means, of all factors relevant to the taking of that act;
- (iv) *Statement of reasons.* Where an administrative act is of such a nature as to

affect adversely the rights, liberties or interests of a person, the person concerned should be informed of the reasons on which it is based either by stating the reasons in the act itself or, upon request, by communicating them separately to the person concerned within a reasonable time;

- (v) *Indication of remedies.* Where an administrative act is given in writing and which adversely affects of rights, liberties or interests of the person concerned, it should indicate the specific remedies available to the person as well as any time-limits which may be involved.

**Review:**

- (i) An act taken in exercise of a discretionary power should be subject to judicial review by a court or other competent body; however this does exclude the possibility of a preliminary review by an administrative authority empowered to decide both on legality and on the merits;
- (ii) Where no time limits for the taking of a decision in exercise of a discretionary power have been set by law and the administrative authority does not take its decision within a reasonable time, its failure to do so should be open to review by a competent authority;
- (iii) A court or other independent body which controls the exercise of a discretionary power should possess such powers of obtaining information as are necessary for the proper exercise of its functions.

**Implementation:**

In their implementation, the requirements of good and efficient administration, the legitimate interests of third parties and major public interests should be given due weight, but where these requirements make it necessary to modify these principles in particular cases or specific areas of public administration, every endeavour should be made to conform with these principles and to achieve the highest possible degree of fairness.

It is reasonable to assume that a conflict of interest has not occurred where: (a) the duty of the official is so narrow as to leave no room for any personal discretion (e.g., the duties are simply clerical); (b) the economic interest is negligible (e.g., a small number of shares in a large public company); or (c) involvement in the matter has been formal or technical, so that the person formally occupying a position with conflicting duties has not in fact acted in that position (e.g., when an official has asked someone else to act in his or her stead to avoid any appearance of conflict of interest).

Finally there are organizational changes that can be made in the way government does business, in particular, with the public:

- the demystification of government: citizens should be informed of their legal rights in dealing with government. Staff manuals, etc. some countries have found useful to be published and easily accessible to department users and contractors;
- the depersonalization of government: face-to-face contact should be minimized. Random elements could be introduced so that users cannot predict the officials with whom they may be dealing. Under some conditions, staff should be rotated regularly to minimize the scope for unhealthy relationships developing, both between individual staff and the public they are serving. Rotation, however, can sometimes

facilitate systemic corruption when a corrupt superior uses job rotation to punish subordinates unwilling to play the corrupt game; and

- establishing mechanisms for civil society to be involved in a continuous processes of review. Polling the public periodically on its perceptions of government service delivery may be useful. 35



## Endnotes

1. This paper develops some of the concepts in Transparency International's *National Integrity Source Book* (Washington, D.C.: Transparency International, 1996). The Source Book provides greater detail and analysis on certain topics discussed in this paper.
2. See Rose-Ackerman (1996b).
3. See Rose-Ackerman (1996a) and Gould and Amaro-Reyes (1983).
4. See Rose-Ackerman (1996a).
5. Transparency International is a non-profit organization, based in Berlin, with more than 60 chapters worldwide. Its international focus is on corruption in international business transaction and, through its national chapters, fighting corruption at the domestic level.
6. Corruption in the private sector is outside the scope of this paper.
7. See Klitgaard (1988).
8. See Husted (1994).
9. See Johnston (1986).
10. Michael Johnston notes that "a full discussion of the implications of corruption in any given system must be constructed in the context of system-specific factors. The existence of ethnic factions among elites, the extent to which kinship norms mean that citizens and/or officials take a different view of patronage practices than does the law, or the exclusion of certain economic interests from decision-making processes, for example, can all be critical parts of the corruption story in specific settings." *Ibid.*, p. 463.
11. Quoted in Quah (1982).
12. *Ibid.*, quoting from Yoong Siew-Wah (1973).
13. See Noonan (1984). Judge Noonan's classic study of bribes records that reciprocities classified as bribes were censured, among others, in the ancient kingdoms of Egypt, Mesopotamia, and Palestine and, even more harshly, in Cicero's Rome.
14. See Rose-Ackerman (1996a).
15. See, for example, Rose-Ackerman (1996a).
16. See Gould and Amaro-Reyes (1983).
17. This summary draws in part from Bayley (1991).
18. See Mauro (1995).
19. See Wade (1982) and Manzetti and Drake (forthcoming).
20. See Rubin (1982). See also the rough figures suggested by Susan Rose-Ackerman in "Proposal for Research in the Level and Impact of Corruption in International Business," presented at the annual meeting of Transparency International in Milan, 27-28 March 1995.
21. *Le Monde*, 17 March 1995.
22. *Le Monde* also reported that revenue authorities do not question commissions of up to 15 percent of the global total of a contract. *Ibid.*
23. See Frisch (1994).

24. The conventional view—which virtually relates poverty to dishonesty—is attacked vehemently by a number of critics, who see this alleged linkage as being little short of a blanket defamation of the poor. “Can a person not be poor yet honest?” they ask. They point to the fact that many officials remain honest. General Obasanjo observes that: “Sharp practices have characterized the banking industry in Nigeria in recent years. Most bank officials were more than well paid, yet their fraudulent and corrupt practices have been outrageous. Contrast these with other officials, much less well paid, who have maintained their integrity and incorruptibility throughout.” See *Financial Times* (1994).
25. Computerization has generally and substantially decreased the numbers on the public service payroll—for example, in Uganda.
26. See Shleifer and Vishney (1992) and Montias and Rose-Ackerman (1981).
27. The various ways in which this is done, including public procurement rules laid down by international lending institutions, are described in the *Good Business Guide to Bribery* by George Moody-Stuart (1994).
28. See Rose-Ackerman (1994).
29. The case of Tanzania, where President Mkapa has demonstrated a strong commitment to the fight against corruption, is illustrative.
30. This list reflects the consensus view of participants at EDI/TI seminars and workshops designed to promote national integrity. An alternative taxonomy, covering essentially the same issues, is presented in Rose-Ackerman (1996b).
31. Botswana falls into this category. Though corruption has not been a serious problem, in Botswana, when it did occur, swift remedial action was taken against the culprits and institutional arrangements were tightened and repaired. See *TI Newsletter*, June 1995.
32. See Pope (1996).
33. See Quah (1989).
34. For details, refer to Langseth (1995).
35. See Quah (1989).
36. See Rose-Ackerman (1978).
37. See Atkinson and Mancuso (1992).
38. Such holidays were provided, for example, to purchasing staff at Britain’s Ministry of Defense in the early 1990s.
39. Corrupt Practices Act, Section 3.
40. See Rose-Ackerman (1994) and Klitgaard (1991).
41. Several models are available as a starting point, including those of the GATT/World Trade Organization, the United Nations Committee on International Trade Law (UNCITRAL), the European Union, and a host of national codes.
42. Legislation can provide that the head of the agency be appointed either by the leaders of the governing and main opposition political parties, or in the same way as a superior court judge.
43. As is the case, for example, in Hong Kong.
44. See Hatchard (1992).
45. See House of Commons (1981).
46. For details, see the report of the Transparency International mission to South Africa, December 1994 (Transparency International, Berlin).
47. In addition, EDI and CIETinternational have undertaken service delivery surveys in partnership with the governments of Nicaragua, Mali, Tanzania, and Uganda.
48. See the discussion of Coleman (1990) and Tanzi (1994).
49. *The Evening Post* (Wellington, New Zealand), 14 September 1994.
50. It is recognized that this section reflects only the role of the judiciary in Anglo-Saxon countries.
51. This has been a focus of criticism in a num-

- ber of countries in Latin America.
52. The authoritative text of the role of the Attorney General in the fifty Commonwealth countries is *Law Officers of the Crown* (Edwards 1964). For a recent review of the position, see the *Report on Review of Independence of the Attorney-General* (Electoral and Administrative Review Commission 1993).
  53. In some countries faced with dire economic problems, judges have accepted a reduction in salaries in line with those of all other public servants, but this has usually been done on the basis of the judges “requesting” similar treatment, rather than it being done to them unwillingly.
  54. The issue is not one only for developed countries. It has been stressed *inter alia* at the three African conferences on human rights, democracy, and corruption held by the African Leadership Forum in 1994–95, by participants at the EDI/TI Arusha Integrity Workshop (1995) and journalists in training workshops facilitated by EDI and TI in Uganda (1995).
  55. It is recognized that there is a difference between government ownership of the media and government control. Even though the media may be privately owned, government control through censorship, moral suasion, and other means can limit the freedom of the media.
  56. The Foreign Corrupt Practices Act (1977).
  57. Banking centers are under increasing pressure from the international community, in large part because of concerns about drug trafficking and money laundering.
  58. See Shleifer and Vishney (1993).



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