

# The Challenge of Renovation

*To all new truths, or renovation of old truths, it must be as in the Ark between the destroyed and the about-to-be-renovated world. The raven must be sent out before the dove, and ominously controversy must precede peace and the olive wreath.*

*Samuel Taylor Coleridge<sup>1</sup>*

As our newspapers and news broadcasts remind us daily, in many countries today corruption must be confronted as a matter of urgency, and often as a prelude to economic growth.<sup>2</sup> Corruption is detrimental to both social and economic health and well-being whenever and wherever it occurs, regardless of the state of a country's development. Reports of corruption are increasing daily. This clearly suggests that, despite efforts in many parts of the world to contain it, corruption may actually be increasing. It also demonstrates that it is not something that is exclusively, or even primarily, a problem of developing countries.

Events in Europe and North America have shown all too clearly that corruption is not a topic on which the industrialised countries can moralise to anyone. Nor do the lessons end there. As Susan Rose-Ackerman has shown in the context of Italy, democracy and the free market are not invariably an antidote for corruption. A shift from authoritarian to democratic rule does not necessarily reduce pay-offs. Rather it defines the country's norms of public behaviour. A country that democratises without also creating and enforcing laws governing conflict of interest, financial enrichment, and bribery risks undermining its fragile new institutions through private wealth seeking. A country that moves to liberalise its economy without a similar reform of the state risks creating severe pressures on officials to share in the new private wealth.<sup>3</sup> In short, the problem of corruption "is trans-systemic; that is, it inheres in all social systems – feudalism, capitalism, communism and socialism."<sup>4</sup>

Yet if matters are serious in the industrialised countries, they are in crisis in much of the developing world and in countries in transition. In this latter group, countries have made the painful discovery that government-led and government-directed attempts to improve people's lives through central planning have failed. Even in the "Asian Tigers", economies which for a time had seemed to defy the laws of gravity to which others appeared subject, opinion-makers have joined the consensus.<sup>5</sup> It is now widely recognised that sus-

### Are standards falling?

"For the majority of people and in the general European debate about values, it may seem that we are approaching a 'moral crisis'. More than a crisis of confidence in political authority, it is also a crisis of confidence in the representativeness and legitimacy of democratic systems – a crisis with serious repercussions for the public service and one that is reflected in a loss of respect for institutions and a lack of ethical and judicial role models."

*(Blymke and Bøhagen, Norway)*

"There is a public perception of a decline..."

*(Whetnall, the United Kingdom)*

"The past few years have witnessed a marked increase in concern about integrity in public administration in the Netherlands."

*(Maas, the Netherlands)*

"...there is a broad consensus about the negative state of public confidence in the Federal government and its institutions."

*(Gilman, United States)*

Source: OECD study "Ethics in Public Service: Current Issues and Practice" Public Management Occasional papers No. 14 (1966)

1 Quoted in *The Writing on the Wall: Peace at the Berlin Wall* by Terry Tillman.

2 TI uses a short definition of corruption: "the misuse of entrusted power for private benefit". In this there are three elements (i) a misuse of power; (ii) a power that is entrusted (i.e. it can be in the private sector just as much as in the public); and (iii) a private benefit (i.e. not necessary personal to the person misusing the power, but including as well members of his or her immediate family and friends).

3 Susan Rose-Ackerman, "Lessons from Italy for Latin America", *Journal of Public and International Affairs*, Fall 1998, p. 447 at p. 469. The same lesson can be drawn from events in the

People's Republic of China.

4 Alatas, Syed Hussein (1990) "Corruption: Its Nature, Causes and Functions" (Aldershot, Surrey) p. 11.

5 Transparency International (TI) had consistently argued, when challenged by those who argued that "a little corruption is not harming Indonesia and her neighbours" that the position was unsustainable. That when the head of the Korean stock exchange was arrested for rigging flotations all could see that corruption could not be contained to the areas where it was "useful", but that it would spread to infect even the institutions on which the economy depended. TI argued consistently that the "Asian Miracle" was unsustainable.

tainable development must be private sector led, and government-supported, not government-directed. Corruption strikes at the heart of the market economy, distorting decision-making, and rewarding the corrupt and manipulative rather than the efficient and the productive. Corruption appears to be on the rise despite one of the most sustained international and national attacks on a crisis area that the world has witnessed.

There can be no doubt that corruption is deepening already indefensible levels of extreme poverty. According to a recent report by the National Audit Bureau in China, corruption is absorbing about one fifth of funds set aside by the government to control poverty. The investigation, carried out between 1997 and the first half of 1999, revealed that some 4.3 billion yuan (\$519 million) allocated to poverty funds “had been diverted into private accounts, making up 20.4 per cent of the total. Over a quarter of the money stolen was used to buy property or cars, or to finance illegal loans.” As against this, some 42 million Chinese live below the poverty line, set at earnings of just one dollar a day.<sup>6</sup>

**The most serious challenge....**

Quite clearly the most serious challenge to democracy is among the newly emerging democracies... that have abandoned autocracy. Most have no experience of democracy. At all. Democracy is completely new to them. Any setbacks attributed to democracy remind people of how better things were under autocracy. Except things were so bad, so corrupt, that few want to return; given a choice between striving to make democracy work and returning to autocracy, most grit their teeth and hope upon hope that their sacrifices will eventually be worthwhile if not for themselves then for their children. They have grown up with corruption, They are used to its ways and have learned to live with it and to turn it to their advantage when they can. Widespread corruption is nothing new to them but what is new is that under democracy the cast of villains has been changing, law and order is collapsing as crime leaps, and newly created wealth is being exported, leaving many worse off than before. Unless things turn round soon, the contempt they had for their previous regimes will be redirected at their new public leaders and institutions. Democratic shoots, unless strangled at birth, will eventually take hold and transform the way public business is conducted.

Gerald E. Caiden, “*The Ubiquity of Corruption*”, prepared for the Society for Comparative Research, “*The Crisis of Confidence in Advanced Democracies*”, European Parliament, Brussels, 7-9 November 1996.

**So what has gone wrong? Why is corruption rearing its ugly head in more and more ways?**

The answer may lie in two areas, both of which are addressed in this Source Book. The first is a weakening of social values, with the broader public interest and social responsibility being subordinated to the enhancement of material status in the personal ethics of many. The second is a lack of transparency and accountability within public integrity systems. In many countries there is a widespread feeling that the public service has lost its way – that many elements within the public sector are corrupt, as are many of the private sector firms that transact business with them. The public sees officials, and officials seem to see themselves, as existing to serve the political ambitions of higher officials which may result in promotions for themselves. Accountability to the public is mere rhetoric, used when reporting to Parliament or making speeches at the United Nations. This portrait may be unfair to many, but the perception is widely held.

**Defining corruption**

Defined simply, corruption is the misuse of entrusted power for private benefit.<sup>7</sup> Yet it is not so long ago that the word itself was completely taboo in professional and political environments. The word seldom appeared in

newspapers and it was rarely mentioned by economists, although political scientists had begun to take an academic interest in it.

Normative statements about corruption require a point of view, a standard of “goodness” and a model of how corruption works in particular instances.<sup>8</sup> For the purposes of this Source Book, “corruption” involves behaviour 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 power entrusted to them.

The Source Book concentrates on administrative rather than political corruption per se, focus-

6 *Poverty Funds Siphoned Off*, Agence France Presse, Beijing, 17 July 2000.

7 J.J. Senturia, *Encyclopaedia of Social Sciences*, Vol. VI (1993) gives the traditional definition: the misuse of public power for private profit. However, particularly with the advent of privati-

sation and traditional state activities and near or complete monopolies falling into private hands, a broader definition has been adopted by TI and others.

8 Susan Rose-Ackerman, *Corruption: A Study in Political Economy* (New York: Academic Press, 1978) p.9.

ing on the activities of individuals who, in their positions as public officials – as policy-makers or as administrators – control various activities or decisions.

In the wake of privatisations and the transference into the private sector of tasks previously regarded as those of the state, with near or total monopolies for the supply of public goods in private hands (e.g. water, electricity), the concepts explored in this Source Book include corrupt conduct in the private sector – outside as well as within its interface with the public service – conduct that nonetheless has negative public consequences.

### Administrative corruption

There are two quite separate categories of administrative corruption: the first occurs where, for example, services or contracts are provided “according-to-rule” and the second, where transactions are “against-the-rule.”

In the first situation, an official is receiving private gain illegally for doing something which he or she is ordinarily required to do by law. In the second situation, the bribe is paid to obtain services which the official is prohibited from providing. “According-to-rule” and “against-the-rule” corruption can occur at all levels of the government hierarchy and range in scale and impact from “grand corruption” to small scale varieties.<sup>9</sup>

In practice, public attitudes can overshadow legal definitions of administrative corruption, and public opinion can define corruption in ways which will override law. If public opinion and legal definitions do not conform, the likelihood is that officials will act in accordance with the public view, and in so doing transgress the law. It is therefore crucial that the public be informed and enlightened as to the damage that corruption can cause.

### How is corruption damaging?

Corruption is damaging for the simple reason that important decisions are determined by ulterior motives, with no concern for the consequences for the wider community.

Dieter Frisch, former Director-General of Development at the European Commission, has observed that corruption raises the cost of goods and services; it increases the debt of a country (and carries with it recurring debt-servicing costs in the future); it leads to lowering of standards, as sub-standard goods are provided and inappropriate or unnecessary technology is acquired; and it results in project choices being made based more on capital (because it is more rewarding for the perpetrator of corruption) than on manpower, which would be the more useful for development. Frisch points out that when a country increases its indebtedness to carry out projects which are not economically viable, the additional debt does not only include the 10 to 20 per cent extra cost due to corruption; rather the entire investment, all 100 per cent of it, is attributable to dishonest decisions to proceed with unproductive and unnecessary projects.<sup>10</sup>

If corruption cannot be brought under control, it can threaten the viability of democratic institutions and market economies. In a corrupt environment, resources will be directed towards

#### How old is corruption?

In December 1997 it was reported that a Dutch team of archaeologists found at Rakka in Syria about 150 cuneiform inscriptions which indicate that the site contained an administrative centre of the Assyrian civilisation dating from the 13<sup>th</sup> century BC. A special archive was found, perhaps from the equivalent of a modern 'Ministry of the Interior', with data about employees accepting bribes, including the names of senior officials and the name of an Assyrian princess.

*Quoted in European Parliament working paper, Measures to Prevent Corruption in EU Member States, March 1998*

<sup>9</sup> See George Moody-Stuart *Grand Corruption in Third World Development* (Oxford: World View Publishing, 1997). For examples of both categories see successive issues of the TI Newsletter ([www.transparency.de](http://www.transparency.de)).

<sup>10</sup> Dieter Frisch in *The Effects of Corruption on Development*, a paper presented to the Africa Leadership Forum on “Corruption, Democracy and Human Rights in Africa,” Cotonou, Benin, 19-21 September 1994.

non-productive areas – the police, the armed forces and other organs of social control and repression – as the elite move to protect themselves, their positions and their material wealth. Laws will be enacted (e.g., the Public Tranquillity Act 1982 in the Sudan) and resources otherwise available for socio-economic development will be diverted into security expenditure. This in turn can cause the withering of democratic institutions as corruption, rather than investment, becomes the major source of financial gain.<sup>11</sup> This undermines the legitimacy of government, and ultimately the legitimacy of the state.<sup>12</sup>

**Zambia registers 1 per cent growth in last 9 years**

Zambia has registered little and insignificant sustainable growth in the past nine years, University of Zambia's Professor Venkatesh Seshamani has observed. In an interview, Prof. Seshamani said over the last nine years Zambia had only recorded growth of barely one per cent when the expected target was six per cent. Seshamani attributed the no-growth situation to fluctuations where little positive growth attained at some points had been preceded by years of negative growth... grant revenue has particularly reduced because of the relationship between Zambia and donors who may sometimes impose rigid conditionalities because of the government's lack of credibility and corruption allegations.

Prof. Seshamani, quoting Transparency International, said Zambia has a high corruption perception index. He advised the government to make extra efforts at upholding good governance including improving its transparency by supplying facts of its expenditure.

Prof. Seshamani said there was no explicit breakdown of some government expenditure as evidenced by the classification of huge amounts such as the presidential discretionary fund under the "others" section of the statutory and constitutional expenditure.

*Lusaka, Post of Zambia, 20 March 2000*

If that is the picture at the macro level, the view at the micro is no less cheering. An Indian commentator in *The Times of India*, writing at the close of the millennium, observed that:

"The lack of transparent rules, properly enforced, is a major reason why talented Indians cannot rise in India. A second reason is the neta-babu raj, which remains intact despite supposed liberalisation. But once talented Indians go to rule-based societies in the west, they take off. In those societies all people play by the same rules, all have freedom to innovate without being strangled by regulations. This, then, is why Indians succeed in countries ruled by whites, and fail in their own. It is the saddest story of the century."<sup>13</sup>

**Impact on private sector development**

It is a generally held view around the modern world that much of government-led development efforts in the past have been mishandled, and have generated waste rather than development. A strong state is needed, but this needs to be clear in its tasks and its organisation. It needs to provide vital services essential if the private sector is to flourish, but it should not attempt to compete with the private sector, and nor should the state undertake tasks which the private sector can perform more efficiently and more effectively unless there are compelling social reasons for it to do so.

So if development is to be private-sector led, what is the impact of corruption on the environment in which the private sector must operate? First and foremost, it introduces uncertainty: will contracts be honoured? Can disputes be resolved by impartial and competent adjudicators? Can future decisions by officials be predicted with requisite certainty? Where corruption introduces uncertainty, it also increases risk. And as risk escalates, so must greater and faster returns be looked for by investors. Furthermore, corrupt relationships operate to keep newcomers out of the game, thereby inhibiting the growth of the private sector itself.

Corrupt regimes also impose extraordinary management obligations on the private sector. In the Ukraine, for example, in 1994 firms surveyed reported that they spent on average 28 per cent of management time simply on dealing with the government. By 1996 this had risen to 37 per cent.<sup>14</sup> Eliminating unnecessary bureaucratic obstacles, of course, is not done simply to reduce corruption but rather also to induce more businesses to switch to the formal sector and to encourage new productive investment.<sup>15</sup>

11 See El-Wathig Kameir and Ibrahim Kursany *Corruption as the "Fifth" Factor of Production in the Sudan* (1985) p.11.

12 The world's first "criminal state" has yet to emerge, but some observers had thought this likely to be Colombia, under the influence of the drug lords. Recent attempts by courageous reformers to contain corruption have seen this prospect diminish.

13 Ankalesaria Aiyer, *Indians succeed; India fails*, *The Times of India*, 26 December 1999.

14 These figures, obtained by Daniel Kaufmann in 1997, are much higher than figures reported in other countries, ranging from 7 per cent in El Salvador to 15 per cent in Lithuania and Brazil.

15 For a larger discussion see Jeremy Pope, *Productivity and Corruption*, presented to the 1997 Science Week, Amman, Jordan, 15-18 September 1997.

## Impact on foreign direct investment

One of the most crucial elements for accelerating private sector development is an increasing flow of foreign direct investment (FDI). So what, if any, is the impact of corruption on FDI?

In a recent study<sup>16</sup>, Professor Shang-Jin Wei, a professor at the Kennedy School of Government, Harvard University, examined bilateral investment from 14 traditional source countries into some 45 host countries during the period 1990-91, with startling results.<sup>17</sup> He compares corruption levels with marginal tax rates and concludes that on the scale of zero to ten – as used in the TI Corruption Perceptions Index – a full one point increase in the corruption level is associated with a 16 per cent reduction in the flow of FDI – or approximately equivalent to a three percentage point increase in the marginal rate of tax. In other words, a worsening of a host government's corruption level from that of Singapore (with a rating of near zero) to that of Mexico (with a rating of 6.75 at the time of the study) incurs a 21 per cent increase in the marginal tax rate on foreigners. That, in turn, is sufficient to eliminate the country's expectations of FDI almost completely. Wei's work encourages us to see corruption as being an additional – if unofficial – tax on the private sector. And one to which international investors are sensitive and to which they react very negatively. So the message is clear: for a country to attract optimum levels of FDI it must have corruption and its illicit tax on investors.<sup>18</sup>

But what of the "Tigers" of East Asia?, one might ask. They have significant corruption and yet growth has been phenomenal. Can international investors really be said to be sensitive to corruption in East Asia? Wei concludes that there is no evidence whatsoever to support the proposition that investors are less concerned about corruption in East Asia than they are elsewhere. On China, in particular, he notes that although the size of the annual inflow is large – over 60 per cent of it in each of the last ten years has come from overseas Chinese, notably those in Hong Kong. Thus he concludes that China cannot be regarded as a typical host country. When FDI from the ten largest source countries is examined, and all of them are members of the OECD, their investment is found to constitute a relatively small proportion of the total FDI going into China.

His findings, too, have been confirmed by a survey of private sector leaders undertaken by Control Risks Group in October 1999, which showed that among US investors, a country's high level of corruption was three times as

### Small bribes wreak major damage on Kenya's roading system

MALABA, Kenya – Francis Kuria's truck shook violently yesterday as it moved down the Trans-Africa Highway from Kenya into this dusty border town. The road was so deeply rutted that the asphalt appeared to be mashed down and squeezed out like putty.

The road damage may be caused by bad construction, but even the best contractor would be challenged to build a highway that could withstand the severely overloaded trucks that regularly travel East Africa's roads. Transporters said they routinely overload trucks in East Africa, paying off weigh-station clerks who are supposed to be protecting public highways. Kuria's boss, Anwar Bayusuf, the operations manager of M.A. Bayusuf & Sons Ltd., said that until recently he typically overloaded his trucks by 50 per cent...

The result of the corrupt practice is that transporters made huge profits at the expense of the road system, destroying it so thoroughly that Kuria must slow down to walking speed to get through the broken pavement. The economic costs of time lost and vehicles damaged by such roads is incalculable. Two years ago the International Monetary Fund refused to lend any more money to Kenya, partly because corruption had become so blatant it was holding back the nation's economy. Since then, Kenya has taken action to curtail corruption, and overweight trucks are no longer tolerated. "No more overloading," said Bayusuf. "I have too many trucks. I can't risk it. You know why we're doing this? The IMF has gotten too smart for us." But corruption is difficult to wipe out over-night. Many people expect a gratuity for doing their job. It's known as *TKK – Toa Kitu Kidogo* in Swahili. "Give something small." As he drives along Africa's highways, Kuria is often stopped at police roadblocks and asked for gratuities. On this trip, he said he is grateful to have a white foreigner in his truck because the police treat *muzungu* with deference. "If they see a *muzungu*, they wave you through," said Kuria as he glided through a checkpoint. Even in post-colonial Africa, white people often get preferential treatment.

Along the highway, the bribery system is well entrenched. Kuria never paid off weigh-station clerks himself. Rather, Bayusuf sent "clearing agents" to deliver the cash ahead of the truck's arrival. When Kuria arrived, he would be waved through. Humanitarian organizations and United Nations agencies such as the World Food Programme, which are often funded by international donors, can't submit bribes to donors for reimbursement. "What we do instead is to hire clearing agents," said Joern Lose, the logistics officer for the World Food Program in the Kenyan port of Mombasa. The clearing agents do their dirty work, and the cost is reported as an administrative fee.

*Philadelphia Inquirer, 26 April 2000*

16 Shang-Jin Wei, *How Taxing is Corruption on International Investors?*, Harvard University, February 1997. Mimeograph. See [www.transparency.de](http://www.transparency.de).

17 In his paper, Professor Shang-Jin uses two measures of corruption, both based on surveys of respondents. One is that conducted by Business International (a subsidiary of the Economist Intelligence Unit) and the other is Transparency International (TI)'s Corruption Perceptions Index, an average of some seven to ten survey results on corruption. Noting that the two surveys are highly correlated, he takes this as his starting-point and conducts an investigation into the relationship between the

marginal rate of tax and its effects on FDI. A one percentage point increase in the marginal tax rate is shown as reducing FDI by about five per cent.

18 In a region such as the Middle East which continually laments the reluctance of large investors to invest at home, or within the region, all of this is cause for reflection. Could it be that concern about levels of corruption eroding profit margins and undermining longer-term stability are at least contributing to the region depleting its own resources by investing them for the benefit of economies elsewhere?

likely to deter them from investing than was a country's poor record in human rights.<sup>19</sup>

### Is corruption always bad?

Some would argue that corruption can have beneficial effects such as non-violent access to government affairs and administration, when political channels are clogged, or as a means of lessening the potentially crippling tension between the civil servant and the politician by linking them in an easily discerned network of self-interest.<sup>20</sup>

#### Corruption and Culture: The Islamic View

Adopted by the 19th Islamic Conference of Foreign Ministers, Session of Peace, Interdependence and Development, held in Cairo from 31 July to 5 August 1990

##### Article 23

- (a) Authority is a trust; and abuse or malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed.
- (b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of the Shari'a.

However, counter-arguments are more acceptable. They focus on the fact that corruption 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 as ill-gotten money is either used in conspicuous consumption or is transferred to foreign bank accounts. Such transfers represent a capital leakage from the domestic economy. Furthermore, corruption generates inefficiency in allocation, by permitting the least efficient contractor with the highest ability to bribe to be the recipient of government contracts. In addition, since the cost of bribes is included in the price of the goods produced, demand tends to be reduced, the structure of production becomes biased, and consumption falls

below efficiency levels. Thus corruption lowers the general welfare of the populace.<sup>21</sup>

The following points summarise the costs induced by corrupt practices:

- A corrupt act represents a failure to achieve the objectives which government seeks (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.);
- Corruption contaminates the environment in which the private sector has to operate, leading either to quick (and excessive) profit-taking in circumstances of unpredictability, or to inward investment being discouraged, and excluding new potential entrants thus reducing participation and private sector growth;
- Corruption represents a rise in the price of administration (the taxpayer must submit to bribery as well, thereby having to pay several times over for the same service);
- If corruption takes the form of a kickback, it serves to diminish the total amount available for public purposes;
- Corruption exerts a corrupting influence on the administrative apparatus, eroding the courage necessary to adhere to high standards of probity ("morale declines – each man asking himself why he should be the sole custodian of morality");
- Corruption in government, perceived by the people, lowers respect for constituted authority and therefore the legitimacy of government;
- If the elite politicians and senior civil servants are widely believed to be corrupt, the public will see little reason why they, too, should not help themselves;

19 The survey was conducted by the Industrial Research Bureau (IRB) on behalf of Control Risks. Respondents were asked whether they had held back from an otherwise attractive foreign investment on account of a country's reputation for corruption, human rights, labour or environmental controversy. European companies ranked corruption (38%) ahead of labour (35%), environment (34%) and human rights (28%). By contrast, US corporations ranked corruption higher (40%), human rights (13%), environment (14%) and labour (16%) all significantly lower. 92% of US corporations "forbid bribes to obtain business" (Europe 85%), and 76% of US corporations forbid "grease payments" (Europe 62%).

20 David Bayley, *The Effects of Corruption in a Developing Nation*, *The Western Political Quarterly*, p.719, pp. 727 et seq. To be fair, the author advances this thesis in an illustrative fashion, seeking to pose questions rather than answer them definitively, and he presents a list of factors both positive and negative. In addition, for the purposes of the Source Book, all italicised words in the passage quoted have had emphasis added to stress the caution with which the propositions are advanced.

21 David J. Gould and Jos A. Amaro-Reyes, *The Effects of Corruption on Administrative Performance: Illustrations from Developing Countries*, World Bank Staff Working Papers Number 580; Management and Development Series Number 7 (1983)

- A barrier to development has been an unwillingness at the political level to take unpopular decisions (“a corrupt official or politician is a self-centred individual [unlikely] to jeopardise his prospects for the sake of prosperity for the whole country in the remote future”);
- Corruption results in a substantial loss in productive effort as time and energy are devoted to making contacts to circumvent and outwit the system, rather than to enhancing credentials and strengthening one’s case objectively;
- Corruption, as it represents institutionalised unfairness, inevitably leads to litigation and trumped-up charges with which even the honest official may be blackmailed; and,
- The most ubiquitous form of corruption in some countries – “speed money” or “grease payments” – causes decisions to be weighed in terms of money, not human need.<sup>22</sup>

## What causes corruption?

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 rich, wealthy countries are beset by scandals – very few of which involve anyone who might be categorised as being “poor” or in “need.” It would also virtually equate poverty with dishonesty – which is a concept attacked vehemently by a number of critics, who see this alleged linkage as being little short of a blanket defamation of the poor. Nor can it be said that those who manipulate banking systems, producing “non-performing loans” and conducting insider deals with deposits made by an unsuspecting public are exactly poverty-stricken. Corruption is therefore a double-edged sword – it can emerge from wealth and abundance, or it can emerge from the lack of it.

Recent World Bank estimates of the wealth which corrupt African leaders have stashed away in European banks stands at several billion U.S. dollars. None of these leaders can be described as exactly being a victim of poverty. Yet, by plundering national treasuries, these leaders have unquestionably deepened the poverty of their people. Public expenditure decisions are fuelled by private gain and subsidised by massive bribes from firms in industrialised countries with scant regard for the good of the country or its people. Social and economic development is adversely affected. So, rather than as a result of poverty, grand corruption can be seen as a cause of it.

The individuals whose corruption has the most negative impact on a country are relatively few in number and their behaviour may or may not be obvious to the ordinary citizen. However, the petty corruption that people encounter day in and day out in the course of their everyday lives is frequently contributed to by poverty in some shape or form.

In the poorest countries – often those with corrupt élites – there is a manifest failure by government to pay a living wage to public servants. Indeed, frequently the state is wholly unable to afford to do so. Thus, inadequate remuneration for public officials is widely regarded as being a contributing cause of corruption, at least at the petty level if not in the entire system. However, the answer is much more complex than a simple increase in wages.

### Survival tactics in Thailand

One Thai official is reported as saying: “What you have called corruption, I call survival. My subordinates count on me to help them in any way possible. I like my job. I am supporting a large family. There may be other ways, but I don’t see them and besides, I’m not hurting anyone. You tell me what alternatives there are. Do you know my salary? I’m not stupid. I know my duty and so does everyone else. Corruption is a problem in Thailand but there’s no better way now. Besides, every person in this [section] has been involved [in corrupt activities] for years.”

*Jon S. T. Quah “Bureaucratic Corruption in the ASEAN countries: A Comparative Analysis of their Anti-Corruption Strategies”, Journal of Southeast Asian Studies, Vol. 13 No. 1, pp. 153-177 (1982), at p. 165 quoting from Clark D. Neher, “Political Corruption in a Thai Province, “ in The Journal of Developing Areas XI, 4 (July, 1977), pp. 484-489.*

22 David Bayley, *supra* at pp. 724 et seq.

## The myth of culture

One way to justify bribery is with the “culturally relativistic” argument. It is often suggested in developed countries that corruption is part of the “culture” of many developing countries. The fact that people in a particular country may tolerate demands for small payments in return for official services (e.g., the issuing of permits, licences, etc.) does not necessarily imply that they approve of it; it may simply be that the public “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 alternative processes are really possible.”<sup>23</sup>

Yet, one could ask why there are laws against corruption in all countries, developed or developing, if, in fact, it is “a part of their culture”? Why, too, one might inquire, have the people of the Philippines and Bangladesh mobilised against a well-armed military to bring down corrupt leaders? These events hardly square with a popular acceptance of corruption as “a part of culture.”<sup>24</sup>

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 élites, 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.”<sup>25</sup>

### Budget Fraud In The European Union

Most Europeans would reject any suggestion that corruption was “a part” of European culture, yet there is an impressive array of evidence that could be employed to support this charge. One need not point only to the political and “big business” corruption scandals that have effectively destabilised Italy and Spain, and which more recently have surfaced in Germany and France. Fraud against the budget of the European Union has become a major problem, resulting in the Commission trying to establish networks of mutual legal assistance between member state to contain it, and increasingly instances are surfacing of bribes being paid to politicians and other public officials in public procurement and privatisations among European countries.

Michael Johnston

In some cases, corruption may reflect practices introduced into a culture by a foreign power. Indonesia is beset by massive corruption. Yet some writers have argued that this phenomenon originated, not with the Indonesians themselves, but with the 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 organisation, 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>26</sup>

The same writer notes that “corruption was introduced into [the Philippines] during the Spanish colonial period. He also observes that in Singapore, after World War Two, “the British Army officers in charge of local purchases had probably never before been exposed to the type of temptations in money, wine and women...whatever resistance there was in them melted away with mercurial speed.”<sup>27</sup>

The author also notes that Thailand is the only ASEAN country which has not been colonised. “However, freedom from colonial domination does not guarantee that a country will be immune to the disease of corruption. Indeed, in Thailand’s case corruption is an endemic disease which can be traced to the corrupt behaviour of the government officials belonging to the sixteenth century bureaucracy.”<sup>28</sup>

23 Michael Johnston, *The Political Consequences of Corruption: Reassessment*, in *Comparative Politics*, July 1986 at pp. 467-8.

24 See various examples reported in the TI Newsletters, on [www.transparency.de](http://www.transparency.de).

25 Michael Johnson, *ibid.*, p. 463

26 Quoted in Jon S. T. Quah, *Bureaucratic Corruption in the ASEAN countries: A Comparative Analysis of their Anti-Corruption*

*Strategies*, *Journal of Southeast Asian Studies*, Vol. 13, No.1, pp. 153-177 (1982) at pp. 154-155. The author also comments that “corruption, which was condoned during the colonial era, was viewed in a more critical light during the post-war period”.

27 *Ibid.* at p. 162, quoting from Yoong Siew-Wah, *Some Aspects of Corruption*, *National Youth Leadership Training Institute Journal*, Jan. 1973; pp. 55-56.

But whether colonialism in the past contributed to the growth of corruption or not, there is perceived to be a very strong and corrupt nexus between a number of former colonies and their former European colonial “masters”.

Today, of course, there are significant differences in perceptions and practices between various cultures. What some accept as reasonable and appropriate will differ very widely. These differences, however, may have more to do with how business is conducted (through the giving of presents and of hospitality) than with blatant attempts to “buy” favourable decisions. There is a clear distinction between “reciprocity” and reciprocities classified as bribes.<sup>29</sup>

In the African context, the suggestion that there is a cultural explanation for lavish gift-giving in return for favours bestowed has been robustly attacked by Olusegun Obasanjo, (prior to his imprisonment as an anti-corruption activist and subsequent election in 1999 as President of Nigeria):

“I shudder at how an integral aspect of our culture could be taken as the basis for rationalising otherwise despicable behaviour. In the African concept of appreciation and hospitality, the gift is usually a token. It is not demanded. The value is usually in the spirit rather than in the material worth. It is usually done in the open, and never in secret. Where it is excessive, it becomes an embarrassment and it is returned. If anything, corruption has perverted and destroyed this aspect of our culture.”<sup>30</sup>

In the Far East, too, the complaint is that traditional practices have been subverted. “Once, the exchanging of gifts was a laudable social custom emphasising the importance of personal relations in social life. Now, bongtoo and chongji have distorted the practice into institutionalised bribery in the name of goodwill tokens.”<sup>31</sup>

One conclusion that provides a succinct riposte to apologists for corruption being simply cultural is this: “The public men on whom wealth has descended in a sudden and unimaginable torrent are not heirs to a tradition of comfortable bank balances and public responsibility; they are nouveaux riches tycoons of public administration... Those who happened to be in the right place at the right time”.<sup>32</sup>

#### The colonial inheritance....

When we look at what we see it is only fair to reflect on the state of affairs which African countries inherited on gaining independence. Colonialism was marked by a lack of accountability – other than to the European capitals – London, Paris, Lisbon or elsewhere. It was marked by an absence of transparency. The courts existed, not to do justice and enforce the rule of law, but to sustain the imposition of colonialism. The judges were simply civil servants wearing wigs. And the style of governance was characterised by government being “done” to the people, rather than a people being governed by consent – and the instruments of repression were handed over, intact, to the incoming administrations. Against such a background, the positive achievements of some African countries have been little short of astonishing.

*Jeremy Pope in Civil Service Reform in Anglophone Africa (EDI-World Bank, Washington, 1995)*

### The first myth: poor salaries are the only problem

Poor salaries, below the level of “living wages” lie at the heart of corruption. Increase the salaries and the problem will be cured. Such is the conventional wisdom. However, like most “quick fixes” the evidence is all to the contrary. Yes, the pressures on a public servant to abuse his or her office are greater if they are living near or below the poverty line. However, the evidence is at best unclear whether increasing public sector wages alone can reduce corruption. An in-depth look at country specific data does not support the notion that merely increasing

28 Ibid. at p. 163.

29 See John T. Noonan, *Bribes* (University of California Press, Berkeley, Los Angeles; 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.

30 In *Corruption, Democracy and Human Rights in Africa*, the keynote address to the Africa Leadership Forum on *Corruption, Democracy and Human Rights in Africa*, Cotonou, Benin, 19-21 September 1994. See Ayodele Aderinwale, *Corruption, Democracy, and Human Rights in West Africa* (ALF Publications,

Ibadan, 1995). The same sentiments were later expressed in a letter to the “Financial Times”. Obasanjo was head of the military regime (1976-79) which returned Nigeria to democratic rule, an exercise which foundered on a military coup in 1984. He was subsequently imprisoned by the corrupt dictator Sani Abacha, and was released from prison and elected President in the elections which followed Abacha’s death in 1998.

31 Gerald E. Caiden and Jung H. Kim in *A New Anti-Corruption Strategy for Korea*, *Asian Journal of Political Science*, Vol. 1, No. 1 (June 1993).

32 Ronald Wraith and Edgar Simpkins in *Corruption in Developing Countries* (Allen & Unwin, London; 1963).

official salaries to existing staff in corrupt agencies helps.<sup>33</sup>

Further evidence against this argument is the indisputable fact that most of those involved in “grand” corruption have very much more than they or members of their family will ever need – and yet the misappropriation continues. One African commentator has commented that some of their countries, far from being democracies are, in fact, kleptocracies.<sup>34</sup> However, this is not to say that increasing public sector wages is not an important factor in reducing corruption. But, it can only be effective as part of a comprehensive package of civil service reform, where proper compensation and incentives are addressed along with meritocratic recruitment and promotion, replacement of corrupt personnel, and appropriate training.

### The second myth: “good governance” is only for developed countries

Defenders of the status quo, and those who feel embarrassed by the corruption in their own country or region, sometimes take refuge in the argument that “good governance” is a stick fashioned in the industrialised countries with which to beat developing countries and countries in transition. The argument implies that “good governance” is a twentieth century concept, fashioned in the industrialised countries to suit their own purposes.

Even a random reading of history shows this to be far wide of the mark. Throughout the centuries, enlightened rulers have sought to establish and maintain systems of government that were fair and just. These have not been confined to Europe, but embrace all regions of the world. The Ts’ in Dynasty in China (221 BC) and the second Muslim Caliph, Umar.1. (634-644), and the Swedish King Charles XII (in 1713), provide just three examples of attempts in various cultures through the ages.<sup>35</sup>

### When the state does not pay its institutions

A major contributor to corrupt practices can be the state itself, principally when it simply fails to pay its bills.

For example, a recent audit in Russia (the first of its kind in 20 years), showed that Primorye’s universities extort money from their students, illegally charge library fees, and force students to contribute large sums to “charitable funds.” At the Far Eastern State Academy of Economics and Management, every one of its 4,500 students contributes \$200 per year to a charitable fund, which supposedly pays for unspecified students’ needs. (The sum is nearly five months’ average income in Primorye.) Even those who are supposed to be studying for free pay the sum. Some universities ignore the benefits that orphans and disabled students are supposed to get. Gennady Turmov, rector of the technical university in Primorye, said the government is to blame for failing to fund the colleges and so forcing them to seek money elsewhere.

“The state, which committed itself to financing the universities within the same laws, has not been doing this for a long time, even at a minimal level,” he said. “So the universities have to show miracles of commercial inventiveness.”<sup>36</sup>

33 See, e.g., Daniel Kaufmann’s contribution “What have we really learned recently” to the Anti-Corruption Discussion Forum, 14 January 2000. The experience of establishing independent revenue collection authorities (in which staff are taken outside the civil service and paid handsomely) also bears this out.

34 John Githongo, a respected Kenyan journalist.

35 Bryan Gilling in his book *The Ombudsman in New Zealand* (Dunmore Press and Historical Branch, Department of Internal Affairs 1998 pp. 13-15) also lists precedents from the Romans. See also John T. Noonan, *Bribes* (University of California Press, Berkeley, Los Angeles; 1984)

36 From Zolotoi Rog and Novosti, Feb 29, 2000

## The breaking of the taboo

Traditionally the international community has shied away from discussing corruption. Now the topic is out in the open. The taboo has been broken.

Corruption came to the political forefront, most conspicuously, when the leaders of the Americas met at the Summit of the Americas in December 1994. In the Plan of Action adopted by the Summit, governments pledged that they will:

- promote open discussion of the most significant problems facing government and develop priorities for reforms needed to make government operations transparent and accountable;
- ensure proper oversight of government functions by strengthening internal mechanisms, including investigative and enforcement capacity with respect to acts of corruption, and facilitating public access to information necessary for meaningful outside review;
- establish conflict of interest standards for public employees and effective measures against illicit enrichment, including stiff penalties for those who utilise their public position to benefit private interests;
- call on the governments of the world to adopt and enforce measures against bribery in all financial or commercial transactions within the Hemisphere;
- develop mechanisms of co-operation in the judicial and banking areas to make possible rapid and effective response in the international investigation of corruption cases;
- give priority to strengthening government regulations and procurement, tax collection, the administration of justice and the electoral and legislative processes; and,
- develop, with due regard to applicable treaties and national legislation, a hemispheric approach to acts of corruption (in both the public and private sectors) that would include extradition and prosecution of individuals so charged, through negotiation of a new hemispheric agreement or new arrangements within existing frameworks for international co-operation.<sup>37</sup>

During most of its existence, the World Bank had refused to address the issue of corruption, treating it as a "political" matter, and an area rendered off-limits by the Bank's charter documents. This stance was abruptly reversed when incoming President, James Wolfensohn, effectively threw legal opinions into the dustbin and declared corruption to be an economic issue, and therefore of central importance to the viability and effectiveness of the projects the bank funds. He repeated his argument in 1999: "The causes of financial crises and poverty are one and the same . . . if [countries] do not have good governance, if they do not confront the issue of corruption, if they do not have a complete legal system which protects human rights, property rights and contracts . . . their development is fundamentally flawed and will not last."

*Address to the Board of Governors,  
September 28, 1999.*

Since then, the member states of the Organisation for Economic Co-operation and Development (OECD) agreed to outlaw the bribing of foreign public officials, and signed the landmark Convention on Combating bribery of Foreign Public Officials in International Business Transactions on 11 December 1997.<sup>38</sup> This, and a range of "soft law" recommendations, is designed to criminalise foreign bribery and to end tax deductibility for bribes paid abroad.<sup>39</sup>

## Why an integrity "system"?

These initiatives, and others, do not imply that the reduction of corruption is an end in itself, it is instrumental in reaching the broader goal of more effective, fair, and efficient government. Anti-corruption activists are concerned not just with corruption per se, but rather with its impact on society. Thus, it is important to assess the costs of corruption and understand that it is impossible to eliminate it entirely and all at once. Under many conditions, it will simply be too expensive or too cumbersome and dysfunctional to attempt to reduce corruption

37 See Building a Global Coalition Against Corruption: Transparency International Report 1995 (Transparency International, Berlin, 1995), pp. 16-17. Efforts are under way (1999) among civil society organisations on all five continents to try to build greater enthusiasm for implementation of these undertakings.

38 The text is available at [www.oecd.org/daf/cmib/bribery/20novle.htm](http://www.oecd.org/daf/cmib/bribery/20novle.htm).

39 The proof of the intent will be in the performance of the obligations assumed by the member states. By no means all share the same level of enthusiasm for this levelling of the international trade playing-field, and some are attracting fierce criticism as the process of evaluation of implementation proceeds.

altogether – if, indeed, this could ever be achieved. Corruption has existed for as long as humankind, and the most that can be hoped for is to be able to contain corrupt practices within tolerable limits. In some cases, bureaucratic discretion may be necessary for effective

**The views of a Ugandan....**

In my culture, where we have no social insurance whatsoever, you can only guarantee your old age survival through the help and assistance you extended to your relatives and clan members. Our culture was built on social obligations and expectations. For instance if you were employed, culture expected you to help others through your position in society. This was instilled into our minds from childhood. Corruption is defined as including nepotism, tribalism and using your office for self gain etc. But these definitions fall short when put to the test of my culture. If you close your eyes and ears to those in your clan and tribe, the cultural pressures will sooner rather than later bring you face to face with nepotism and tribalism. It is therefore important to start by educating my people to discard those cultural values that lend themselves to corruption. Recently we had a National Coalition Building Workshop bringing together the government anti-corruption agencies, the civil society, the Judiciary, Parliamentary Members, the private sector, and religious and cultural leaders among others. All participants were concerned with the corruption in the country, yet when it came to defining precisely what corruption is in Uganda, different opinions were highlighted. But one thing was clear: that part of the battle against corruption will be fought through redefinition of our norms and value system. Indeed, many even argued for starting a subject on moral and ethics in all our teaching institutions right from primary education. Being corrupt or not to be corrupt has a lot to do with one's mindset and socialisation right from childhood. Having said that, Uganda has come out very boldly, and is facing corruption with the same determination that it showed when the AIDS scourge almost engulfed the whole country. Then, everyone in our community came to believe that if we did not do something about AIDS we would literally disappear from the face of the earth: in the same vein Ugandans have come to believe that if we do not deal with corruption in the same way we may never lift ourselves out of our poverty and suffering. With support from our friends from around the world, the anti-corruption agencies in Uganda, like the Inspector General of Government and the Directorate of Ethics and Integrity, are reaching every corner of our society. And like AIDS, corruption has become an agenda for every household.

*Dr. Mohammad Kisubi, contribution of 28 March 2000 to the Utstein internet discussion, "Approaches to Curbing Corruption".*

administration, and stronger enforcement, and deterrence may be too expensive to undertake. It is also vital to recognise that some anti-corruption policies will have no impact if carried out in isolation.

Furthermore, the broader societal context will condition the impact of various policies. Thus, the aim is not complete rectitude or a one-time cure or remedy, but an increase in the honesty or integrity of government as a whole. To focus on why and where corruption flourishes, and to develop tailor-made systems and procedures to prevent and contain it. This process, itself, must have an internal integrity. It must respect other values, and balance competing interests. It is axiomatic that fundamental human rights norms should be respected, such as guarantees of a fair trial. Inroads into personal privacy must be reasonably justifiable. If the process challenges existing and widely-accepted social conventions and norms, it courts problems.<sup>40</sup>

An integrity system provides a practical framework of checks and balances for averting the damage which corruption causes to the public interest, and for fostering an environment in which the quality of official decision-making is heightened. The integrity system is discussed in Chapter 4.

**The challenge**

When we talk about reducing corruption we are really targeting fairer distribution of income which implies reducing the excessive incomes and benefits which officials at present enjoy. Not only is their future income threatened, but also there is the prospect of officials being held to account for past misdeeds. In some countries these elements are sufficiently powerful to derail reform efforts completely if they feel unduly at risk. How should this challenge be approached?

First, the reforms should be treated as being systemic. The reforms are not aimed at people, but at the systems within which they work. There needs to be a clear understanding that the great majority of the public servants have nothing to fear insofar as the past is concerned.

Second, the question of dealing with the past should be addressed openly and without equivocation. The options vary from complete amnesty, which may or may not be acceptable to the wider community; a partial amnesty: only the "big fish" need fear the consequences, (this presupposes that the 'big fish'

do not have the power to disrupt the reforms); or a process of accounting and taxing that brings the "dirty" money into the open. A third is simply to let the past take care of itself – not embarking on a witch-hunt, but dealing with cases from the past as, if and when they come to the surface. This last option may be an appealing one, but it leaves a cloud of uncertainty and the general public at a loss to understand how the past is being addressed.<sup>41</sup>

40 One society may feel able to prohibit all civil servants from accepting gifts from anyone and at any time. Another may have a tradition of gift-giving on special occasions which does not challenge the norms protected by an integrity system. If restrictions are regarded by people as being unnecessary, unfair and

at odds with their own views of what is right and wrong, the restrictions are likely to be circumvented or simply ignored. Such is the experience of law reformers in all parts of the world.

41 The question of amnesties is discussed later.