

# **Combating Corruption for Development: The Rule of Law, Transparency and Accountability<sup>1</sup>**

## **Introduction**

The problem of corruption has been around a long time and affected all parts of the world. In fact, the problem is grappled with in ancient Arabic, Indian, Chinese, and Greek texts.<sup>1</sup> Some policy prescriptions from those times such as extra allowances for those public officials more prone to corruption like tax collectors and magistrates, rotations every few years so public officials do not get too close with the subjects within a region, and counselors advocating proper conduct to emperors and kings – are still being employed today. With the advent of globalization, the age-old problem of corruption is taking on trans-national dimensions through cross-border infiltrations. These trans-national dimensions, in addition to the existing national manifestations, are creating additional challenges for developing countries which are characterized by a lack of resources and weak institutions. These added trans-national dimensions are creating a sense of urgency in not only finding effective national strategies against but also in coordinating an international response to containing corruption.

This paper looks at the importance of upholding the rule of law and fostering transparency and accountability in the public sector in combating corruption, particularly as components of effective national strategies. The rule of law, transparency and accountability in the public sector serve not only as means to counter corruption but also as fundamental conditions of good governance. To start, the context of globalization, definitions of corruption, the realities of the developing world and the impact of corruption on development are quickly reviewed. Then within the context of developing countries and countries-in-transition, the issues of an erosion of the rule of law in society and a lack of state transparency and accountability are addressed. Finally, strategies to overcome these impediments at the national and international levels are discussed and illustrated with examples.

## **Globalization**

Increasingly, the international community is beginning to realize that globalization can either accelerate development and the sharing of its benefits for all or leave some countries and people out, furthering inequalities and creating more disparities. For instance, it was noted at the 2002 Johannesburg World Summit on Sustainable Development, “As a result of globalization, external factors have become critical in determining the success or failure of developing countries in their national efforts. The gap between developed and developing countries points to the need for a dynamic and

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<sup>1</sup> An earlier version of this paper is forthcoming as *Chapter 11: Corruption as Anti-Development in Perspectives on 9/11*, edited by Yassin El-Ayouty et al. (Greenwood Publishing Group: Westport, CT., Summer 2003).

enabling international economic environment supportive of international cooperation,  
...”<sup>2</sup>

By ensuring that no one is above the law, by making public their decisions and operations, and by answering to those elected representatives of the people and directly to the public, public sector institutions can guide their countries to the path of better governance and reaping and sharing benefits of globalization for all. Domestic and foreign investors alike are more likely to place their money in countries with predictable environments, underpinned by consistent legislative and regulatory regimes. And developing countries are more likely to reach their development goals, as agreed upon in the United Nations Millennium Declaration, by upholding these fundamental principles of democracy. “What is needed, therefore, is not more technical or feasibility studies. Rather, States need to demonstrate the political *will* to carry out commitments already given and to implement strategies already worked out.”<sup>3</sup>

Since the end of the cold war, the world has witnessed spreading democratization, a shift in balance between the state and market forces as more countries seek to integrate into global capitalism, and changes in social mores that inevitably accompany such political and economic transformations. “The world has more democratic countries and more political participation than ever, with 140 countries holding multiparty elections. Of 147 countries with data, 121 – with 68% of the world’s people – had some or all of the elements of formal democracy in 2000.”<sup>4</sup> It can be argued that globalization, the term coined in the 1980’s for describing “a new context for and a new connectivity among economic actors and activities throughout the world,”<sup>5</sup> is the main driver of change of our times. Globalization -- through the increasing interpenetration of markets, the interdependence of sovereign states, and the fostering of a civil society at the global level -- is bringing home the reality of the notion, the global community. No nation can stay an “island” and remain untouched.

Proponents of globalization have touted its benefits, such as faster economic growth, more economic opportunities and higher standards of living. However, protesters of globalization take to the streets because they feel that the process is bypassing big swaths of particularly vulnerable populations, both in the North and the South, leaving their plight worse than before. The Secretary-General of the United Nations, Mr. Kofi Annan, has been pressing the point that “The public domain must be opened further to the participation of the many actors whose contributions are essential to the managing the path of globalization.”<sup>6</sup> Drawing a parallel to the end of the Second World War when the international community rebuilt a new international order, he argues that the international community needs to manage the forces of globalization in order to yield benefits for all. What is important, according to the Secretary-General, is to carefully take advantage of the opportunities and minimize the risks that globalization brings.

The negative effects of globalization have been brought home more forcefully since 9/11. Prior to the attacks, governments and the media emphasized the opportunities of globalization. New information and communication technologies (ICTs) were stimulating a diffusion of ideas and innovations and permitting rapid international trade

on a 7/24/365 basis. However, the attacks of 9/11 served as a potent reminder to all of the risks of globalization. The rapid mobility of people and capital can not only result in gainful commercial transactions but also can spread disease, corruption, organized crime and terrorism. These problems transcend national boundaries and call for collective and coordinated action at the international level.

Within this context, corruption too is increasingly becoming recognized as a problem of trans-national nature, calling for new and strengthened international responses and strategies. For developing countries, the added trans-national dimension of corruption, as well as other social ills, serves as an additional challenge to their already strained state capacity. However, the attacks of 9/11 show that the discontent that arises from poverty, inequality, a lack of opportunities, and other conditions characterizing developing countries can be channeled and targeted anywhere around the globe. There is a renewed sense of urgency in the international community of the need for tackling not only the problems themselves but also the underlying condition that engender them – insufficient development. Public sector institutions need to be strengthened to uphold the rule of law, operate transparently and be held accountable for their decisions and actions.

## **Corruption**

Social science definitions of corruption center around three types: public-office-centered, market-centered or public-interest centered.<sup>7</sup> These definitions have been shaped by the disciplines through which the problem has been approached: political, economic, social, etc. Generally, definitions employed by experts have been public-office centered such as “the inducement (as of a political official) by means of improper consideration (as bribery) to commit a violation of duty”<sup>8</sup> or “behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status-gains; or violates rules against the exercise of certain types of private-regarding influence”<sup>9</sup> A simple definition useful for policy makers is “the abuse of public power for private gain”, as put forward by the World Bank.<sup>10</sup>

In concrete terms, what does corruption look like? In the executive branch of government, the most common picture is that of a public official accepting or soliciting a bribe for the performance or non-performance of an action associated with his or her office. Bribery, in the form of “facilitation” payments, kick-backs, expensive gifts, etc. are at the center of “grand corruption” that may involve the privatization of large state assets, massive procurement contracts and the like to “petty corruption” that involves routine speed money, small bribes, etc. Usually, these types of corrupt practices are identified and prohibited by criminal statutes with corresponding sanctions. They also emerge at the interface of private and public sectors, as companies seek to either purchase state assets below market price or to deliver their line of business through contracts.

In addition to the public financial domain, corrupt acts are practiced within the administrative domain. These include such behaviour as nepotism and cronyism based

on a “spoils system,” resulting from a pervasive politicization of the bureaucracy; ghost workers on public payroll; purchase of public offices; collection of unauthorized fees; falsification or the destruction of records; arbitrary administrative action and bending or circumventing established regulations. Thus, rather than the bureaucracy serving the public interest, the bureaucracy itself becomes an instrument for propagating the political interests of the leadership, its own self-interest, or the personal interests of those within it. These types of acts are generally prohibited by civil service and administrative procedures acts and regulations with administrative sanctions. In addition, some of these practices are also covered by the criminal statutes. Corrupt administrative practices, then emerge at the interface of the political leadership and the supposedly-neutral and professional public administration.

Corrupt practices also manifest themselves in the legislative branch in many countries. Campaign financing has come under increasing scrutiny, especially unregulated “soft” donations in developed countries, as they are seen as an investment to influence future decision-making in the event that a party becomes elected. During elections, fraud and vote rigging also undermine democratic principles and the legitimacy of outcomes. Once in office, many elected officials become involved in influence-peddling, trying to obtain decisions to favour their own interests or those of the organizations with which or individuals with whom they are affiliated. The outcomes of these kinds of acts result in ethnic or regional favouritism, “boss” or “machine” politics, etc. Apart from laws regulating elections, it is more difficult to achieve a consensus around the prohibitions and sanctions against these types of activities. There are ethics legislations and conflict-of-interest policies that cover them. These types of corrupt acts occur at the interface between political parties or their membership and the private sector as well as various interest groups or influential individuals.

Corruption is particularly pernicious in the judiciary, an institution that is supposed to uphold the rule of law. In some cases, judges extract bribes not only for delivering a verdict in a predetermined way but even for merely hearing a case. Lower order court clerks can also solicit bribes for producing or hiding certain information that is crucial to cases. The independence of the judiciary itself can be undermined by the executive branch influencing the appointment and promotion of judges. In such situations, judges are pressured to reach verdicts not based on justice but on political expediencies.

The above-mentioned examples are drawn from around the world, illustrating that corruption is a universally occurring phenomenon. It affects all stages of development, although its manifestations may become more sophisticated with the material affluence and institutional maturity of a country. However, given the constraints on and the additional challenges facing developing countries and those in transition, corruption takes an additional toll on these societies. Before looking at the impact of corruption on these countries, it is important to reflect quickly upon the existing conditions in them.

## Development

The United Nations Development Programme (UNDP), the agency within the United Nations System mandated to assist the development process of Member States, defines sustainable development as “expanding the choices for all people in society”<sup>11</sup> and “protection of the life opportunities of future generations ... and ... the natural systems on which all life depends”<sup>12</sup>

In many parts of the world, however, there are serious challenges and resource constraints to development, as defined above. Large segments of the population face crushing poverty. Infrastructures and services in housing, health, education and employment are not sufficient to meet basic needs. Vast numbers of people are unemployed or under-employed. “... in a globalizing world the increasing interconnectedness of nations and peoples has made the differences between them more glaring. A girl born in Japan today may have a 50% chance of seeing the 22<sup>nd</sup> century – while a newborn in Afghanistan has a 1 in 4 chance of dying before age 5. And the richest 5% of the world’s people have incomes 114 times those of the poorest 5%.”<sup>13</sup> Moreover, many countries have recently experienced or are experiencing strife and conflict, and citizens do not have guarantees that their basic human rights will be respected.

Under these difficult conditions, public officials in developing countries have to take the lead in settling conflicts, rebuilding nations, setting up infrastructures, and striving to develop prosperous societies. In highly centralized states, public servants owe their positions exclusively to party loyalty or are pressured to become partisan, facing punishment upon refusal. Their decisions in carrying out their duties will be shaped more by party expediencies than public interest. In rapidly decentralizing states, public officials wield enormous power as they decide on the future of state assets. If their societies offer few opportunities for economic advancement for them or their family members, they will face enormous temptations to profit personally while divesting of these assets. These conditions make corruption seem inevitable and a necessary evil in developing countries and countries in transition.

So does underdevelopment cause corruption or does corruption cause underdevelopment? The two processes seem to be iterative.

There are pressures from many sides that developing countries and countries in transition are facing to tackle the problems such as conflict, corruption and crime. Bottom up, spreading democratization is giving voice to citizens’ demands for more transparency and accountability from their governments. Philippines and Indonesia witnessed crowds calling the Estrada and Suharto governments to account which ended up in new regimes. Leaders, like Obasanjo in Nigeria, are being elected on the difficult platform of cleaning up governments. In addition, an international advocacy organization, Transparency International, has been setting up country chapters to monitor corruption since 1993. Sideways, the fiscal pressures of the 1990s in donor countries have led to a reduction in bi-lateral aid. A decline in living standards and worse socio-

economic indicators in many developing countries have led to calls for stricter accounting of foreign aid. Top down, multi-lateral donors such as the World Bank and the International Monetary Fund have come out strongly against corruption. They and other regional and international financial institutions are reviewing not only their own projects and loans for corruption but have also suspended projects when financial mismanagement or corruption has surfaced. Kenya is still waiting for their loans while trying to establish a viable, independent anti-corruption commission. New regional and international legal instruments against corruption such as the OAS and OECD conventions and the draft AU and UN conventions, among others, have been introduced.

In response to these pressures, many developing countries have been undertaking anti-corruption related activities and technical cooperation within multi-lateral and bi-lateral frameworks recently. For example, a comparative study of public service ethics in ten Sub-Saharan African countries, undertaken by the United Nations Department of Economic and Social Affairs in 1999 and 2000, shows that most of the public service ethics and anti-corruption initiatives in the sample countries had taken place within five years prior to the study.<sup>14</sup> Such activities call for a careful analysis of the impact of corruption on the development process and customized policy options tailored to the specific conditions of a country.

### **Impact of Corruption on Development**

Since the 1960s, scholars have been trying to enumerate the costs and benefits of corruption on development. Samuel Huntington saw corruption as a necessary stage in the modernization process -- including a change in the basic values of a society, the differentiation between public role and private interests, and a proliferation of laws -- which increase opportunities for corruption.<sup>15</sup> Nathaniel Leff saw corruption as “an extralegal institution used by individuals or groups to gain influence over the actions of the bureaucracy.”<sup>16</sup> He argued that in the context of those underdeveloped countries where business groups are more likely to promote economic growth than the government, corruption was essential in influencing policy choices to promote growth. This “revisionist” approach tended to see corruption in terms of its effects, effects that can be either utilitarian or detrimental. It was a reaction to the “moralist” approach to corruption, which is a simple condemnation on moral grounds.<sup>17</sup>

Since that time, others have joined in the debate to refine the ideas of benefits and costs of corruption. Robert Klitgaard introduced the idea of the three utilities of corruption: economic, political and managerial.<sup>18</sup> Of the utilities of corruption, Klitgaard notes that “they refer to the benefits from specific corrupt acts, not from systematic corruption pervading many or most decisions” and “the assumption that ... if the prevailing system is bad, then corruption may be good.”<sup>19</sup> Other scholars also see more costs than benefits.<sup>20</sup> They agree that though corruption may be beneficial in isolated instances, the its cumulative effect in the long run is detrimental to development.

In fact, corruption diverts public resources from their intended purposes to private pockets and distorts the composition of government expenditure. “Empirical evidence based on cross-country comparisons does indeed suggest that corruption has large, adverse effects on private investment and economic growth. Regression analysis shows that a country that improves its standing on the corruption index from, say, 6 to 8 (0 being the most corrupt, 10 the least) will experience a 4 percentage point increase in its investment rate and a 0.5 percentage point increase in its annual per capita GDP growth rate.”<sup>21</sup> In addition, cross-country analysis shows that corrupt governments spend less on education and health, and probably more on public investment.<sup>22</sup>

If corruption negatively affects economic growth due to deterred private investment, what are the precise factors that make private investors nervous? Generally, domestic and foreign investors want to be assured of a politically stable and economically predictable environment in a country before they commit their resources. The rule of law, transparency and accountability in the public sector affect not only the economic development but also play a critical role in the governance of a nation. Given this tendency, how can the rule of law, transparency and accountability in the public sector be improved to combat corruption in developing countries and countries in transition?

### **The Rule of Law and Corruption**

The rule of law or the principle “that refers especially to government under law and to an unending search for reasonableness as law’s most basic norm”<sup>23</sup> is the cornerstone of constitutional democracy. It ensures that the state, or “a set of institutions that possess the means of legitimate coercion, exercised over a defined territory and its population,”<sup>24</sup> exercises its power in a reasonable and not an arbitrary fashion. Proper checks and balances need to be in place to minimize the opportunities for the abuse of state power. Therefore, traditionally, the government, or “the people who fill the positions of authority in a state, ... the structure and arrangement of offices and how they relate to the governed”<sup>25</sup>, has been separated horizontally into three sets of powers. The legislature makes the law; the executive implements or executes the law; and the judiciary interprets and applies the law. It has also been vertically divided into central and local levels of government.

Given the centrality of the powers of legitimate coercion in its definition, a state can intervene effectively in all aspects of life of those citizens within its boundaries. This means also that people in government, and particularly those in the executive, can abuse their powers and positions to promote their own interests or those of their friends and allies at the expense of public interest, through arbitrary acts and corruption. In many developing countries, despite constitutions that depict horizontal and vertical separations of powers, the state structure in practice centralizes power in the executive branch of government. By contrast, countries-in-transition are states that are rapidly decentralizing their power by shifting from central planning to market orientation and from one-party to multi-party politics. In essence, tight state control is being economically and/or politically loosened so rapidly that short-term profiteering over

long-term profit- making and a temporary descent to anarchy result. So what does corruption tend to look like in these two opposing situations?

Many leaders of countries in Sub-Saharan Africa are currently acknowledging that their countries have been characterized since independence by overly powerful executive branches, unchecked or ineffectively checked by the legislative and judicial branches. These countries have been associated with one-party rule, cults of personality, and deep-rooted corruption that have arrested or retarded economic development. Zaire under Mobutu perhaps epitomizes this characterization. These situations have led to the leadership engaging in “grand corruption”, turning the state structure into a mechanism for personal enrichment. For instance, an example of a flagrant disregard for the rule of the law occurred in Zimbabwe in the early 1990’s. There was an exercise to detect and punish those public officials involved in illegally purchasing and reselling motor vehicles. When the president pardoned the first government minister convicted in the case, the Attorney General subsequently dropped the charges against other ministers and members of parliament.<sup>26</sup> Given these types of examples on the part of the leadership, and the poor working conditions of the public sector, it is not surprising that public sector workers lower down the ranks have turned to “petty corruption,” often simply to survive. The net impact of this systemic corruption is a serious erosion of the rule of law.

Former Soviet countries make up the bulk of countries-in-transition where a private sector is being rapidly carved out, in effect, from formerly all-encompassing state ownership. To take Russia as an example, it experienced seven decades of authoritarian rule and central planning that led the common people and the intelligentsia to view the state with suspicion. The state became a separate entity from society, where “political debate was couched in terms of power, order, obligation and justice.”<sup>27</sup> When state assets belonged to all, they belonged to none. This reality also led to a mentality of rule evasion, as described by some scholars.<sup>28</sup> Corruption involved deviation from laws and formal procedures that may have been rational or even socially functional, as implied by the Soviet-era saying, “he who does not steal from the state, steals from his own family.” Into this vacuum in the rule of law came a rapid divestment of state assets. In many instances, “spontaneous privatizations” occurred, simply allowing those public officials who used to control them on behalf of the state to acquire them privately in terms favourable to themselves.<sup>29</sup> In other instances, some assets even end up in the hands of organized crime, further undermining the rule of law. The expected democracy dividend never materialized to benefit the ordinary people of these countries.

### **Transparency, Accountability and Corruption**

Related to the concept of the rule of law are the concepts of transparency and accountability. “For democracy to work, citizens must have access to information about what their government is doing and how decisions have been reached.”<sup>30</sup> Transparency in government means responding to the citizens’ “right to know” through facilitating the access to information and also their understanding of decision-making mechanisms. This can be achieved through accurate, reliable and relevant financial reporting based on



published accounts and regular audit reports; freedom of information acts which allow access to records of and rationale for decision-making; televised parliamentary debates; etc. Government accountability is facilitated by approaches, mechanisms, and practices to ensure that its activities and outputs meet the intended goals and standards. The two concepts of transparency and accountability go hand-in-hand since without adequate information on performance, outputs, and justifications, it is difficult to hold governments accountable for their actions. Giving account of public resources and policy decisions is an integral part of democracy. Transparency and accountability serve as a check against mismanagement and corruption on the part of public officials. Thus they are pillars of sound governance which is so crucial to winning and maintaining the confidence of citizens, investors, and the international community.

Impediments to transparency and accountability in government in developing countries and countries-in-transition are excessive, arcane and outdated regulations that make it hard to understand decision-making and criteria for decisions. In addition, broad discretion concentrated in the hands of individuals or small groups without accountability constitute the right formula for breeding corruption.<sup>31</sup> A lack of timely and publicized information about government activities or information communicated in legal or technical language which may be incomprehensible to lay people or linguistic minorities make it difficult for citizens to access information. Too often national security is invoked to cover up sensitive information. Whether due to a lack of resources or a lack of political will to provide information, these impediments to transparency and accountability make difficult detecting and dealing with corruption.

In the context of globalization, transparency and accountability is important not only within governments themselves but also in key economic sectors such as the financial services sector. An important growth strategy for all countries has been to liberalize their economies, including opening up to foreign investment and expanding international trade. Within this context, public officials have a crucial regulatory and standard-setting role. The current Enron scandal in United States and the Asian financial crisis in the late 1990s are examples of what can happen due to lax accounting practices, lack of independent auditors, complex corporate structures, and undisclosed complex financial transactions. In the case of the Asian financial crisis, the lack of transparency and accountability, because the bank regulators had not been doing their job properly, allowed poorly performing banks to survive and “contaminate” the entire sector. Capital flight occurred when the banks looked like they were holding too many shaky loans and it was clear that the bank regulators had been in collusion with the banks. In the absence of regular, reliable, and credible financial reports, rating analysts such as Moody’s depend on “soft” data sources.<sup>32</sup> The problem with “soft” data is that it is not very reliable, often leading to broken trust and credibility. Perceptions of transparency and accountability greatly affect the opinions of financial analysts and ultimately the levels of foreign investment.

Another response to globalization has been privatization or the transfer of state enterprises and assets to private or mixed control and ownership. It has been a preferred economic policy instrument in countries-in-transition and developing countries in the past

decade. In the long run, privatization can improve the economic performance of countries, and ultimately reduce corruption, but the process itself can be “fraught with opportunities for corruption and self-dealing.”<sup>33</sup> It has been pointed out that the Former Soviet Union and Central and Eastern European countries had no alternative but to privatize, given the level of economic stagnation into which central planning had brought them.<sup>34</sup> However, once privatization was adopted as a formal policy, many constraints existed such as the lack of market-based financial and business skills, watchdog or regulatory institutions, and undeveloped financial markets and inappropriate legal systems. These conditions resulted in a lack of transparency and accountability in the rapid privatizations that took place, resulting in grand corruption through “spontaneous privatization” and “stealing from the state”, as referred to above. Some scholars argue that the scope of corruption varied depending on the type of privatization mechanism employed such as voucher-based, liquidation, capital market-based, tenders and trade sales, management-employee buy out, etc. Other factors also included the speed of the transaction, the level of administrative discretion allowed, access to information on the valuation of enterprises involved and the results of transactions, and implementation by independent agencies. Overall, the lack of transparency and accountability made possible the divestment of state assets in favour of personal interests rather than public interest, allowing the massive diversion of potential public funds.

## **Strategies Against Corruption**

In a globalizing world, the strategies to prevent, detect and punish corrupt acts must be formulated at both the national and international levels. National laws, institutions and actors must be invoked in the fight against corruption. However, without action and cooperation at the international level, countries may find corruption seeping over their borders into impunity. Countries must find, and are finding, ways to build the capacity of their public sector institutions to uphold the rule of law and increase transparency and accountability. New regional and international tools, institutions and actors need to be mobilized, and are being mobilized, to ensure that countries harmonize their efforts to deter and contain corruption.

## **National Strategies**

At the national level, each country has its own particular historical, cultural, legal and administrative situations that must be taken into account in dealing with the problem of corruption. However, the experience of reforming countries to date has shown that a more active role for civil society is essential. Civil society has been defined as “the realm of organized social life that is voluntary, self-generating, self-supporting, autonomous from the state, and bound by a legal order or set of rules.”<sup>35</sup> Civil society can serve as a countervailing force to either an overbearing or an unraveling state in the fight against corruption. Civil society organizations can watch over government activities, educate the populace of its civic and political rights, and try to refrain from being contaminated themselves. The private sector, which is both a perpetrator and a victim of corruption,

must also be engaged in the fight against corruption. A leveling of the playing field will be one sure way of getting businesses to desist from corruption. The increased involvement of civil society and private sector does not preclude the needed reforms within the various arms of the government itself.

To help countries conceptualize a strategy at the national level, several international organizations have developed various frameworks. Transparency International and the World Bank have put out a concept, a national integrity system, to describe the key institutions integral to combating corruption. The nine “pillars” of the system include the executive, civil society, private sector, champion of reform, judiciary, enforcement agencies, media, watchdog agencies, and parliament.” They affect the three spheres of rule of law, sustainable development and quality of life.<sup>36</sup> Concurrently, the OECD has developed the concept of the public service “ethics infrastructure” for the executive branch of government which include the following eight elements: political commitment, a legal framework, accountability mechanisms, codes of conduct or statements of values, professional socialization, employment conditions, ethics coordinating bodies, and public involvement and scrutiny which serve the three functions of guidance, management and control in the public service.<sup>37</sup>

More concretely, many countries are taking advantage of the information revolution to put these concepts into practice. Public administration reforms to open up government and bring services closer to the citizens have resulted in an enhancement of the rule of law and increased transparency and accountability in the public sector. For those countries with sufficient resources, the introduction of personal computers for public servants and the designation of chief information officers have created the beginnings of e-government. Through web pages, electronic approvals, and on-line feedback mechanisms, citizens and businesses can access public information more easily to keep themselves informed of and to scrutinize government decisions and activities. The net effect of such a development greatly contributes to not only the rule of law, transparency and accountability but also to participation and ultimately democracy.

Korea offers an interesting case study of the use of new information and communication technologies (ICTs) in public administration. Since the 1990s, there has been an explosion of the use in ICTs in the country, particularly around Internet diffusion, cellular phone subscriptions and personal computer use. There has been a corresponding demand by the public for more efficient and transparent services from the central and local governments and a demand for voice in policy formulation and programme operations. The Seoul Metropolitan Government has introduced several effective practices in strengthening citizen-government connections through the use of ICTs. Among them, Seoul introduced the On-line Procedures ENhancement (OPEN) System to deal with civil applications (e.g. licenses and permits) in April 1999. The whole approval process – from the submission of an application to the decision itself – is made public on the Internet, so that citizens can obtain full information about the decision-making process. The System is aimed at promoting transparency in administrative procedures and accountability by eliminating the possibility of corruption through direct public scrutiny and supervision. Through this and other integrated anti-

corruption initiatives such as the Integrity Pact and the Corruption Report Card to the Mayor, the administration reported, “The ratio of civil applicants who offered gifts or money to process civil applications in five major areas prone to corruption, including construction and sanitation, which stood in between 13 to 38 percent in 1998, dropped to 7.9 percent 1999 and again to 6.7 percent in 2000.”<sup>38</sup>

Other countries are taking steps to increase the transparency and accountability of the conduct of public officials through introducing codes of conduct with disclosure provisions. In Brazil, the Commission for Public Ethics was created in 1999 by a Presidential Decree, and a *Code of Conduct for the Senior Government Officers at the Federal Executive Branch* was approved in 2000. Composed of six commissioners from civil society, the Commission covers 193 federal executive agencies, including the cabinet, heads of federal departments, national secretaries and presidents and directors of state and mixed enterprises. The *Code* obliges senior public officials to confidentially declare their personal assets -- including transfers to family members, direct or indirect acquisition of control of company and significant changes in the value or nature of their assets. They must publicly declare equity holdings of 5% or more in companies of mixed stock ownership or that have business with the public sector. They are barred from accepting conflicting monetary compensation or other favours with their positions and face a gift restriction. They are also subject to public communications restrictions and post-employment restrictions of being barred from conducting activities incompatible with their previous public sector positions. To facilitate the implementation of the provisions of the *Code*, the Commission has built a network of 135 representatives in the federal executive agencies. Research among 160 federal agencies in early 2001 showed that 31% have rules to regulate conduct of their employees, 26% developed training for these rules, 23% monitor these rules, and 20% have applied sanctions during 24 months prior to the research.<sup>39</sup> The enforcement of these types of provisions not only holds public officials accountable for their actions but also sends a powerful message to the public that no one is above the law.

A promising initiative of decentralizing and “mainstreaming” ethics is being introduced in Uganda. A country with limited resources, which had a \$1,208 GDP per capita (ppp US\$) in 2000,<sup>40</sup> Uganda is committing itself to “mainstreaming ethics” in local governments, the private sector and civil society organizations. In addition to the Parliament passing measures to make the enforcement of the Leadership Code easier in July 2002, the Government is proposing to prioritize fighting corruption and building ethics and integrity by actively involving the leadership at the local government level, the private sector and civil society organizations. The government plans to sensitize local councilors, tender boards, land boards and public accounts committees as well as members of civil society and businesses on the importance of transparency and accountability and the dangers of corruption to development. Though implementation has not yet begun, it is an interesting initiative that bears monitoring.

## **International Strategies**

At the trans-national level, regional or international conventions are being introduced which bind the signatories to conform national legislation to the conventions' requirements, set up new or modify existing institutions, and cooperate trans-nationally with other peer institutions. There are a number of international legal instruments that are in force or will soon enter into force. The Council of Europe has adopted the *Criminal Law Convention on Corruption* in 1998 and the *Civil Law Convention on Corruption* in 1999. The European Union adopted a number of legal instruments from 1995 to the present, aiming to protect the European Communities' financial interests by criminalizing fraudulent conduct. The *Inter-American Convention against Corruption* of the Organization for American States entered into force in 1997. The Organization for Economic Cooperation and Development adopted the *Convention on Combating Bribery of Foreign Officials in International Business Transactions* in 1997, and it went into force in 1999.<sup>41</sup> The African Union approved a regional anti-corruption convention in September 2002. The United Nations is in the process of negotiating a *Convention against Corruption* which is to be completed in 2003. Properly implemented, these legal instruments will greatly enhance the rule of law in fighting corruption in both the public and private sectors.

In addition to these legal instruments, many international organizations are involved directly and indirectly in technical cooperation to assist countries in dealing with corruption. To take the case of the United Nations alone, the Centre for International Crime Prevention, through its Global Programme Against Corruption, assists Member States build the requisite integrity, efficiency and effectiveness in their criminal justice systems in their fight against corruption. The Department of Economic and Social Affairs assists Member States to prevent corruption through sound public administration and governance institutions. It assists Member States through building the capacity of their public sector institutions, including for upholding the rule of law and promoting transparency and accountability. The United Nations Development Programme supports a number of global, regional and national anti-corruption programmes and projects. In these endeavours, the agencies of the United Nations foster a sharing of experiences and lessons learned.

## **Conclusion**

This paper has shown that corruption is a complex phenomenon, present in all countries. On the one hand, its causes are engendered by conditions of underdevelopment. On the other, its effects also hinder and impede the development process itself. The paper has explored the pernicious effects of corruption and the importance of the rule of law, transparency and accountability of public sector. These critical conditions serve as the foundation for the good governance and the economic growth of a country, especially through utilizing the opportunities provided by globalization through increased investment and trade.

As has been stated at the outset, globalization brings both opportunities and risks. Both stem from the new connectivity among countries at a global level. Although the

risks of this connectivity are derived from a rapid, cross-border transfer of social problems such as corruption, crime and terrorism, the opportunities of this connectivity stem from shared solutions and concerted actions. The national and international strategies outlined above embody such opportunities for raising international standards in the fight against corruption and promoting mutual help, peer review, and harmonized actions.

## Notes

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- <sup>1</sup> Robert Klitgaard, *Controlling Corruption* (Berkeley CA: University of California Press, 1988), p. 7.
- <sup>2</sup> United Nations, *World Summit on Sustainable Development: Plan of Implementation*, [http://www.johannesburgsummit.org/html/documents/summit\\_docs/2309\\_planfinal.doc](http://www.johannesburgsummit.org/html/documents/summit_docs/2309_planfinal.doc), (New York, Advance unedited text, 5 September 2002), paragraph 4
- <sup>3</sup> United Nations, *Road map towards the implementation of the United Nations Millennium Declaration: Report of the Secretary-General*, A/56/326, (New York, 6 September 2001), paragraph 7
- <sup>4</sup> United Nations Development Programme, *Human Development Report 2002: Deepening democracy in a fragmented world* (New York: Oxford University Press, 2002), p. 14.
- <sup>5</sup> <http://www.un.org/millennium/sg/report/ch1.pdf>: p. 2
- <sup>6</sup> Ibid., p. 6.
- <sup>7</sup> A. J. Heidenheimer et al, *Political Corruption: A Handbook* (New Brunswick, NJ: Transaction Books, 1989), pp. 8–11.
- <sup>8</sup> Klitgaard, op. cit., p. 21, citing Webster's *Third New International Dictionary*.
- <sup>9</sup> J.S.N. Nye, "Corruption and Political Development: A Cost-Benefit Analysis" in Heidenheimer, op. cit., p. 966.
- <sup>10</sup> World Bank, *World Development Report 1997* (Washington D.C.: Oxford University Press, 1997), p. 102
- <sup>11</sup> United Nations Development Programme, *Governance and Sustainable Human Development* (New York: UNDP, 1997), p. 1.
- <sup>12</sup> United Nations Development Programme, *Human Development Report 1996: Economic Growth and Human Development* (New York: Oxford University Press, 1996).
- <sup>13</sup> United Nations Development Programme, *Human Development Report 2001: Making New Technologies Work for Human Development* (New York: Oxford University Press, 2001), p. 9.
- <sup>14</sup> United Nations, *Public Service Ethics in Africa* (New York: United Nations, 2001), p. 33.
- <sup>15</sup> Samuel P. Huntington, "Modernization and Corruption" in Heidenheimer, op. cit.
- <sup>16</sup> Nathaniel Leff, "Economic Development Through Bureaucratic Corruption", in Heidenheimer, op. cit.
- <sup>17</sup> J.S.N. Nye, op. cit., pp. 963–4.
- <sup>18</sup> Klitgaard, op. cit., pp. 30–33.
- <sup>19</sup> Klitgaard, op. cit., p. 33.
- <sup>20</sup> J.S.N. Nye, op. cit., and Susan Rose-Ackerman, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge, UK: Cambridge University Press, 1999), among others.
- <sup>21</sup> Paolo Mauro, "Corruption: Causes, Consequences, and Agenda for Further Research" in *Finance & Development* (Vol. 35, No. 1, March 1988) p. 12.
- <sup>22</sup> Ibid.
- <sup>23</sup> Phillip J. Cooper and Chester A. Newland, eds. *Handbook of Public Law and Administration* (San Francisco: Jossey-Bass Publishers, 1997), p. 1.
- <sup>24</sup> World Bank, op. cit., p. 20.
- <sup>25</sup> Ibid.
- <sup>26</sup> Kempe Ronald Hope Sr., "Corruption in Africa: A Crisis in Ethical Leadership" in *Public Interest* (Vol. 1, No. III, Summer 1999), p. 289 – 308.
- <sup>27</sup> Peter Rutland and Natasha Kogan, "Corruption and Russian Transition," (Boston: A paper prepared for the annual convention of the American Political Science Association, 2–6 September 1998), p. 8.
- <sup>28</sup> Ibid.
- <sup>29</sup> Steven L. Solnick, "The Breakdown of Hierarchies in the Soviet Union and China: A Neoinstitutional Perspective", in *World Politics* (Vol. 48, No. 2, January 1996), pp. 209–38.
- <sup>30</sup> Lotte E. Feinberg, "Open Government and Freedom of Information: Fishbowl Accountability?" in Cooper and Newland, eds., op. cit., p. 376–7.
- <sup>31</sup> Klitgaard, op. cit., p. 75, Klitgaard's formula for Corruption = Discretion + Monopoly – Accountability.
- <sup>32</sup> Jerome S. Fons, "Improving Transparency in Asian Banking Systems," (Chicago: A version of paper presented at a conference on *Asia: An Analysis of Financial Crisis*, sponsored by the Federal Reserve Bank of Chicago and the International Monetary Fund, 9 October 1998).

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- <sup>33</sup> Susan Rose-Ackerman, "Corruption and the Global Economy" in United Nations Programme Development, *Corruption and Integrity Improvement Initiatives in Developing Countries* (New York: UNDP, 1998), p. 27.
- <sup>34</sup> Daniel Kaufmann and Paul Siegelbaum, "Privatization and Corruption in Transition Economics" in *Journal of International Affairs* (Vol. 50, No. 2, Winter 1996)
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- <sup>38</sup> United Nations and Seoul Institute for Transparency, *Anti-Corruption Symposium 2001: The Role of On-line Procedures in Promoting Good Governance*, (Seoul: University of Seoul, forthcoming), p. 44.
- <sup>39</sup> United Nations Development Programme, *Human Development Report 2002: Deepening democracy in a fragmented world* (New York: Oxford University Press, 2002), p. 151.
- <sup>40</sup> João Geraldo Piquet Carneiro, *The Experiences, Developments, and Challenges of the Public Ethics Committee*, (Brasília: Paper presented at the OAS/OECD Latin American Forum on Ensuring Transparency and Accountability in the Public Sector, December 2001).
- <sup>41</sup> United Nations, *Existing international legal instruments, recommendations and other documents addressing corruption: Report of the Secretary General*, E/CN.15/2001/3, (Vienna: UN, 2 April 2001)



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